

DATE: September 26, 2023 **HCBA PL#:** 23-001
TO: Home and Community-Based Alternatives Waiver Agencies
SUBJECT: Preventing Dual Enrollment in 1915(c) Home and Community-Based Services Waivers and Maintaining Beneficiary Freedom of Choice

PURPOSE: The purpose of this Home and Community Based Alternatives Waiver (HCBA) Policy Letter (PL) is to clarify:

- 1) Medi-Cal beneficiaries may only be enrolled in one 1915(c) Home and Community-Based Services (HCBS) waiver at a time;
- 2) HCBA Waiver Agencies and Regional Centers must provide Waiver applicants and participants with the necessary information and support the individual's direction of the person-centered planning process to the maximum extent possible, and **is enabled to make informed choices and decisions**, as required by 42 CFR § 441.301(c)(1)(ii); and
- 3) HCBA Waiver Agencies and Regional Centers **may not encourage** Waiver participants to disenroll from any HCBS Waiver (e.g., the HCBS Waiver for Californians with Developmental Disabilities (HCBS-DD) Waiver, the Self Determination Program Waiver, or the HCBA Waiver) to enroll in other Medi-Cal programs, including other HCBS Waivers.
- 4) The HCBA Waiver is not a generic resource, such as Medi-Cal state plan services, that must be exhausted before a beneficiary can apply for enrollment in the HCBS-DD Waiver or the Self Determination Program Waiver. Further, Regional Centers may not require Regional Center Consumers to apply for the HCBA Waiver before Regional Center services can be authorized.

POLICY:

The HCBA, the HCBS-DD, and the Self Determination Program waivers all provide HCBS under the authority of Section 1915(c) of the Social Security Act. To avoid duplication of services, Medi-Cal beneficiaries may only be enrolled in one 1915(c) waiver at a time.

In cases where HCBA Waiver Agency staff discover that a participant is enrolled in more than one 1915(c) waiver, the Waiver Agency's Care Management Team (CMT) should immediately have a discussion with the participant regarding their concurrent enrollment, explain the differences between the 1915(c) waiver programs, and inform the participant that they can only be enrolled in one waiver at a time.

When a participant is enrolled in more than one 1915(c) waiver, the CMT must have a conversation with the participant, and/or their legal representative, to explain the differences between the waiver programs in relation to their own specific circumstances. The CMT must also assist the participant in completing the attached form, entitled “Choice of Home and Community-Based Services Waiver Form,” to document the beneficiary’s decision on which 1915(c) waiver they would like to continue to receive services from. The goal of the discussion is to provide participants with the opportunity to make informed decisions when choosing between programs and services to meet their needs and goals.

DISENROLLMENT OF HCBS-DD WAIVER BENEFICIARIES

Regional Centers must inform Medi-Cal beneficiaries determined to be likely to require the level of care provided in a hospital, nursing facility, or intermediate care facility for persons with developmental Disabilities (ICF/DD) of any feasible alternatives available under the waiver and give them the choice of either institutional or home and community-based services. (42 U.S.C. §1396n(c)(2)(C); 42 CFR § 441.302(d).) Federal law requires, in summary, that Medi-Cal beneficiaries, including 1915(c) waiver participants, may obtain covered services from any willing and qualified provider, except as waived by CMS. (42 U.S.C. §1396a(a)(23).) Participants must also receive a freedom of choice document that explains this right as part of the waiver enrollment process.

While HCBA Waiver Agency and Regional Center staff should give participants information and advise them of their options as well as information about the availability of service providers where the participant lives, HCBA Waiver Agencies and Regional Centers may not encourage participants to disenroll from one waiver to enroll in an alternate home and community-based services program.

COORDINATION AND COMMUNICATION

HCBA Waiver Agency staff should make all efforts to coordinate and communicate with staff from other Medi-Cal programs, including Regional Centers, to resolve issues related to the administration of the HCBA waiver, including identifying participants who are enrolled in more than one 1915(c) waiver; and document all efforts and conversations in case notes. To facilitate these efforts, Waiver Agencies should identify an employee to serve as the primary contact for other Medi-Cal programs and provide that employee’s contact information to waiver case management providers across those other Medi-Cal programs.

For further information about this PL, please contact your assigned DHCS Contract Manager or submit a question to the HCBA email inbox at:

HCBAalternatives@dhcs.ca.gov.

Sincerely,

ORIGINAL SIGNED BY

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