

Section III

BECOMING A WAIVER PROVIDER

Waiver Provider

Introduction

The NHTD Waiver program is committed to providing high quality and cost effective services offered through qualified waiver providers. This section describes the provider's qualifications, the provider's responsibilities, steps in the application process, subcontracts, vendor hold, termination of contracts and housing.

A. Qualifications for Provider Agencies

All waiver providers, including those already approved to provide services under the Medicaid State Plan or another Medicaid waiver are required to also be approved as a NHTD waiver provider.

Waiver providers must be located in and able to provide services in New York State.

Providers must meet all licensure and other qualifications of the service(s) included on the application they are applying for as specified in this Program Manual (refer to Section VI-Waiver Services).

Providers are responsible to know, understand and implement the waiver in accordance with the policies and procedures established in this Program Manual and any updates or changes to it.

Providers may request approval for any number of waiver services. Providers may apply to provide additional services or become a provider in additional Regional Resource Development Center regions at any time. The approval process to add services or Regions is the same as the initial application process.

If at any time a provider is unable to maintain qualified staff, it will not be able to provide that service/services. The waiver provider must report any changes in status to the appropriate RRDC.

Providers must adhere to all Medicaid confidentiality and Health Information Portability and Accountability Act (HIPAA) requirements and ensure the privacy of the waiver participant. Providers must adhere to all responsibilities and conditions delineated in the Provider Agreement (refer to Appendix A – form A.2).

B. Provider Responsibilities

- I. Providers applying for Assistive Technology (AT), Community Transitional Services (CTS), Congregate and Home Delivered Meals, Environmental Modifications Services (E-mods), Home Visits by Medical Personnel, Moving Assistance and Respiratory Therapy must satisfy the following conditions:

1. Assure participant's right of choice;
 2. Establish and maintain current safety and emergency policies and procedures;
 3. Have personnel files on every employee including resumes and job descriptions; if a provider has more than one office and the personnel files are housed in the main office when the other office(s) is surveyed by DOH, the personnel files need to be provided to the surveyor(s) at that location per their request;
 4. Have knowledge of the NHTD Waiver's Incident Reporting Policy regarding Serious Reportable Incidents (SRI) (refer to Section X – Incident Reporting Policy and Complaint Procedure) including the obligation to report to the Service Coordinator (SC), and to cooperate with the Quality Management Specialist (QMS) in relation to the investigation of SRI, i.e. staff interviews;
 5. Establish and maintain a tracking system to ensure staff will provide the expected amount/type of service in accordance with the participant's Service Plan (SP);
 6. Establish and maintain an accurate system for documenting when services are provided and billed;
 7. Establish and maintain a process for surveying participant satisfaction of its service; this process includes obtaining information from the participant on his/her satisfaction of the service provided, was the staff able to make appointments, be on time and provided services as agreed upon;
 8. Establish and maintain a policy for handling complaints raised by participants, family members or advocates and concerns addressed by the SC, Regional Resource Development Specialist (RRDS) or QMS and documenting outcomes;
 9. Establish and maintain a file for each participant regarding the waiver participant's individual information provided by the SC including: a copy of the Notice of Decision (NOD), the first page of the SP and the page(s) describing the need for the requested waiver service(s); and
 10. Cooperate with New York State Department of Health, Office of Medicaid Inspector General (OMIG) and other government agencies with jurisdiction to conduct surveys and audits.
- II. All other providers applying to become a waiver provider must satisfy the following conditions:
1. Assure participant's right of choice;

2. Establish and maintain current safety and emergency policies and procedures;
3. Establish and maintain personnel files on every employee including resumes and job descriptions; if a provider has more than one office and the personnel files are housed in the main office, when the other office(s) is surveyed by DOH, the personnel files need to be provided to the surveyor(s) at that location per their request;
4. Follow the NHTD Serious Reportable Incident Policy and Procedure (refer to Section X – Incident Reporting Policy and Complaint Procedure);
5. Establish and maintain policy and procedure for documenting Recordable Incidents; (refer to Section X – Incident Reporting Policy and Complaint Procedure);
6. Establish and maintain a tracking system to ensure that staff is providing expected amount of service in accordance with the participant's SP;
7. Establish and maintain a method for self-appraisal of service provision including suggestions and methods for improvements;
8. Establish and maintain a process for surveying participant satisfaction of its service. This process includes obtaining information from the participant on his/her satisfaction of the service provided, was the staff able to keep appointments made, be on time and provided services as agreed upon;
9. Establish and maintain a method for recording and addressing complaints made by the waiver participants, families, legal guardians and others; this information is included in an annual report stating the number and types of complaints made/received, including an analysis of these complaints and the provider's response to them;
10. Establish and maintain a method for recording and addressing concerns expressed by the SC, RRDS, QMS and/or DOH Waiver Management staff (WMS);
11. Establish and maintain participant records which include functional assessments, detailed plans, notation of every encounter and contact with the participant, a copy of all Individual Service Reports (ISR), documentation of all communication with the SC, documentation of the times of visits, billing records, current copy of the NOD, a copy of the current approved SP, and a copy of the current Waiver Participant Rights and Responsibilities (refer to Appendix C – form C.5);

12. Provide training utilizing DOH established curriculum and where an agency's curriculum exists regarding the subject matter, have that written training curriculum approved by DOH WMS to meet the DOH training requirements (refer to Section VIII – Required Training for Waiver Service Providers); and
13. Cooperate with New York State Department of Health, OMIG and other government agencies with jurisdiction to conduct surveys and audits.

Note: Providers approved under B-II above are expected to attend the RRDS provider meetings. At times, these meetings cover policies and procedures relevant to the health and welfare of the participants. These meetings are a critical opportunity for the providers to remain current regarding NHTD policies and procedures. Not attending these meetings could result in noncompliance with policies and procedures, which will ultimately lead to restrictions to the provision of waiver services.

C. Application Process

The following eight (8) steps describe the application process for becoming a waiver provider:

STEP 1 Provider Inquires

The potential waiver service provider for the NHTD Waiver will obtain a copy of the Program Manual from the DOH website or the RRDS, which includes the application forms for becoming a waiver provider (refer to Appendix A – forms A.1 and A.2).

STEP 2 Application

The potential waiver service provider submits the Provider Application Packet to the RRDC in the region/regions it wants to serve. The packet includes:

- a. Letter of Intent describing:
 1. The agency's history of providing services to individuals with disabilities and/or seniors. If this experience is limited, a description of how the agency proposes to develop the expertise to effectively provide services must be included;
 2. A list of service(s) for which the provider is seeking approval; and
 3. Identification of the RRDC region(s) and/or counties within the RRDC region where service(s) would be provided.
- b. Employee Verification of Qualifications form (refer to Appendix A – form A.1) and resume for at least one individual providing the waiver service requested.

- c. Signed original Provider Agreement Form.
- d. Signed original eMedNY Provider Enrollment Form. The Category of Service 0260 needs to be completed by potential providers of Home Visits by Medical Personnel and Respiratory Therapy. All other potential providers need to complete the Category of Service 0263.
- e. Signed original Disclosure of Ownership and Control Form, including:
 1. A list of the Board of Directors, including any relationships that exist between Board members (e.g. spouses, children, etc.), or individuals with the same last name; and
 2. The location of the agency including street address, even if the mailing address does not include a street or road.
- f. Copy of the Federal Employee Identification Number (FEIN).
- g. A copy of provider's licensure, certification and other requirements, as applicable, which support the requested services and satisfies the requirements of being a provider of the waiver service specified in the prospective provider application.
- h. A copy of provider policies and procedures which include:
 - HIPAA compliance;
 - Safety and emergency procedures;
 - Human Resource (personnel) records;
 - Serious Reportable and Recordable Incident Reporting;
 - Service provision tracking system;
 - Plan for self-appraisal of service provision including suggestions and methods for improvements;
 - Participant satisfaction survey;
 - Recording and addressing waiver participant complaints and grievances;
 - Recording and addressing concerns of RRDS, QMS, SC, and DOH WMS; and
 - Record keeping/ documentation.

The completed Provider Application packet must be submitted to the RRDS(s) for review and recommendations in the region/regions they will be serving. If a prospective provider is interested in providing services in more than one region, the Application Packet must be sent to each RRDC for review by the RRDS(s).

STEP 3 RRDS Preliminary Review

Prior to arranging an interview with the potential provider, each RRDS will review the Provider Enrollment Application Packet for potential providers in his/her region and determine preliminary eligibility. This includes reviewing and verifying the provider meets the licensure, certification and staff qualifications which support the services requested. When two or more RRDCs are involved, the RRDSs will contact each other to discuss preliminary reviews and then set up a joint interview with the potential provider.

STEP 4 RRDS Interview and Review

The RRDC administering the waiver in the region(s) for which the provider is requesting approval is responsible for the review and decision about the application. A primary component in this determination is the RRDS(s) interview with the potential provider. In this interview the RRDS(s) will:

- a. Explain the NHTD waiver, its philosophy and services;
- b. Interview the potential provider and complete the Waiver Service Provider Interview form (refer to Appendix B – form B.8);
- c. Review resumes of proposed staff and Employee Verification of Qualifications forms (refer to Appendix A – form A.1);
- d. Review training materials developed by the provider (refer to Section VIII - Required Training for Waiver Service Providers);
- e. Review provider policies and procedures that were submitted (refer to Step 2-h).

The RRDS must visit the proposed site for a Structured Day Program Services and obtain a copy of the Certificate of Occupancy.

STEP 5 RRDS Recommendations

The RRDS is responsible for making recommendations to the Department of Health regarding approval of the proposed service(s) based on: personnel qualifications which meet all the requirements described above; the capacity of the agency to develop and maintain high quality services; and the provider's understanding of and willingness to adhere to the philosophy and policies of the waiver.

The RRDS must submit to DOH WMS the completed Provider Enrollment Application Packet and the Waiver Service Provider Interview form, which includes and describes the RRDS decision to DOH WMS including the RRDS(s) recommendations for whether to approve the potential provider and which waiver services to approve.

If there is a difference of opinion between the potential provider and the RRDS about whether the provider should be approved or what services the provider will be able to provide, DOH WMS will be responsible for the final decision.

STEP 6 DOH Waiver Management Staff Decisions

If any additional information or clarification is needed, DOH WMS will contact the RRDS or the potential provider agency, as appropriate. DOH WMS will send written notification to the potential provider indicating which, if any, services are approved and the starting date of the approval. If the provider disagrees with the decision, the potential provider may discuss concerns with DOH WMS.

DOH WMS is responsible for making a judgment about the character and competence of each potential provider as it impacts the provider's ability to deliver waiver services. DOH WMS must obtain reasonable assurances that the applying agency is capable of delivering services in accordance with the operational standards and intent of this waiver. DOH WMS may contact other New York State agencies or their counterparts in other states to gather information about the current status and background of the potential provider including any past experience in providing Home and Community-Based Services waiver services.

STEP 7 Billing

DOH WMS will forward the necessary provider information to the appropriate DOH office for processing to become approved to bill Medicaid. This office informs the approved provider about eMedNY and ePACES for billing instructions. The Billing Manual will be available at www.eMedNY.org.

STEP 8 Lists of Approved Providers

DOH WMS notifies the appropriate RRDS(s) of the Medicaid approval and services approved. The RRDS adds the provider to the list of approved providers for the RRDC region.

D. Subcontracting for Waiver Services

Subcontracting is defined as the approved provider's use of another agency to fulfill the responsibilities and services delegated to the approved provider in the Service Plan.

Subcontracting in the NHTD waiver is allowed for the following services **only**:

- Environmental Modifications (E-mods);
- Assistive Technology (AT);
- Community Transitional Services (CTS);
- Moving Assistance; and
- Congregate and Home Delivered Meals.

For these services, subcontracting may occur when the approved provider cannot complete the specified tasks with their resources. However, the provider is responsible for supervising the completion of the specified task in accordance with the Service Plan (SP), assuring that all workers are skilled or appropriately licensed, and determining that the completed task meets State and Federal codes, if appropriate.

E. Vendor Holds and Disenrollment Initiated by DOH Waiver Management Staff

When DOH WMS is informed by the RRDS of an issue(s) regarding the provision of services by a waiver provider, DOH WMS may choose to restrict a provider's opportunity level (Vendor Hold). This is done by sending the provider a letter via certified mail advising the provider that it will be placed on Vendor Hold, specifying the reason(s) for the restriction, the effective date and time period of the Vendor Hold and request for a correction plan.

The provider will be informed that it is ineligible to receive new referrals of waiver participants. This restriction may be for one specific service or for all services that the waiver provider offers. Reasons for this may include:

- late SPs (refer to Section V - The Service Plan);
- late ISR (refer to Section V - The Service Plan);
- unacceptable provider practices;
- questionable quality of services;
- provider's inability to deliver the specific services; and
- the provider's inability to follow the NHTD waiver policies and procedures.

The waiver provider must submit to DOH WMS a plan describing actions to address the specific issue within seven (7) calendar days of receiving the certified letter so the Vendor Hold can be lifted. If this is successful, a letter will be issued to the waiver provider by DOH Waiver Management staff indicating the Vendor Hold has been ended.

If the matter is not corrected by the waiver provider within the allotted seven (7) calendar days, DOH WMS will initiate the provider disenrollment process.

DOH WMS initiates the disenrollment process by sending a Provider Disenrollment Notification letter via certified mail to the waiver provider agency Executive Director indicating that the sixty (60) day disenrollment process has begun and the date the provider agreement will be terminated. The letter also informs that waiver provider that Vendor Hold restrictions remain in effect. It further provides information regarding the process for waiver participants to select a new waiver provider agency(s).

To stop disenrollment, the waiver provider must submit a plan of action to DOH WMS. Upon review and approval of this plan, DOH WMS will decide whether to stop the disenrollment process. If the plan of action is approved,

DOH WMS will issue a notice to the waiver provider executive director indicating this.

If DOH WMS does not approve the plan of action the SC must assist the participant(s) in choosing a new provider and with completing the Request for Change of Provider form (refer to Appendix C – form C.18). The SC will assist the participant(s) and the terminating waiver provider through the period of transition from current to new provider(s). The terminating waiver provider is responsible for sending the applicable new waiver provider(s) the following copies of all evaluations, ISR, a copy of the detail plan and an update on the participant's accomplished goals.

In situations where the service being terminated is Service Coordination, the notice must direct the participant to contact the RRDS to select another Service Coordination provider agency. The RRDS must assist the participant in completing the Request for Change in Service Coordinator Form (refer to Appendix B – form B.15). The RRDS must assure that all applicable documents (e.g. ISP, current SP, evaluations, current PRI/SCREEN, ISRs, Detailed Plans, etc.) are transferred from the current SC to the new SC.

F. Waiver Provider Request to Terminate Provider Agreement

An approved waiver provider may choose to terminate one or all of the approved waiver service(s) with a written notice of termination to DOH WMS and a copy to the RRDS, at least sixty (60) calendar days prior to the date of termination in accordance with the Provider Agreement.

The provider must also send a written notice of termination to all participants receiving the service(s) to be terminated at least sixty (60) calendar days prior to the date of termination. The notice must direct the participant to contact his/her SC to select another provider.

The SC must assist the participant(s) in choosing a new provider and filling out the Request for Change of Provider form. The SC will assist the participant(s) and the terminating waiver provider through the period of transition from current to new provider(s). The terminating waiver provider is responsible for sending the applicable new waiver provider(s) the following copies of all evaluations, ISR, a copy of the detail plan and an update on the participant's accomplished goals.

In situations where the service being terminated is Service Coordination, the notice must direct the participant to contact the RRDS to select another provider. The RRDS must assist the participant in completing the Request for Change in Service Coordinator form. The RRDS must assure that all applicable documents (e.g. ISP, current Service Plan, evaluations, current PRI/SCREEN, ISRs, Detailed Plans, etc) are transferred from the current SC to the new SC.

G. Provider Termination of Waiver Services to an Individual Waiver Participant

An approved waiver provider may choose to no longer serve an individual waiver participant by sending a letter to the waiver participant, the participant's SC and the RRDS at least ten (10) calendar days prior to stopping the provision of service(s). The letter must be sent via certified mail or delivered directly to the participant. The reasons for terminating services must be included (e.g. inability to meet participant's service needs, staff safety or loss of staff).

The letter must advise the participant to contact his/her SC for assistance with selecting another approved waiver provider.

The current provider must follow the Change of Provider Process (refer to Section V – The Service Plan).

When the service being stopped is Service Coordination, the participant must be directed to contact the RRDS for assistance in selecting another approved Service Coordination provider. The RRDS will oversee the process for transitioning to a new SC. In addition, the RRDS must assure that all applicable documents (e.g. ISP, current SP, evaluations, PRI/SCREEN, ISRs, Detailed Plans, etc.) are transferred from the current Service Coordinator to the new SC.

Licensed professionals and/or provider agencies may have other standards or regulations that dictate procedures they must follow in stopping services to an individual. This waiver policy is not intended to override or replace those standards or regulations.

H. Housing

Provider agencies which choose to function as landlords for waiver participants must allow participants to select waiver services from all approved providers and support access to bundled services. Provision of housing must not be contingent upon the selection of services from the provider. Waiver participants choosing to reside in a provider owned living arrangement must have a choice of where they live, whom they live with, and must be issued a one year lease.