Providing Self-Directed Services under §1915(c) Waiver and §1915(i) State Plan Medicaid Authorities

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Purpose of Session

Provide an overview of the §1915(c) and §1915(i) Medicaid authorities that states may use to provide self-directed home and community-based services and supports.

Medicaid in Brief

- States determine their own unique programs
- Each State develops and operates a State plan outlining the nature and scope of services; the State Plan and any amendments must be approved by CMS
- Medicaid mandates some services, States elect to provide other services (“optional services”)
- States choose eligibility groups, services, payment levels, providers
- States must follow the rules in the Act, the Code of Federal Regulations (generally 42 CFR), the State Medicaid Manual, and policies issued by CMS

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Medicaid Waivers

- Title XIX of the Social Security Act (Medicaid) permits the Secretary of Health & Human Services - through CMS - to waive certain requirements required through the regular State plan process.

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Federal Medicaid Statutory Authorities with Participant-Direction Opportunities

- **HCBS Waivers: §1915(c)**
- **State plan HCBS: §1915(i)**
- Self-Directed Personal Assistance Services State Plan Option: §1915(j)
- State plan Personal Care Services: §1905(a)(24)
- Community First Choice State plan Option: §1915(k)

1915(c) Home and Community Based Services (HCBS) Waivers

- A program of services under the authority of §1915(c) of the Social Security Act that permits a State to waive certain Medicaid requirements in order to furnish an array of home and community based services that promote community living.
- States may waive the following provisions through §1915(c):
  - Comparability (amount, duration, & scope; target services to specific populations)
  - Statewideness
  - Income and Resource Requirements

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§1915(c) HCBS Waivers

- §1915(c) HCBS waiver services complement and/or supplement the services that are available through:

❖ the Medicaid State plan

❖ other Federal, state and local public programs

❖ supports from families and communities

§1915(c) HCBS Waivers

- Permits States to provide HCBS to people who, without the HCBS, would otherwise require services in an institution:
  - Nursing Facility (NF);
  - Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID); or
  - Hospital

- §1915(c) waivers are the primary vehicle used by states to offer non-institutional services to individuals with significant disabilities

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§1915(c) HCBS Waivers

States have flexibility in designing HCBS waivers:

- Choice of target group(s) of individuals who will receive HCBS
- Option to only provide services in particular areas within state
- Choice of waiver services
- Opportunities to self-direct & manage HCBS
- Provider qualifications

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§1915(c) HCBS Waiver Requirements

- **Costs:** HCBS must be “cost neutral” as compared to institutional services, on average for the individuals enrolled in the waiver.
- **Eligibility & Level of Care:** Individuals must be Medicaid eligible, meet an institutional level of care, and be in the target population(s) chosen & defined by the state.
- **Assessment & Plan of Care:** Services must be provided in accordance with an individualized assessment and person-centered service plan.
- **Free Choice of provider:** Not waived under 1915(c) - HCBS participants must have choice of all willing and qualified providers.
- **Home and Community-Based Settings Requirements:** To ensure full access to benefits of community living and the opportunity to receive services in the most integrated setting
- **Quality:** Every waiver must include a quality improvement strategy

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§1915(i) State Plan
Home & Community-Based Services

- Section §1915(i) established by DRA of 2005; effective January 1, 2007; amended under Affordable Care Act effective October 1, 2010
- State option to amend the state plan to offer HCBS as a State plan benefit
- Breaks the "eligibility link" between HCBS and institutional care now required under §1915(c) HCBS waivers
- Unique State plan benefit with similarities to HCBS waivers

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Similarities: HCBS Under §1915(i) State Plan & §1915(c) Waivers

- Evaluation to determine program eligibility
- Assessment of need for services
- Person-centered Service Plan
- Quality Improvement Strategy
- Same service options
- Self-Direction option
- Option to target services to specific populations
- Provided to individuals living in home and community based settings

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Differences: HCBS Under §1915(i) State Plan & §1915(c) Waivers

1915(i) does not permit/require:

- ≠ Institutional level of care eligibility requirement (states must set minimum need below this)
- ≠ Cost neutrality (demonstration not required)
- ≠ Limitation to number of participants
- ≠ Limitation to geographic area of state served (no waiver of Medicaid statewideness requirement)
- ≠ Service cost estimates not required

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§1915(c) HCBS Waivers and §1915(i) State Plan HCBS: Participant Direction

- State Option
- May apply to some or all services in the §1915(c) waiver or §1915(i) State plan HCBS benefit
- May offer budget and/or employer authority

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Participant-Direction in §1915(c) and §1915(i) HCBS

- State option to include services that are planned and purchased under the direction and control of the individual (or representative)
- States may choose employer authority (recruiting, hiring, firing, and managing/supervising workers) and/or budget authority (manage HCBS from their budget allocation)
- Additional supports for participants available through services/activities such as information/assistance and financial management
- State option to include Individual Directed Goods and Services

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Individual Directed Goods & Services

- Permits states to authorize the purchase of goods and services that are not otherwise offered in the waiver or the State plan.
- Available in §1915(c) waivers and §1915(i) State plan HCBS that incorporate the Budget Authority participant direction opportunity.
- Specific goods and services that are purchased under this coverage must be clearly linked to an assessed need and documented in the service plan.

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Participant-Direction in §1915(c) and §1915(i) HCBS

Included in the person-centered service plan:

- Specific HCBS that can be self-directed
- Employment and/or budget authority methods
- Risk management techniques
- Supports, including information/assistance & financial management supports
- Process for facilitating transition from self-direction if necessary or chosen by the individual

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§1915(c) HCBS Waivers -- Resources

- Web-based application and HCBS Waiver Technical Guide

https://wms-mmdl.cdsvdc.com/WMS/faces/portal.jsp

- §1915(c) regulations 42 CFR 440.180-182; 441.300-310

- §1915(c) final rule (amends regulations) January 2014

https://www.federalregister.gov/documents/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider

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§1915(i) State Plan HCBS: Resources

- Final rule published January 2014

https://www.federalregister.gov/documents/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider

- Medicaid.gov

https://www.medicaid.gov/medicaid/hcbs/guidance/index.html

- State Medicaid Directors Letter, August 6, 2010
  http://www.medicaid.gov/Federal-Policy-Guidance/Federal-Policy-Guidance.html

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