

December 13, 2024

# Timely Access to Home- and Community-Based Services


*Policy Option on Provisional Plans of Care*

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# Overview

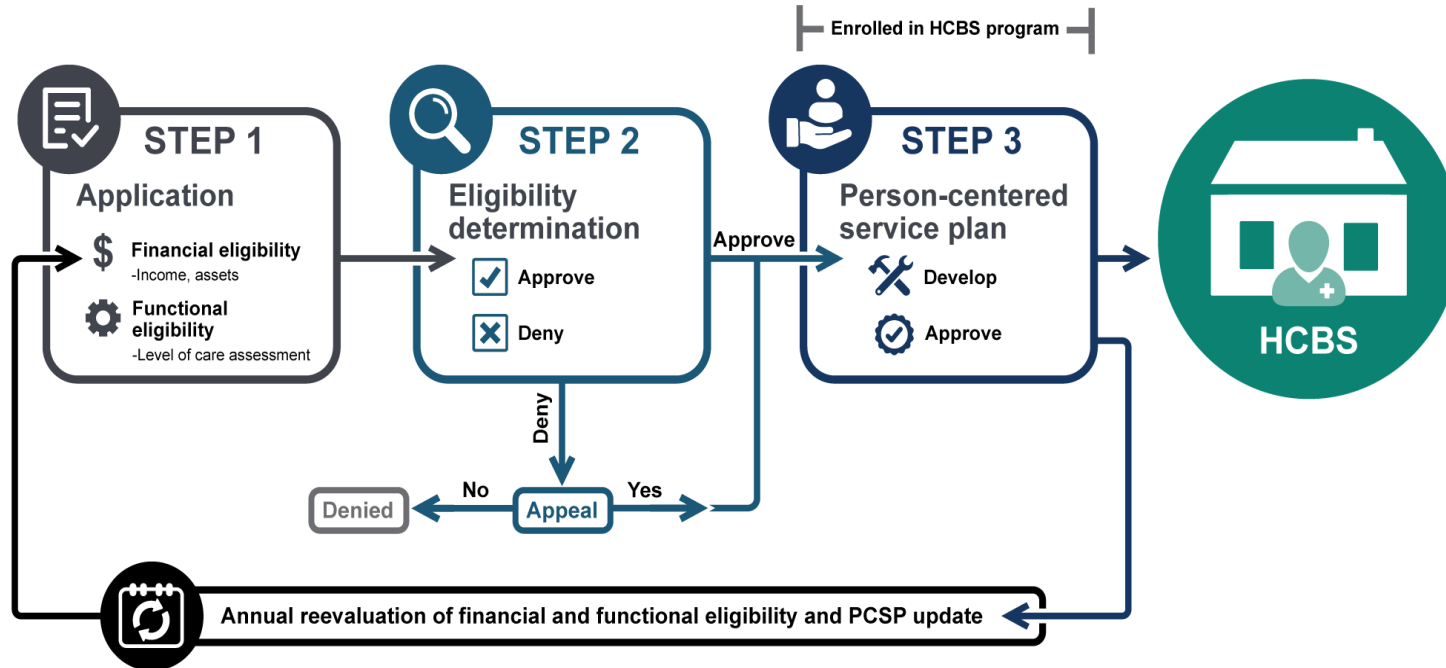
- Background
- Recap of findings
  - Results of waiver review
  - Themes from stakeholder interviews
- Policy option
- Next steps





**Background**

# Eligibility Process and Requirements for Individuals Seeking Medicaid Home- and Community-Based Services



**Notes:** HCBS is home- and community-based services. PCSP is person-centered service plan.

**Source:** 42 CFR 441.301, 441.303, 441.535, 441.540, 441.720, 441.725, 435.907, 435.916.

# Provisional Plans of Care

- Also called interim service plans
- Allowed since 2000, when described in Centers for Medicare & Medicaid Services (CMS) guidance known as Olmstead Letter #3

“To facilitate expeditious initiation of waiver services, we will accept as meeting the requirements of the law a provisional written plan of care which identifies the essential Medicaid services that will be provided in the person's first 60 days of waiver eligibility, while a fuller plan of care is being developed and implemented. A comprehensive plan of care must be in place in order for waiver services to continue beyond the first 60 days.”

**Source:** Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. 2000. Letter from Timothy Westmoreland to state Medicaid directors regarding “Olmstead Update No: 3.” July 25, 2000. Baltimore, MD: CMS.  
<https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/downloads/smd072500b.pdf>.

- States must document in Appendix D-1 of their Section 1915(c) waivers if they allow the use of provisional plans of care

# Results of Waiver Review

# Review of Section 1915(c) Waivers

- Environmental scan
  - Conducted a comprehensive scan of Section 1915 HCBS authorities, Section 1115 demonstrations, and additional relevant resources
  - Thirty-four states verified their state information included in the [compendium](#)
  - Found language in 17 states on provisional plans of care
- CMS provided us a list of Section 1915(c) waivers that have language on “provisional,” “interim,” or “temporary” services plans
- After cross referencing these two sources, we found that 24 states have language in their Section 1915(c) waivers allowing for the use of provisional plans of care, across 59 Section 1915(c) waiver programs

# State Use of Provisional Plans of Care, October 2024

State	Number of Section 1915(c) waivers with provisional plans of care	Total number of Section 1915(c) waivers in state	Percentage of Section 1915(c) waivers with provisional plans of care
<b>Total</b>	<b>59</b>	<b>140</b>	<b>42%</b>
Alabama	1	7	14
California	1	5	20
Colorado	10	10	100
Delaware	1	1	100
District of Columbia	2	3	67
Illinois	4	8	50
Indiana	1	4	25
Kansas	1	7	14
Maryland	1	8	13
Massachusetts	3	10	30
Michigan	2	5	40
Missouri	6	11	55
Montana	2	3	67
New York	1	4	25
North Carolina	1	4	25
North Dakota	1	4	25
Ohio	6	6	100
Oregon	6	6	100
Pennsylvania	1	7	14
South Carolina	1	8	13
South Dakota	1	4	25
Tennessee	3	3	100
Washington	1	8	13
West Virginia	2	4	50

**Source:** The Lewin Group analysis, 2024, under contract with MACPAC; CMS 2024.





# Themes from Stakeholder Interviews

# Methods

- From June through August 2024, MACPAC staff conducted interviews with officials in 5 states, CMS officials, and national experts
  - 1 state had language on the use of provisional plans of care in all of its Section 1915(c) waivers
  - 2 states had language in half of their waivers
  - 2 states had language in one or two waivers
- In November 2024, we went back to a few stakeholders to gain additional insights on the reasons for low state uptake of provisional plans of care and on the need for guidance

## Recap of Themes from Stakeholder Interviews

- Provisional plans of care are most often used for emergency situations, such as natural disasters or hospitalizations
- Provisional plans of care appear to be rarely used
- States using Section 1115 demonstrations to offer presumptive eligibility for non-MAGI populations often use a provisional plan of care and offer a limited benefit package as part of the plan

# Reasons for Low State Uptake

- Lack of awareness
  - Waivers may contain legacy language
  - State staff turnover can contribute to loss of programmatic knowledge and ability to update operating procedures
- Limited state capacity, administrative complexity, and competing priorities at the state level
- State operational processes may negate the need for an interim service plan, such as when the level of care assessment and person-centered service plan (PCSP) are developed in the same meeting
- Provisional plans of care may not be feasible or appropriate for all individuals

# Guidance

- Aside from a brief mention in the Section 1915(c) technical guide, there has been no additional guidance on the use of provisional plans of care since Olmstead Letter #3 was published in 2000
- Lack of consensus among interviewees about the need for additional CMS guidance
  - Two states that occasionally use interim service plans said they do not need additional guidance
  - Experts considered whether additional CMS guidance might encourage more states to take up this flexibility and use it as a routine practice
- CMS highlighted their promotion of the use of provisional plans of care through other avenues, including recent webinars, conferences, and a Center for Medicaid and CHIP Services Informational Bulletin



**Policy Option**

# Policy Option

**CMS should issue guidance to outline the Medicaid authority, either state plan or waiver, that states can use to adopt provisional plans of care, and to identify policy and operational issues that states should consider in the course of implementation.**

- Lack of awareness and limited use of provisional plans of care indicates a need for additional guidance
- Interview feedback indicated limited state capacity for operationalizing this flexibility; specific guidance could educate state staff, answer administrative questions, and provide reassurance to state agencies that they are operating their programs in accordance with the statutory and regulatory rules governing HCBS
- Other than the Olmstead Letter #3 stating provisional plans of care can be used in Section 1915(c) waivers, there is no guidance expressly allowing their use in other HCBS authorities

# Implications of Policy Option

- If guidance leads to more states using provisional plans of care, the number of new enrollees who have a provisional plan of care could increase, potentially leading to more timely access to services
- In states where plans are responsible for developing PCSPs, the staff (e.g., case workers) would need to be trained on how and when to operationalize the use of interim service plans
- Use of provisional plans of care may allow enrollees to more quickly be connected with HCBS providers
- Providers would need to be educated on the difference between a provisional plan of care and a full PCSP, and how services authorized could differ between the two versions
  - A decrease in services could negatively affect providers, although many stakeholders noted that there are typically more services authorized in the full PCSP than the provisional plan of care





# Next Steps

## Next Steps

- Do Commissioners have feedback on the proposed policy option?
- If supportive of the policy option, we will return at the January 2025 meeting with the recommendation and the draft chapter for the March 2025 report to Congress

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