

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

June 26, 2024

Tyler Sadwith, State Medicaid Director
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

RE: CA 24-0005 §1915(i) Home and Community-Based Services (HCBS) State Plan Amendment (SPA)

Dear Director Sadwith:

The Centers for Medicare & Medicaid Services (CMS) is approving the state's request to amend its 1915(i) state plan home and community-based services (HCBS) benefit, transmittal number CA 24-0005. The effective date for this amendment is July 1, 2024. With this amendment, the state is adding group homes for children with special health care needs as a new provider type for Community Living Arrangement Services, adding participant direction as a service delivery method for Self-Directed Support Services, and adding telehealth as a service delivery method for specified services.

Enclosed are the following approved SPA pages that should be incorporated into your approved state plan:

- Attachment 3.1-i: 14, 25, 25a, 111b, 112, 113
- Attachment 4.19-B: 73

CMS reminds the state that the state must have an approved spending plan in order to use the money realized from section 9817 of the ARP. Approval of this action does not constitute approval of the state's spending plan.

It is important to note that CMS approval of this change to the state's 1915(i) HCBS state plan benefit solely addresses the state's compliance with the applicable Medicaid authorities. CMS approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at http://www.ada.gov/olmstead/q&a_olmstead.htm.

Thank you for your cooperation during the review process. If you have any questions concerning this information, please contact me at (410) 786-7561. You may also contact Alice Hogan at Alice.Hogan@cms.hhs.gov or (404) 562-7432.

Sincerely,

George P.
Failla Jr -S

Digitally signed by George
P. Failla Jr -S
Date: 2024.06.26
13:15:30 -04'00'

George P. Failla, Jr., Director
Division of HCBS Operations and Oversight

Enclosure

cc:

Deanna Clark, CMS
Cheryl Young, CMS
Blake Holt, CMS
Cynthia Nanes, CMS

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 4 — 0 0 0 5

2. STATE

CA

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

1915(i) of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2023-24 \$ 34,000
b. FFY 2024-25 \$ 138,000

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

~~Attachment 3.1-i: 25, 25a (new), 111b, 112, 113~~
Attachment 4.19-B: 73

Attachment 3.1-i: 14, 25, 25a (new), 111b, 112, 113

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

~~Attachment 3.1-i: 25, 111b, 112, 113~~
Attachment 4.19-B: 73

Attachment 3.1-i: 14, 25, 111b, 112, 113

9. SUBJECT OF AMENDMENT

Adding group homes for children with special needs as a new provider type, adding participant-directed as a service delivery method for self-directed support services..

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

Please note: The Governor's Office does not wish to review the State Plan Amendment.

11. SIGNATURE OF STATE AGENCY OFFICIAL


12. TYPED NAME
Tyler Sadwith

13. TITLE
State Medicaid Director

14. DATE SUBMITTED
March 29, 2024

15. RETURN TO

Department of Health Care Services
Attn: Director's Office
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

FOR CMS USE ONLY

16. DATE RECEIVED 3/29/2024

17. DATE APPROVED
6/26/2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
7/1/2024

19. SIGNATURE OF APPROVING OFFICIAL
George P. Failla Jr - S

Digitally signed by George P. Failla Jr - S
Date: 2024.06.26
13:15:12 -04'00'

20. TYPED NAME OF APPROVING OFFICIAL
George P. Failla, Jr.

21. TITLE OF APPROVING OFFICIAL
Director, Division of HCBS Operations and Oversight

22. REMARKS

Pen and ink changes authorized by the state on 6/26/2024.

In addition to private residences, the following are setting types where individuals will receive Home and Community-Based Services under this 1915(i) State plan HCBS benefit:

- Adult Day Program
- Adult Family Home/Family Teaching Home
- Child Day Care Facility: Child Day Care Center; Family Child Care Home
- Day Type Services (Activity Center, Adult Day Care Facility, Adult Development Center, Behavior management program and socialization training program)
- Supported Employment (Group Services)
- Work Activity Program
- Adult Residential Facility; Adult Residential Facility for Persons with Special Health care Needs; Group Homes for Children with Special Health Care Needs; Residential Care Facility for the Elderly; Group Homes; Small Family Homes; Enhanced Behavior Supports Home; Community Crisis Homes
- Certified Family Home; Foster Family Home
- Community-Based Adult Services (Adult Day Health Care Facility)

Department of Developmental Services (DDS) and the Department of Health Care Services (DHCS) conducted site assessments and desk reviews as a part of the state's systemic assessment process to determine compliance with all of the HCBS settings requirements. Individuals were also surveyed to obtain their input regarding the home and community-based services they receive in the above settings; these surveys included questions reflecting all aspects of the HCBS settings criteria. To address necessary changes, remediation plans for providers were created based on the outcomes of assessments, desk reviews, and interviews – DDS, working alongside the regional centers, reviewed these plans and followed up as needed to support providers in meeting compliance. As a part of ongoing monitoring, the state has processes in place to monitor ongoing compliance with the settings criteria across all services, including services provided in settings presumed to be compliant. The regional centers' ongoing and annual review of providers will include an evaluation of settings to verify that they continue to comply with HCBS Settings Requirements. Additionally, biennial on-site monitoring is completed jointly by DHCS and DDS. The state is incorporating all elements of the HCBS Settings Requirements into the existing monitoring procedures, with a focus on obtaining information from individuals served about their experiences, in addition to onsite observations, provider and staff interviews, and documentation reviews.

	<p>CCLD as to type of facility As appropriate, a business license as required by the local jurisdiction where the business is located.</p>		<p>Section 1562.3 of the Health and Safety Code without exception, 2. Has at least one year of administrative and supervisory experience in a licensed residential program for persons with developmental disabilities, and is one or more of the following: a) A licensed registered nurse. b) A licensed nursing home administrator. c) A licensed psychiatric technician with at least five years of experience serving individuals with developmental disabilities. d) An individual with a bachelor’s degree or more advanced degree in the health or human services field and two years of experience working in a licensed residential program for persons with developmental disabilities and special health care needs.</p> <p>Maintain standards identified in “Needs-Based Evaluation/Reevaluation” item #8.</p>
<p>Group Homes for Children with Special Health Care Needs (GHCSHN)</p>	<p>Licensed Group Home for Children with Special Health Care Needs by the Department of Social Services pursuant to Health and Safety Code § 1567.51(b) As appropriate, a business license as required by the local jurisdiction where the business is located.</p>	<p>Per Health and Safety Code §1567.51, the State Department of Developmental Services shall be responsible for granting the certificate of program approval.</p>	<p>Welfare and Institutions Code, § 4684.50 et seq. The administrator must: 1. Complete the 40-hour administrator certification program pursuant to paragraph (1) of subdivision (c) of Section 1522.41 of the Health and Safety Code without exception 2. Has at least one year of administrative and supervisory experience in a licensed residential program for persons with developmental disabilities, and is one or more of the following: a. A licensed registered nurse. b. A licensed nursing home administrator. c. A licensed psychiatric technician with at least five years of experience serving individuals with developmental disabilities. d. An individual with a bachelor’s degree or more advanced degree in the health or human services field and two years of experience working in a licensed residential program for persons with developmental disabilities and special health care needs.</p>

<p>Family Home Agency (FHA):</p> <p>Adult Family Home (AFH)/Family Teaching Home (FTH)</p>	<p>No state licensing category.</p> <p>As appropriate, a business license as required by the local jurisdiction where the business is located.</p>	<p>AFH Title 17, CCR, §56088 Authorizes the FHA to issue a Certificate of Approval to each family home which has:</p> <ol style="list-style-type: none"> 1. Completed the criminal record review. 2. Been visited by the FHA and a determination ensuring safe and reasonable and the 	<p>Welfare and Institutions Code 4689.1-4689.6 provides definition and statutory authority for FHA.</p> <p>FHA employs sufficient staff with the combined experience, training and education to perform the following duties:</p> <ol style="list-style-type: none"> 1. Administration of the FHA; 2. Recruitment of family homes; 3. Training of FHA staff and family homes; 4. Ensuring an appropriate match between the needs and preferences of the consumer and the family home; 5. Monitoring of family homes;
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Individual	An appropriate business linse as requiredy the local jurisdiction fr the adaptaons to be completed	Completion of a training course about the principles of participant-directed services.	
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Verification of Provider Qualifications (For each provider type listed above. Copy rows as needed):

Provider Type (Specify):	Entity Responsible for Verification (Specify):	Frequency of Verification (Specify):
Business entity/ individual	Regional centers, through the vendorization process, verify providers meet requirements/qualifications outlined in Title 17, CCR, § 54310 including the following, as applicable: any license, credential, registration, certificate, permit, or academic degree required for the performance or operation of the service; the staff qualifications and duty statements; and service design.	Verified upon application for vendorization and biennially thereafter.

Service Delivery Method. (Check each that applies):

<input checked="" type="checkbox"/>	Participant-directed	<input checked="" type="checkbox"/>	Provider managed
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Service Specifications (Specify a service title for the HCBS listed in Attachment 4.19-B that the state plans to cover):

Service Title:	Technology Services
Service Definition (Scope):	

Participant-Direction of Services

Definition: Participant-direction means self-direction of services per §1915(i)(1)(G)(iii).

1. Election of Participant-Direction. *(Select one):*

<input type="radio"/>	The state does not offer opportunity for participant-direction of State Plan HCBS.
<input type="radio"/>	Every participant in State Plan HCBS (or the participant’s representative) is afforded the opportunity to elect to direct services. Alternate service delivery methods are available for participants who decide not to direct their services.
<input checked="" type="radio"/>	Participants in State Plan HCBS (or the participant’s representative) are afforded the opportunity to direct some or all of their services, subject to criteria specified by the state. <i>(Specify criteria):</i> Participants who receive respite, financial management services, community-based training services, family support services, self-directed support services, supported employment individual and Habilitation day services, Participant-directed services, skilled nursing or non-medical transportation have the opportunity to direct those services.

2. Description of Participant-Direction. *(Provide an overview of the opportunities for participant-direction under the State Plan HCBS, including: (a) the nature of the opportunities afforded; (b) how participants may take advantage of these opportunities; (c) the entities that support individuals who direct their services and the supports that they provide; and (d) other relevant information about the approach to participant-direction):*

In support of personal control over supports and services, self-direction is an option that enables participants to procure their own services. Self-direction of services empowers participants and families by giving them direct control over how and when the services are provided. As an alternative to only receiving services from regional center vendors, families and consumers will have decision-making authority and the freedom to directly control who provides their services and how they are provided.

For those participants who receive Enhanced Habilitation supported employment- Individual Services, habilitation day service, participant-directed services, respite, financial management services, family support services, self-directed support services, skilled nursing, non-medical transportation, and/or community-based training services identified as a need in their IPP, the opportunity to self-direct those services will be offered at the time of the IPP development. As required by Title 17, CCR section 58886, when the decision to self-direct services is made, the regional center is required to provide the consumer/family member with information regarding their responsibilities and functions, as either an employer or co-employer.

For those selecting to self-direct the indicated services, a Financial Management Service (FMS) provider, vendored by the regional center, will perform selected administrative functions such as payroll, taxes, unemployment insurance, etc. This relieves the participant of the burden of these administrative functions while still having the freedom to exercise decision making authority over the provision of services.

Additionally, Self-Directed Support Services are available to provide guidance and advisement in ensuring a thorough understanding of responsibilities involved with self-direction of services. The purpose is to set consumers up for success in directing their services.

	<p>directed service delivery options offered by the state or may choose instead to receive comparable services through the benefit’s standard service delivery methods that are in effect in all geographic areas in which State plan HCBS are available. <i>(Specify the areas of the state affected by this option):</i></p>

4. Participant-Directed Services. *(Indicate the State Plan HCBS that may be participant-directed and the authority offered for each. Add lines as required):*

Participant-Directed Service	Employer Authority	Budget Authority
Respite	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Community-Based Training Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Skilled Nursing	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Non-Medical Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family Support Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Financial Management Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Enhanced Habilitation - Supported employment – Individual Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Habilitation – Day Service	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Self-directed Support Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Participant-directed Services	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Financial Management. *(Select one):*

<input type="radio"/>	Financial Management is not furnished. Standard Medicaid payment mechanisms are used.
<input checked="" type="radio"/>	Financial Management is furnished as a Medicaid administrative activity necessary for administration of the Medicaid State Plan.

6. Participant-Directed Person-Centered Service Plan. *(By checking this box the state assures that):* Based on the independent assessment required under 42 CFR §441.720, the individualized person-centered service plan is developed jointly with the individual, meets federal requirements at 42 CFR §441.725, and:

- Specifies the State Plan HCBS that the individual will be responsible for directing;
- Identifies the methods by which the individual will plan, direct or control services, including whether the individual will exercise authority over the employment of service providers and/or authority over expenditures from the individualized budget;
- Includes appropriate risk management techniques that explicitly recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assures the appropriateness of this plan based upon the resources and support needs of the individual;
- Describes the process for facilitating voluntary and involuntary transition from self-direction including any circumstances under which transition out of self-direction is involuntary. There must be state procedures to ensure the continuity of services during the transition from self-direction to other service delivery methods; and
- Specifies the financial management supports to be provided.

7. Voluntary and Involuntary Termination of Participant-Direction. *(Describe how the state facilitates an individual’s transition from participant-direction, and specify any circumstances when transition is involuntary):*

- Transportation Company

While the law sets a cap on negotiated rates, the rate setting methodology for applicable services is one of negotiation between the regional center and prospective provider. Pursuant to law and the regional center's contracts with the Department of Developmental Services regional centers must maintain documentation on the process to determine, and the rationale for granting any negotiated rate (e.g. cost-statements), including consideration of the type of service and any education, experience and/or professional qualifications required to provide the service. Providers maintain their initially negotiated rate unless there is a need for an increase to protect beneficiary health and safety, as described below.

Exceptions to the median rate limit are allowed if the regional center demonstrates that an increase above the median rate limit is necessary to protect a beneficiary's health and safety. The Department of Developmental Services can grant prior written authorization to the regional center to negotiate the reimbursement rate up to the actual cost of providing the service. In the process of establishing a negotiated rate, the regional center can require documentation such as cost statements or other financial documents to determine the actual cost to provide services. Additionally, providers would be required to submit education credentials or qualifications of the various classifications that would be providing services. This information would help inform the regional center when negotiating a rate with the provider, but not exceeding the median rate.

REIMBURSEMENT METHODOLOGY FOR HABILITATION – COMMUNITY LIVING ARRANGEMENT SERVICES

This service contains the following two subcomponents:

- A. **Licensed/Certified Residential Services** – Providers in this subcategory are Foster Family Agency/Certified Family Home, Foster Family Home, Small Family Home, Group Home, Adult Residential Facility, Residential Facility for the Elderly, Out-of-State Residential Facility, Adult Residential Facility for Persons with Special Health Care Needs, Group Home for Children with Special Needs, Family Home Agency, Enhanced Behavioral Supports Homes, and In-Home Day Program Services.

There are five rate setting methodologies for all providers in this subcategory.

- 1) Alternative Residential Model (ARM) Methodology** – The ARM methodology and monthly rates resulted from an analysis of actual costs of operating residential care facilities. The applicable cost components (see below) were analyzed to determine the statistical significance of the variation in costs among facilities by service type, facility size, and operation type. Based upon the results of this statistical analysis, the initial ARM rates were determined and became effective in 1987. Within this methodology 14 different service levels were established based upon the results of this cost analysis. Individual providers apply to be vendored at one of these service levels based upon the staffing ratios, service design, personnel qualifications, and use of consultant services as described in their program design.

The following allowable costs were used in setting the ARM rates:

- **Direct costs for covered services**: Includes unallocated payroll costs and other unallocated cost that can be directly charged to covered medical services. Direct