



The Children's Waiver HCBS Waiver Eligibility Service Requirements

This guidance is to provide clarification regarding Home and Community Based Services (HCBS) requirements for care managers to ensure HCBS eligible children/youth obtain the services as required for the child/youth to maintain Waiver eligible.

The 1915(c) Children's Waiver was implemented on April 1, 2019 and consolidated the six children's HCBS waivers into one comprehensive waiver. Each waiver had nuance differences and different HCB Services. Additionally, with the consolidated Children's Waiver now directly connected to Health Home Serving Children's program, there are an increased number of care managers coordinating care for HCBS eligible children, when previously they had not done so. As such, the following is to clarify the requirements for services of HCBS eligible children within the Children's Waiver.

HCBS Level of Care (LOC) Determination:

The new consolidated 1915(c) Children's Waiver for HCBS requires an annual (365 days) HCBS Level of Care (LOC) Eligibility Re-determination to be completed for the child/youth to remain in the Waiver and continue receiving Waiver services.

The Health Home care manager or C-YES staff are required to complete this eligibility determination prior to its annual expiration. The annual re-determination should begin two (2) months prior to the expiration of the current HCBS/LOC determination. It is the Health Home care manager's or C-YES staff's responsibility to know and understand the requirements and necessary paperwork needed to make an HCBS/LOC eligibility determination. For the target populations of Developmental Disability in Foster Care and Developmental Disability Medically Fragile, it is imperative that the Health Home care manager or C-YES staff work with the OPWDD DDROs to establish timely HCBS redeterminations. [\(See here for HCBS determination reconciliation timeline\)](#)

If a child/youth experiences a significant life event, as defined as, significant impact/change to the child's or caregiver's functioning and their daily living situation, a new HCBS eligibility determination will be needed. With all new HCBS/LOC Eligibility Determinations, the annual determination timeline resets with the completion of a new assessment outcome.

If a child/youth enrolled in the Children's Waiver is hospitalized or placed in an HCBS restricted setting, then the child/youth can remain enrolled in the Children's Waiver in such setting for up to ninety (90) days.

During the ninety (90) days stay:

- For children/youth in a Health Home, the MAPP segment would be "pending", and no billing would occur while the child was in the restricted setting (Please refer to the [HH Continuity of Care Policy](#))
- The Health Home, C-YES or Medicaid Managed Care Plan (MMCP) care manager, as applicable, should notify all care team members of the child's/youth's placement.
- The Health Home, C-YES or MMCP care manager, as applicable, will stay in contact with the hospital or HCBS restricted setting and request to be notified thirty (30) days or as soon as possible, for shorter lengths of stay, prior to discharge.

**Length of Stay – 90 days or shorter:**

- The Health Home, C-YES or MMCP care manager, as applicable, will request to be notified when the child/youth will be discharged.
- Whenever possible, the Health Home or C-YES staff will conduct a new HCBS/LOC Eligibility Determination prior to discharge to ensure continuous waiver eligibility, will update the plan of care, as needed, and link the child/youth to service upon discharge.

Length of Stay – longer than 90 days:

- Once the child/youth's length of stay is beyond 90 days, the Health Home or C-YES staff will discharge the child/youth from the Children's Waiver providing proper notification to the child/family of the notice of decision, as well as notifying DOH Capacity Management. *(Those with "Family of One" Medicaid based upon waiver eligibility may lose their Medicaid)*
- The Health Home or C-YES staff will ask the hospital or HCBS restricted setting to notify when the child/youth is being discharged, if the child/youth will need and want HCBS upon discharge. An HCBS/LOC Eligibility Determination can be conducted to determine if the child/youth can be re-enrolled in the Children's Waiver.

Monthly HCBS Required:

Children/youth who meet HCBS/LOC eligibility (target, risk and functional) and obtain a [capacity slot](#), must be connected and in receipt of HCBS on a monthly basis. The determination of services necessary must be supported by an assessment of needs and strengths with the child/family and their identified care team to develop a person-centered Plan of Care (POC). The Children's Waiver offers an expanded array of service options for children and families. Based on the needs and priorities of the family, the care manager will link the family with the appropriate services to best support their needs (including other Medicaid needed services). HCBS found necessary to maintain the child/youth in their home should be supportive and appropriate for the child/youth's needs. The child/youth's care record must reflect the needs and necessary services through appropriate documentation.

If a child/youth has been determined eligible for HCBS and the child/family consents to receive HCBS, then at least **one** HCBS must be received monthly to maintain eligibility for the Children's Waiver. If the child/youth is not connected to an HCBS upon eligibility being determined or misses monthly HCBS, then the Health Home, C-YES or MMCP care manager, as applicable, must document efforts made to ensure access in the case record. If there is a concern regarding the child/family's interest in continuing HCBS and issues occur regularly, then the Health Home, C-YES, or MMCP care manager, as applicable, should review quarterly (three months) HCBS with the child/family and care team to determine if HCBS should be continued, terminated, or changed and/or if a referral to a different provider/service is needed.

Monthly HCBS Requirement and Accessibility:

Children/youth enrolled in the waiver who need at least one HCBS monthly to safely live in their home and community must receive the HCBS needed for health, safety, and welfare. Due to their high needs, children/youth with a Children's Waiver plan of care requiring HCBS cannot be placed on HCBS provider's waitlist for all their identified and referred HCBS.

If a child/youth has been assessed as needing HCBS to be maintained in the community, Health Home care managers, C-YES or MMCP must ensure the child/youth has access to the HCBS outlined on the plan of care. If the child/youth does not have access to monthly HCBS, then the



Health Home care manager, C-YES or MMCP, as applicable, must document efforts made to ensure access in the case record.

Health Home care managers, C-YES, or MMCP, as applicable, must make every effort to find available HCBS and HCBS providers that meet the identified needs of the child/youth. The child/youth **must** be referred to another HCBS provider in their service area with the capacity to serve the child/youth instead of being waitlisted. If the child/family does not want another provider, the child/youth must receive at **least one** service monthly or be in jeopardy of losing their HCBS.

If the Health Home care manager or C-YES staff cannot find available HCBS, then they should contact the child/youth's Medicaid Managed Care Plan (MMCP), if applicable. The Health Home Care Management Agency (CMA) must contact the lead Health Home for assistance to ensure the health and welfare of the child. The lead Health Home should alert NYS DOH or the MMCP of the access issue and work with the care manager to provide necessary services to enrolled children.

If access issues occur regularly, then the Health Home, C-YES, or MMCP, as applicable, should review quarterly (three months) HCBS with the child/family and care team to determine if HCBS should be continued, terminated, or changed.

Health Home care managers and care management agencies should contact their lead Health Home with questions or contact the NYS DOH HHSC@health.ny.gov.

Matching Services to Need:

Due to the transformations staggered implementation timeline, children/youth may be receiving and or referred to multiple services of both the Children's Waiver and the new State Plan Services of Children and Family Treatment and Support Services (CFTSS). It is important to ensure that through a person-centered POC development and service review, that children/youth's needs are matched with specific services that they can obtain and regularly receive. This does not prohibit a child/youth from receiving both State Plan services and HCBS at the same time, as long as it is reflective of the child/youth's needs in the person-centered POC and does not result in duplicative services.

Specifically, community Medicaid eligible children/youth who have all of their needs met through only State Plan Services of CFTSS or Community First Choice Options (CFCO) services, should be disenrolled from the Children's Waiver. In addition, once a child/youth has been successful in reaching the goal of the HCBS (i.e. Environmental Modification) and no other HCBS are needed for the child to be maintained in the community, possible discharge from the Children's Waiver should be reviewed and determined if other HCBS goals are not appropriate.

This guidance document compliments [The Children's Waiver Medicaid Eligibility Status Impact on HCBS Eligible Children](#) guidance document and both documents should be reviewed together.