

**OTHER ELIGIBILITY REQUIREMENTS
WAIVERS****OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES (OPWDD)
HOME AND COMMUNITY BASED SERVICES WAIVER (HCBS)**

Description: The Office for People with Developmental Disabilities (OPWDD) Home and Community Based Services waiver (HCBS) is administered by OPWDD in conjunction with the State Department of Health (SDOH). The waiver is operated on a daily basis by OPWDD Developmental Disabilities Services Offices (DDSOs).

This Medicaid waiver was authorized by the federal government in September 1991 and provides a community based alternative for providing care to adults and children with developmental disabilities who live at home, in Family Care (FC), Community Residences (CRs), or in Individualized Residential Alternatives (IRAs). The HCBS waiver allows individuals to access Medicaid for medically necessary State Plan services as well as waiver services such as: Residential Habilitation, Day Habilitation, Respite, Prevocational Services, Supported Employment, Adaptive Technologies and Environmental Modifications.

Policy: An individual participating in the OPWDD HCBS waiver must:

- Have a developmental disability as defined by MHL 1.03.(22);
- Require an Intermediate Care Facility for the Mentally Retarded (ICF/MR) level of care;
- Reside in a qualifying living arrangement: (FC, CR or IRA, or their own home);
- Submit a waiver application to the DDSO and be approved by the DDSO for waiver services; and,
- Be Medicaid eligible.

Local districts are responsible for determining Medicaid eligibility for individuals seeking enrollment in the waiver who are not already in receipt of Medicaid. Districts are also responsible for the maintenance of new and existing Medicaid cases.

References: LCMs 94 LCM-137
93 LCM-62
92 LCM-170

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Interpretation: For individuals who are not Medicaid eligible at the time the Waiver application is filed with the DDSO, a referral letter will be given to the Waiver applicant/enrollee to present to the LDSS.

Local districts must utilize the most advantageous eligibility option available to the family including a determination of disability, if necessary, as well as a determination of eligibility for the three month retroactive period, if appropriate, with the following exceptions:

- Children who are certified blind or certified disabled, under the age of 18, who live at home, may have Medicaid eligibility determined by disregarding parental income (and resources) and applying the child's income and resources to the Medically Needy level for a household of one.
- Certified blind or certified disabled children under the age of 18 who are expected to live outside the parental household (in a Waiver qualifying living arrangement) may have eligibility determined by disregarding parental income (and resources) and applying only the child's income and resources to the Medically Needy (or appropriate congregate care) level for a household of one.

NOTE: If the family of a certified blind or certified disabled Waiver child chooses not to apply for Medicaid for other household members, eligibility is to be determined for the Waiver child alone.

Children under the age of 18, who live at home, will be identified to the local district through a referral letter, completed by the local OPWDD Revenue Support Field Office, so the local district will be aware of the authority to waive parental deeming.

When Medicaid eligibility is determined by waiving parental deeming, a child support referral is not pursued.

HCBS Waiver applicants are required to document current resources, so that Community Coverage with Community-Based Long Term Care (coverage code 19) (or Outpatient Coverage with Community-Based Long Term Care, coverage code 21) can be authorized.

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Under Community Transition Services (CTS), an OPWDD HCBS Waiver participant may receive a payment to enable the individual to establish a basic household when transitioning from an institutional or provider-operated living arrangement to private residence living. These payments may include items such as security deposits, essential household furnishings and set-up fees or deposits for utility or service access. CTS payments are not considered income when determining Medicaid eligibility.

(See **INCOME PERSONS IN MEDICAL FACILITIES BUDGETING FOR INSTITUTIONALIZED SPOUSE IN SPECIFIED HOME AND COMMUNITY-BASED WAIVERS (HCBS)** and **INCOME SSI-RELATED BUDGETING METHODOLOGY** and **RESOURCES PERSONS IN MEDICAL FACILITIES BUDGETING FOR INSTITUTIONALIZED SPOUSES IN HOME AND COMMUNITY-BASED WAIVERS (HCBS)**)