



Disabled and Elderly Health Programs Group

December 19, 2019

Cynthia Beane, Commissioner
Bureau of Medical Services
West Virginia Department of
Health and Human Services
350 Capitol Street, Room 251
Charleston, WV 25301-3706

RE: West Virginia's Concurrent 1915(b) WV-06.R00.M00 and 1915(c) WV.1646.R00.00

Dear Ms. Beane:

We are approving your request for an initial 1915(c) Home and Community-Based Services (HCBS) waiver for individuals who are three to twenty-one years of age diagnosed with a serious emotional disorder, which the state has entitled, "Children with Serious Emotional Disorder." This waiver has been assigned CMS control number WV.1646.R00.00, which should be referenced in all future correspondence relating to this waiver.

For the 1915(c) waiver, the state has requested a waiver of 1902(a)(10)(B) of the Social Security Act (the Act) in order to waive comparability of services. CMS approves this waiver for a three year period with an effective date of February 1, 2020.

This waiver will offer the following supports for waiver participants: assistive equipment, case management, community transition, independent living/skills building, in-home family therapy, in-home family support, job development, mobile response, non-medical transportation, peer parent support, respite care (in-home), respite care (out-of-home), specialized therapy, and supported employment-individual. The following number of unduplicated recipients and the estimates of average per capita cost of waiver services have been approved:

Waiver Year	Unduplicated Recipients (Factor C)	Average Per Capita Cost of Waiver Services (Factor D + D')
1 - (2/01/2020 – 1/31/2021)	500	\$121,607.00
2 - (2/01/2021 – 1/31/2022)	1000	\$116,757.85
3 - (2/01/2022 – 1/31/2023)	2000	\$106,435.43

These approvals are subject to your agreement to serve no more individuals than those indicated above. If the state wishes to serve more individuals or make any other alterations to these waivers, an amendment must be submitted for approval. The state may renew the waiver at the end of the initial three year period by providing evidence and documentation of satisfactory performance and oversight. It is important to note that CMS' approval of this waiver 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.

Concurrently, CMS is approving West Virginia's request for an initial 1915(b) waiver, under CMS control number WV-06.R00.M00, which is titled, "Specialized Managed Care Plan for Children and Youth." This waiver will provide statewide physical and behavioral health managed care services for approximately 19,000 children and youth in the foster care system, individuals receiving adoption assistance and individuals enrolled in the 1915(c) waiver program. This 1915(b) waiver allows West Virginia to require mandatory enrollment of all individuals also enrolled in the Children with Serious Emotional Disorder 1915(c) waiver into a single managed care organization (MCO). Additionally, this waiver allows the state to voluntarily enroll the foster care and adoption assistance populations into the single MCO, with the option to revert to the fee-for-service delivery system. This managed care program is authorized under section 1915(b)(1) and (b)(4) of the Act and provides for waivers of the following sections of Title XIX:

- Section 1902 (a)(10)(B) Comparability of Services
- Section 1902 (a)(23) Freedom of Choice

Our decision is based on the evidence submitted to the CMS demonstrating that the state's managed care proposal is consistent with the purposes of the Medicaid program, will meet all of the statutory and regulatory requirements for assuring beneficiaries' access to and quality of services, and will be a cost-effective means of providing services to these beneficiaries in West Virginia's Medicaid population.

The state must arrange for an independent evaluation or assessment of their 1915(b) waiver program and submit the findings when renewing the section 1915(b) waiver program. At a minimum, the Independent Assessment (IA) is a requirement of the first two waiver periods. The IA should be submitted with the waiver renewal request no later than ninety (90) days before the expiration of the approved waiver program, April 1, 2021.

Additionally, CMS has approved a proposal for an amendment of the West Virginia section 1115 demonstration, "Creating a Continuum of Care for Medicaid Enrollees with Substance Use Disorders," that also runs concurrently with both the 1915(b) and 1915(c) waivers. The purpose of this amendment proposal was to add section 1115 expenditure authority to allow the state to mandatorily enroll the 1915(c) Children with Serious Emotional Disorder waiver population with a single Managed Care Organization (MCO) in the 1915(b) Specialized Managed Care Plan for Children and Youth waiver program.

The 1915(c) waiver is effective for the three year period beginning February 1, 2020, through January 31, 2023. The 1915(b) waiver is effective for a 17-month period beginning February 1, 2020 through June 30, 2021. The state may request renewal of these authorities by providing evidence and documentation of satisfactory performance and oversight. West Virginia's request that these authorities be renewed should be submitted to the CMS no later than September 30, 2023, for the

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1915(c) waiver and no later than April 1, 2021, for the 1915(b) waiver. The state will report all managed care waiver expenditures on the CMS 64-9 and 1915(c) waiver expenditures on the CMS 372 report. West Virginia will also be responsible for documenting cost-effectiveness, access, and quality in subsequent renewal requests.

We appreciate the cooperation and effort provided by you and your staff during the development of the new waiver program. Please contact Daphne Hicks (Daphne.Hicks@cms.hhs.gov) or Michelle Beasley (Michelle.Beasley@cms.hhs.gov), of the CMS Baltimore Office, or Charles Steinmetz (Charles.Steinmetz@cms.hhs.gov) or Mary McKeon (Mary.Mckeon@cms.hhs.gov), of the CMS Philadelphia Office, with any questions related to this approval letter.

Sincerely,



Ralph Lollar
Director
Division of Long Term Services & Supports



Carrie Smith
Acting Director
Division of Managed Care Policy