

Community Supports Waiver

IRAI MD 1506.R02.00

Attachment #1: Transition Plan:

- Please provide the new transition deadline since June 2022 was removed as the previous deadline for transition.

Response: The new projected completion date is December 31, 2024.

CMS: Updated, no additional information required

Attachment #2: HCB Settings Waiver Transition Plan:

- Please include the following statement of assurance for the HCB settings transition plan under Attachment #2: *The State assures this waiver renewal will be subject to any provisions or requirements included in the State's most recent and/or approved home and community-based settings Statewide Transition Plan. The State will implement any CMS required changes by the end of the transition period as outlined in the home and community-based settings Statewide Transition Plan.*

Response: The State will add the requested language to the portal.

CMS: Updated, no additional information required

Appendix A Waiver Administration and Operation

- **Appendix A-2-a: Medicaid Director Oversight of Performance When the Waiver is Operated by another Division/Unit within the State Medicaid Agency**
OLTSS indicates that it will meet regularly and continuously please be specific in the frequency of oversight

Response: OLTSS and DDA meet monthly and more frequently on topic specific items.

CMS: Updated, no additional information required

- **Appendix A-6-d: Assessment Methods and Frequency**

- CMS requests that the Medicaid agency provide additional detail regarding ensuring that the operating agency is exercising its responsibilities and that there are procedures that provide for the reporting of assessment results to the Medicaid agency?

Response: The State will add the following language to this section in the portal: *The DDA and OLTSS meet monthly and discuss any issues that may require additional guidance.*

CMS: Updated, no additional information required

Appendix B Participant Access and Eligibility

- **Appendix B-1-b Additional Criteria:**

- Please explain the additional criteria: *The individual does not currently reside in an institution for 30 consecutive calendar days or has a proposed date for discharge from the institution in which the individual does reside.*

Response: Applicants and participants can not reside in an institution and also receive waiver services. Individuals residing in an institution with a discharge date can apply.

CMS: Updated, no additional information required

- **Appendix B-3-c: Reserved Waiver Capacity**

- The state will need to indicated under each purpose under reserved wavier capacity that all waiver participants enrolled in the waiver have comparable access to all services offered in the waiver?

Response: The state will add under each reserved capacity the following sentence: *All waiver participants enrolled in the waiver have comparable access to all services offered in the waiver.*

CMS: Updated, no additional information required

- Previous Waiver Participants with New Service Need - Please explain the time period for when this will apply (reserve capacity): *“Previously enrolled DDA waiver participants for whom the waiver service needs were met will*

exit the waiver. If a new service need develops at a later time, they may reapply to the waiver.”

Response: There is no limit to the time period. If a person was previously enrolled in the waiver, had their needs met, and then developed a new need for services, they can reapply to the waiver.

CMS: Updated, no additional information required

- End the Wait Act of 2022-Please explain: *“The purpose of this reserved capacity category is to support individuals currently on the waiting list to access Waiver services, in accordance with the End the Wait Act of 2022 (SB 636). The law requires the Department to develop plans to reduce the DDA waitlist by 50% beginning in fiscal year 2024.”* Are these plans still in development? If referenced plans have been established add more detail regarding what they are. Please confirm this legislation has passed?

Response:

- [Maryland Department of Health - Waiver Programs - Waitlist and Registry Reduction \(End the Wait Act\)](#) was passed by the Maryland General Assembly. It was approved by the Governor on May 16, 2022 and took effect October 1, 2022. MDH submitted plans to the Governor and required legislative committee chairs. Reference: [SB 636 \(Chapter 464 of the Acts of 2022\) - Waiver Programs - Waitlist and Registry Reduction \(End the Wait Act\)](#)
- The DDA’s waitlist average includes approximately 4,000 individuals as of November 2022. To reduce the waitlist for the DDA-operated waiver programs by 50%, the DDA will need to enroll 2,000 participants from the waitlist to a waiver program over a five year period. This will result in enrollment of 400 participants annually across all three programs.

CMS: Updated, no additional information required

- Crisis Resolution-Please explain: *“The purpose of this reserved capacity category is to support individuals identified to be in the crisis resolution eligibility category who are in immediate need of services, to access*

needed services.” Add more detail about what the immediate service needs are.

Response:

- People that meet this category have been determined to meet one of the following criteria:
 - Homelessness or housing that is explicitly time-limited, with no viable non-DDA-funded alternative;
 - At serious risk of physical harm in the current environment;
 - At serious risk of causing physical harm to others in the current environment; or
 - Living with a caregiver who is unable to provide adequate care due to the caregiver’s impaired health, which may place the applicant at risk of serious physical harm.
- They are immediately supported with emergency respite, behavioral supports, personal supports while exploration and coordination of additional services are conducted based on their individualized circumstances.
- They can also access any meaningful day (i.e. Employment Services, Community Development, Day Habilitation, Medical Day, etc.) and support services (i.e. Assistive Technology, Nursing Support Services, etc.) based on assessed needs.

CMS: Updated, no additional information required

- Waiting List Equity Fund-Please explain: *“As per Maryland Statute, Health General Article 7-205, the Waiting List Equity Fund is to support individuals who are in crisis and need emergency services, individuals on the waiting list, and individuals transitioning from a State Residential Center.”* How does this category differ from the Crisis Resolution and End the Wait List Act designations?

Response:

- This category supports people transitioning from State residential centers and people on the Waiting List with the eldest caregiver.

CMS: Updated, no additional information required

- Families with Multiple Children on Waiting List-Please explain: *“The purpose of this reserved capacity category is to support families seeking supports that have more than one child on the DDA Waiting List.”*

Response:

- Families may have more than one child on the waiting list that applied at different times. The children may also have different waiting list priority categories (i.e. crisis resolution, crisis prevention, or current request).
- This category supports the needs and stability of the entire family by providing all children on the waiting list, regardless of application date or priority category, an opportunity to apply for the waiver

CMS: Updated, no additional information required

- Emergency-Please explain: *“The purpose of this reserved capacity category is to support individuals in immediate crisis or other situations that threatens the life and safety of the person.”* How does this differ from the Crisis Resolution designation?

Response: These are people who are in crisis that are not on the waiting list and therefore unknown to the DDA.

CMS Response: Please add this clarifying information to WMS.

4/12/23 CMS Response: Updated, no additional information required

- Please explain how MSDE residential age out is different or the same as foster care.

Response: These are people who are aging out of residential services under the Maryland State Department of Education (MSDE). They are not in the Department of Human Services (DHS) foster care system.

CMS: Updated, no additional information required

- **Appendix B-6-j: Maintenance of Evaluation/Reevaluation Records**

- Please provide detailed information on the location of where records of evaluations and re-evaluations of level of care are maintained and for how long they are maintained.

Response:

- Information is located in the State’s information technology system - *LTSSMaryland*.
- “*LTSSMaryland*” is an electronic information system, developed and supported by the MDH. It is used to create, review, and maintain records about:
 - An individual’s eligibility status for DDA-funded services; and
 - The individual’s person-centered plan, and services and funding authorized by the DDA.
- Information is retained in *LTSSMaryland* under the Programs > Level of Care module.
- The *LTSSMaryland* system currently maintains the full history of documents.

CMS: Updated, no additional information required

● **Appendix B-7-b: Maintenance of Forms**

- Please provide detailed information regarding the location where documents are maintained and for how long.

Response:

- *LTSSMaryland* retains copies of the “Freedom of Choice” form.
- Information is retained in *LTSSMaryland* under the Programs > Application > DDA Waiver Application Packet module.
- The *LTSSMaryland* system currently maintains the full history of documents.

CMS: Updated, no additional information required

Appendix C Participant Services

Appendix C1/3-Service Specification

- The changes previously made within the waiver services have been in effect prior to the effective date of this renewal. Please remove all legacy effective dates throughout this section.

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3rd Submission:04/12/23

Response: MDH will remove legacy effective dates.

CMS: Updated, no additional information required

● **Appendix C-2-a Criminal History/Background**

- The state has left in language regarding draft regulations undergoing review. Please clarify if these regulations have been passed. If not, add language to identify when or target deadline for when regulations will be finalized.

Response:

- MDH is finalizing regulations for public input.
- The target implementation date is July 2023.
- The language will be updated to reflect this date

CMS: Updated, no additional information required

4/12/23 CMS: Please remove draft language and amend the waiver when the regulations are approved and in place.

- For clarity and understanding, criminal background checks are not required for people who interact with or assist as a friend or natural support, meaning unpaid assistance. Is this correct? These individuals are not paid by Medicaid or waiver funds.

Response: Correct

CMS: Updated, no additional information required

- Please clarify: an individual will have successfully passed a criminal background check if he/she has been convicted...not more than 10 years ago? So, an individual can be convicted of fraud 11 years ago and be allowed to be a provider of service?

Response: Yes. An individual can be convicted for fraud 11 years ago and be allowed to be a provider of service. However, please note COMAR 10.22.02.11B, provides the DDA discretion to prevent an individual from providing services, even in a situation where there was, for example, an 11 year old fraud conviction.

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CMS: Updated, no additional information required

Appendix C-2-d PCS Legally Responsible/relatives:

- Please explain/identify how often DDA will review payments were made only for services rendered.

Response: Self-directed services are reviewed as part of the Quality Improvement Organization (QIO) utilization review process. The QIO will review payments quarterly based on random sampling.

CMS: Updated, no additional information required

Appendix D: Participant-Centered Planning and Service Delivery

- **Appendix D-1-i: Maintenance of Service Plan Forms**

- Please provided additional information regarding where the copies of service plans are maintained.

Response:

- LTSS*Maryland* retains copies of the Person Centered Plans.
- Information is retained in LTSS*Maryland* under the Programs > POS/PCP/POC module.
- The LTSS*Maryland* system currently maintains the full history of documents.

CMS: Updated, no additional information required

- **Appendix D-2-a: Service Plan Implementation and Monitoring**

- Provide additional information regarding the Effectiveness of back-up plans.

Response:

- Each person's unique circumstances, back-up strategies, and effectiveness will vary.

- Back-up strategies may include: (1) assistive technology; (2) back-up staffing plans; and (3) other strategies as identified through an approved Behavior Support Plan or Nursing Care Plan.
- LTSS*Maryland* also includes a “My Emergency Plan” and My Back-Up Plan” form related to specific questions discussed with team as noted below:

My Emergency Plan	
I have an emergency plan:	Yes
I am aware of the emergency plan:	Yes
My team is aware of the emergency plan:	Yes
I am prepared to shelter in place:	Yes
I have an emergency kit:	Yes
Where I can relocate to in case of an emergency:	I will relocate with my family to our relatives homes or a hotel.
I registered my needs with:	N/A
I require a generator:	No
The steps I will take in case of a natural disaster:	I will stay home with my family, we have food, water and emergency supplies.
Back-up plan for power outages:	I will stay home with my family, we have food, water and emergency supplies.

My Back-Up Plan	
The steps I will take if provider does not show up:	I will stay at home with my mom.
The steps I will take if my job or day/work program is cancelled or closes:	I will stay at home with my mom.
Plan for future living arrangements if something happened to my current caregiver:	I will need to go into residential services.

- Back-up plans are reviewed by the CCS during quarterly monitoring to ensure strategies continue to meet the needs of the participant.

CMS: Updated, no additional information required

Appendix E: Participant Direction of Services

- **Appendix E-2-b-iv- Participant Exercise of Budget Flexibility**

- Please provide detailed information regarding, how the changes to the budget and service plan are documented? If applicable, the circumstances when changes are subject to prior review and the entity responsible for conducting this review?

Response:

- Changes to the Person Centered Plan (PCP) are documented in LTSS*Maryland* via a Revised PCP in the PCP detail service authorization section.
- The detailed service authorization section lists the DDA funded services including the specific service name, units per month, annual service cost, and provider status.

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- The total annual cost is the self-directed budget allocation. Participants use this budget allocation to create their individual self-directed budget sheet. As needed participants, with the support of their team, make changes to the self-directed budget sheet which is submitted to the Financial Management and Counseling Services (FMCS) for review.
- If there is a new health and safety service need assessed, the participant, along with their team, legal guardian, or their designated representative (as applicable) notifies the CCS.
- The CCS will revise the PCP and associated documents are completed to reflect the health and safety requested service(s) which is then submitted to DDA Regional Office for review.
- Participants with the support of their team may move funding across approved budget service lines as per the DDA policy and guidance by using a Budget Modification.

CMS: Updated, no additional information required

Appendix G: Participant Safeguards

- **Appendix G-1-b: State Critical Event or Incident Reporting Requirements**
 - Confirm to CMS whether "exploitation" is an incident type required to be reported to the State for review, as the State does not currently list exploitation - part of "abuse, neglect, and exploitation" (ANE) - as a reportable incident type."

Response:

- Exploitation is an incident type under our Abuse category.
- The State will revise language to reflect: Type 1 Incidents include: abuse (including exploitation and financial exploitation), neglect, death, hospital admissions or emergency room visits, injury, medication error, and choking. Abuse includes: physical abuse, verbal abuse, mental abuse, sexual abuse, involuntary seclusion, and any action or inaction that deprives an individual in DDA funded services of the ability to exercise their legal rights, as articulated in State or federal law including seclusion.

CMS: We confirm the state updated the application to include the above. We request no additional information.

- **Appendix G-1-d: Responsibility for Review of and Response to Critical Events or Incidents**

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- The State does not describe how it informs waiver participants (and or their families) of investigative results. Update Appendix G-1-d to document how and by when the State informs the participants (and/or the participant's family or legal representative) of investigation results.

Response:

- Participants and representatives are informed within 10 business days of the issuing of the investigation results.

CMS Response: Does this timeframe apply to Type 2 incidents as well?

4/12/23 CMS Response: Updated, no additional information required

Appendix J: Cost Neutrality Demonstration

● Appendix J-2-c: Derivation of Estimates for Each Factor

- The State detailed an inflation rate of 3.5% for Factor D, however that is not applied across WYs to all services. F Update Appendix J-2-c to explain the factor G annual rate of change.
- The State has multiple services and WYs with errors or wild fluctuations that do not align with the State's estimation basis. For example, "Community Development Services 1:1" in WY3, the average cost per unit increases from \$14.74 to \$19.99 which does not align with the 3.5% average cost per unit increase outlined in the methodology. Additionally, the State estimates 1404 units in WY2 and only 48 units per user in WY3 without explanation. Review and update estimates for the following services WY1-5 that have similar discrepancies: Medical Day Care, Community Development Services 1:1, respite services hourly and daily, support broker services, On-going Job Supports, and all other services that do not align with the estimation basis provided. The State should review all cost estimates for errors, typos, and discrepancies.

Response:

- MDH entered the correct information into the portal prior to submitting. We believe there may have been a system issue upon submitting. The information in the portal has been updated to attribute the proper amounts to the correct services.

CMS: We confirm the state updated the application to update some estimates but there are still significant discrepancies with the state's cost estimates. For

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example, in WY1 the state projects that 200 users will utilize personal support services, but 1884 participants will in WY2. There are similar discrepancies with participants for personal supports enhanced in which 1638 users are projected to utilize the service in WY1 but 230 are in WY2. Additionally, the state does not apply a 3.5% increase consistently to the average cost per unit for all waiver services. Verify all waiver cost estimates for WY 1-5 and ensure estimates align with the derivation of estimates provided in Appendix J-2c.

4/12/23 CMS Response: Issue still present in WY2, outreached to state to update

In WY1 for respite care services hourly, the state estimates that only 8 participants will use 94 hours for a total of \$25,169 but this increases to 553 users with an average of 376 hours in WY2 for a total of \$1,696,692 representing a 6812% increase. This appears to be a typo. CMS is requesting that the state update the WY2 estimate for **respite-care services hourly** to correct any errors or typos.