

## Family Supports Waiver IRAI MD 1466.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 OLTS 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**

- Please explain: The purpose of the Emergency 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: Add this information to the WMS.**

- **Appendix B-5-a : Use of Spousal Impoverishment Rules**

The state has changed its prior election to apply the spousal impoverishment rules for both eligibility and post-eligibility to 42 CFR §435.217 group participants for the time period that the

application of such rules are not mandatory. While this is a permissible change, we ask that you confirm that the spousal impoverishment rules set forth in section 1924 of the Social Security Act will be applied through the time period that these rules are mandatory, which was recently extended by the Consolidated Appropriations Act of 2023 to be in effect through September 30, 2027.

Response:

- Spousal Impoverishment rules will be applied. MDH will update the waiver to match the Community Pathways and Community Supports waivers.
- **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.

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 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: 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.

**CMS: Add highlighted clarifying language to WMS.**

### ● 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 provide additional information regarding where the copies of service plans are maintained.

Response:

- LTSSMaryland retains copies of the Person Centered Plans.
- Information is retained in LTSSMaryland under the Programs > POS/PCP/POC module.
- The LTSSMaryland 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.
- LTSSMaryland 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 *LTSSMaryland* 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.
- 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**

- 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: Does this timeline apply to Type 2 incidents also? Please update WMS with the information.**

## **Appendix J: Cost Neutrality Demonstration**

- **Appendix J-2-c: Derivation of Estimates**

***Throughout Appendix J-2-d it appears that the State is phasing out three services using an hourly rate and there is a decline in these services in the applications. The services are: Respite, Housing Support Services and Family and Peer Mentoring Supports, however the State did not detail that phase out in Appendix J2c.***

- Update Appendix J2c to describe the phase out after WY3 of Respite- Hourly, Family and Peer Mentoring Supports (Hour), and Housing Support Services (Hour) services.

**Response:**

- Hourly services in the PCIS2 system, Respite, Housing Support Services, and Family and Peer Mentoring services were converted to 15-minute unit increments in LTSSMaryland beginning March 1, 2021.
- Since we estimate all users' services to be billed using LTSSMaryland in WYs 3-5, we estimate these services to transition from hourly billing to billing in 15-minute increments as well.
- This language was added to J-2-c.

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