

**STATE OF CONNECTICUT
DEPARTMENT OF MENTAL RETARDATION**

Procedure No. I.B.2.PR.001

Subject: Application for New or Additional Services/Supports
and Enrollment Procedures for MR HCBS Waivers

Section: Planning and Resource Allocation, Waiver Management

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A. Purpose

This procedure outlines the application, enrollment and decision-making for services and supports available through the Department of Mental Retardation under DMR HCBS Waiver(s).

B. Applicability

This procedure applies to individuals who are seeking new or additional services/supports available through the DMR. Children served by the Birth to Three System are excluded.

C. Definitions

Department of Administrative Services (DAS) - The state agency responsible for investigation, determination and collection of charges for support of people served by DMR.

Department of Social Services (DSS) - The designated Single State Medicaid Agency which administers the State Medicaid Plan.

HCBS Waiver – The Home and Community Based Services Waivers administered by DMR “waives” certain restrictions of Medicaid regulations and allows a flexible approach to providing services within the community. These services assist a person to live in the community, who would otherwise be eligible for placement in an ICF/MR or Nursing Facility.

New Services – Application made by an individual consumer/family/guardian *who is currently not receiving* day, residential and/or other covered services and is seeking day, residential and/or other covered services from the DMR.

Additional Services- Application made by an individual consumer or their planning team, *who is currently receiving* day, residential and/or other covered services, and is seeking additional day, residential and/or other covered services from the DMR.

Facility or Program Administered by DMR – Includes Public or Private Community Living Arrangements (CLA), Supported Living Programs (SL), Day Programs, Supported Employment Services, Community Training Home (CTH) or Individual Support Agreement (ISA).

IFS Budget- Is the Individual Budget for and method through which IFS (Individual and Family Support) waiver services may be authorized.

Individual Budget- Is the budget developed to implement an Individual Plan. It may be an IFS Budget, ISA Budget or budget amount designated in a Master Contract on behalf of the individual.

Individual Support Agreement (ISA) - The term used to describe the method by which individuals direct their own services and supports through a legally binding agreement between the individual or their guardian and DMR.

Planning and Resource Allocation Team (PRAT) – A Regional Team chaired by the Planning and Quality Coordinator, and comprised of representatives from Resource Management, Case Management Supervision, Business Office, Family Support, and Regional Administration. This team manages the process whereby DMR identifies available resources, identifies individual consumer needs, assigns Priority, implements Planning and Resource Allocation policies and procedures, makes recommendations regarding applicants for the HCBS waiver, processes allocation of resources, and referrals to available out of home residential group living settings and Provider Agency based day services.

Out of Home Placement: Is the term used to describe a Community Living Arrangement (CLA, group home) ICF/MR, Residential School, Community Training Home (CTH) or other paid 24 hour supervised living arrangement outside of a family home.

D. Implementation

Individuals seeking new, additional or enhanced services/supports which are covered services under a Home and Community Based Services Waiver from DMR, must agree to participate in the Waiver application and enrollment process at the time DMR determines it has the resources and waiver slots available to deliver such services/supports. Waiver enrollment enables the State to bill Medicaid and receive federal assistance in funding waiver services, and thereby assists the State of Connecticut in its goal of supporting all citizens with Mental Retardation to safely and successfully live in their communities. If waiver slots are not available, the Department will provide services/supports to eligible individuals without enrollment in a HCBS waiver when state appropriations are available.

Waiver “Cap” and State Appropriations

The HCBS waiver includes a limit as to the number of individuals who can be enrolled and served through a waiver. In Connecticut, this cap increases for each year of the specific HCBS waiver, i.e., there is an established number of “waiver slots” which are available. In addition, the availability of HCBS waiver services depends, in the first instance, on state appropriations for which prospective Medicaid funding under the waiver is available.

The ability to accept and process applications for waiver services and enrollment, therefore, requires an ongoing assessment of “waiver slots” available **AND** the sufficiency of state appropriations to support waiver enrollment and waiver services. The DMR Regions will be advised by the DMR Central Office Waiver Unit of the status of these two (2) factors on a periodic basis. Applications **will not** be processed unless the PRAT has awarded a waiver slot, resources are available and a referral has been made for the individual. Applications submitted without award by the PRAT will be deferred for future consideration, due to (a) “waiver slots” unavailable, or (b) state appropriations are not sufficient to support the services needed by potential **new** enrollee/recipients, i.e., new resources or opportunities within existing funded resources are fully committed at the current time to individuals who have been determined to present the “most urgent need” for waiver services and support.

For any applications which are deferred due to lack of waiver slots or lack of new or available existing resources and opportunities, PRAT will maintain a list by date received and forward such list to the Waiver Unit, updated on a quarterly basis. The Waiver Unit will provide annual notice to all applicants for whom processing has been deferred as to the status of the waiver “caps” and new or available existing resources until such time as the application is processed.

1. Initiation of Waiver Application

At least annually, consumers/families/guardians/representatives should be provided the current “Fact Sheet” on the Connecticut HCBS Waivers(s). The Fact Sheet provides a summary of approved waiver services, the application and enrollment process, and hearing rights for decisions related to waiver(s).

When an individual, his/her family/legal representative, or his/her planning and support team has initiated a request for services/supports, the DMR Case Manager will follow DMR Procedure No: I.B.1.PR.001, Administration of Requests for Day and Residential Supports. A request for services/supports from DMR does not constitute a formal waiver application request. A DMR Level of Need Tool and a Priority Checklist must be completed at that time if one is not on file and current.

2. Eligibility for DMR HCBS Enrollment

Following DMR Procedures No. I.B.1.PR.001, Administration of Requests for Day and Residential Supports, the PRAT will identify individuals who are to be considered for DMR services and supports. When an individual is identified for service consideration, the PRAT shall review his/her eligibility for HCBS enrollment at that time based upon the following criteria:

- a. The applicant is eligible for DMR services under state law;
- b. The individual has Title 19 (Medicaid), is considered to be eligible for Medicaid, or who would be eligible for Medicaid upon enrollment in a HCBS waiver;
- c. The applicant has “E” or “P-1” status on the DMR Waiting List for residential or day placement/support/services, or would be assigned such status if on the DMR Waiting List, if the individual is seeking residential or day supports;
- d. The individual’s needs, in the absence of HCBS services, require the level of care provided in an ICF/MR or Nursing Facility; and,
- e. But for the provision of one or more of the services covered under the waiver(s), together with state plan, generic and informal supports, it is likely that the applicant would need ICF/MR-institutional services within one month.

The following factors may be considered in determining the final criteria:

- i. the applicant’s current living situation has deteriorated to the point where either the applicant or others face immediate and serious jeopardy to health and safety;
- ii. the applicant exhibits severe behavioral/mental health or medical issues which can no longer be managed in the current living situation;
- iii. the applicant is receiving serious consideration for admission to an institutional/ICF/MR residential setting;
- iv. the department must respond to a lawfully issued court order requiring residential placement, services, or support; and/or
- v. supports and services available in the HCBS waiver are needed to supplement state plan, generic and informal supports to prevent imminent placement in an ICF/MR, institutional, or similar residential facility for persons with mental retardation.

Individuals considered to be potentially eligible for waiver enrollment are informed of the resource allocation award or referral by the PRAT through an Award or Referral letter. An “Acknowledgement Form” is included in the written notification, to be signed and returned to the PRAT, which indicates that the individual and/or personal/legal representative agrees to proceed with the waiver application and enrollment process.

3. Implementation

Upon written authorization (Award or Referral letter) by the Regional Planning and Resource Allocation Team (PRAT) notifying the individual and/or personal/legal representative and the Case Manager of available resources and a waiver slot, the Case Manager shall follow-up with the individual or personal/legal representative to answer any questions regarding the Acknowledgement Form, to coordinate the completion of a Medicaid Application if necessary, and the completion of the DMR HCBS Waiver enrollment forms listed below:

- **DMR 219, Level of Care Determination,**
- **DMR 222, Service Selection,** and,
- **DSS W1518, HCBS Referral to Regional Office.**

a) The Case Manager shall inform the individual and/or his or her family/legal representative that the referral process will not be initiated or the resource allocation will not be released until the Acknowledgement Form has been signed and returned to the PRAT. If the Acknowledgement is not signed, the individual or his or her family/legal representative will receive communication from DMR CO Waiver Unit outlining available options/approaches to resolve the matter. If the individual or his or her family/legal representative declines to enroll in Medicaid and/or a waiver at any time, the referral or resource allocation shall be withdrawn, and subdivision c), below, will be initiated.

b) If the Medicaid Application is dependant upon enrollment in the DMR HCBS waiver (income limits exceed standard Title 19 limits, but is less than 3 times the current SSI amount), a completed Medicaid/Title 19 Application must accompany the DMR HCBS waiver enrollment package. Failure to complete the Title 19 application process by failing to submit any additional documentation that may be requested by DSS will result in the termination of DMR services.

c) If the individual is not eligible for Medicaid due to excess income and/or assets, or the individual or his or her family/legal representative declines to apply for Medicaid and/or complete the enrollment process for the DMR HCBS waiver, the DMR Case Manager must complete **DMR form 224, Reasons for Declining to Submit Medicaid and/or DMR HCBS Waiver Applications**, and return to the PRAT for submission to the CO Waiver Unit. The PRAT will notify the CO Waiver Unit of the status of the individual's services (service request has been suspended or the individual is already in services) when the DMR form 224 is submitted. The PRAT will suspend consideration for services/supports for the individual until notified by the CO Waiver Unit of a final determination of eligibility for DMR funded services/supports by the Commissioner or his designee. This decision process will fall under the Programmatic Administrative Review (PAR) policy and procedures.

d) Under the following circumstances, the DMR Case Manager will proceed with coordinating the referral or Individual Planning process:

- i) Upon completion of and return to DMR the Acknowledgement Form; or,
- ii) The PRAT notifies the Case Manager that the circumstances described in 3c) above have been resolved and the individual is eligible to resume the enrollment process, or found otherwise eligible for DMR funded services/supports.

e) The Case Manager will assist the individual with coordinating preferred Planning and Support team members and initiate person centered planning to identify support needs and preferences which may be addressed by waiver services and/or state-funded, generic and informal supports.

Once the planning process is completed and the proposed type, amount, and frequency of each waiver service/support have been identified to implement the Individual Plan, and the individual or his or her family/legal representative has completed the Title 19 Application (if required) and waiver application packet, the Case Manager will submit the completed Individual Plan, proposed Individual Budget, completed Title 19 (if required) and waiver applications, and **DMR form 223, Notification of Waiver Services** to his or her case manager supervisor for initiation of the Regional Approval process.

4. Enrollment Authorization

Upon final regional authorization of the Individual Plan and Individual Budget, the PRAT will submit a recommended decision and the reasons therefore for enrollment in the appropriate DMR HCBS waiver by completion of **DMR form 225, PRAT HCBS Waiver Recommendation Form**, all records and forms considered, and submission of the waiver application packet (**DMR forms 219, 222, 223, DSS form W-1518**) to the DMR CO Waiver Unit. The Waiver Unit will issue a final decision to the applicant and/or his/her family/legal representative, with a copy to the Case Manager, within forty-five (45) days of submission of the complete file. Need for immediate placement or other emergency protective services will continue to be addressed under the Commissioner's state law authority, CGS Sec. 17a-274(k), without regard to waiver issues.

a) If the individual applicant is not in agreement with the Individual Plan and/or Individual Budget as authorized by DMR based on a denial of a type, amount or frequency of a waiver service/support, the PRAT or subsequent Utilization Review body must record the specific nature of the dispute, its recommended decision and the reasons therefore when submitting **DMR form 225, PRAT HCBS Waiver Recommendation Form**, and all records and forms considered, to the DMR CO Waiver Unit. The Waiver Unit will issue a final decision to the applicant and/or his/her family/legal representative, with a copy to the Case Manager, within forty-five (45) days of submission of the complete file. Need for immediate placement or other emergency protective services will continue to be addressed under the Commissioner's state law authority, CGS Sec. 17a-274(k), without regard to waiver issues.

5. DMR Central Office Waiver Unit Action and "Case Review"

The DMR Central Office Waiver Unit will issue a final decision on all applications for waiver enrollment, and on recommended type, amount and/or frequency of waiver services/supports. Upon DSS approval of Title 19 Applications if required, the applicant will be enrolled in the appropriate DMR HCBS waiver.

An applicant who is denied enrollment in the waiver, or is denied the type, amount and/or frequency of waiver services/supports requested, will receive notice of the right to request a hearing convened by the Department of Social Services (DSS). Forms and directions for initiating the DSS hearing process will be included with any Notice of Denial. DSS, as the "single state Medicaid agency", makes the final administrative Medicaid/waiver eligibility decision.

In addition, any applicant for waiver enrollment or additional services for whom processing is deferred due to lack of waiver "slots" or lack of new or available existing resources/opportunities may request a "case review" by the Waiver Unit.

6. Waiver Recipient Request for Additional/Enhanced Waiver Services

Any “waiver recipient” may request additional services under the waivers at any time. All such requests will be submitted through the DMR case manager on the PRAT Request for Service/Support form, include a completed DMR Level of Need Tool and Priority Checklist if one is not on file and current, and an explanation as to why the recipient “needs” such services. This includes requests for additional services or resources made on behalf of individuals by a residential provider through the Resource Manager, and requests made by individuals who are self-directing their services and supports. In all cases, the DMR case manager or broker must be notified of the request and is responsible for the submission of a formal request to the PRAT. The PRAT will review the request based upon the recipient’s “need”, that is but for the provision of one or more of the services, and/or amount of services, covered under the waiver(s), combined with state plan, generic and informal supports, it is likely that the applicant would need ICF/MR-institutional services within one month.

The following factors may be considered in determining the need for additional waiver services:

- i. the applicant’s current living situation has deteriorated to the point where either the applicant or others face immediate and serious jeopardy to health and safety;
- ii. the applicant exhibits severe behavioral/mental health or medical issues which can no longer be managed in the current living situation;
- iii. the applicant is receiving serious consideration for admission to an institutional/ICF/MR residential setting;
- iv. the department must respond to a lawfully issued court order requiring residential placement, services, or support; and/or
- v. supports and services available in the HCBS waiver are needed to supplement community supports to prevent imminent placement in an ICF/MR, institutional, or similar residential facility for persons with mental retardation.

There are three possible decisions following a request for additional services or supports by a waiver recipient as described below:

A. The PRAT denies all or part of a request for additional services based on a determination of need. Any denial of a request for additional waiver services will be issued by the DMR Central Office Waiver Unit, upon recommendation of the PRAT or subsequent Utilization Review body through the submission of **DMR Form 225, PRAT HCBS Waiver Recommendation Form**, and include Notice to the recipient of applicable hearing rights as set forth above for eligibility determinations.

B. The PRAT approves all or part of a request for additional services based on a determination of need, and recommends initiation of those services at a later date based on anticipated funding or resource availability. The PRAT will issue a **Notice of Approval and Anticipated Initiation Date** letter to the individual and his/her family/legal representative with a copy to the case manager. If the PRAT receives notice of an appeal of the anticipated initiation date, the PRAT will submit **DMR Form # 225, PRAT HCBS Waiver Recommendation Form** to the DMR Central Waiver Unit detailing the decision and request to appeal. A final decision will be issued by the DMR Central Office Waiver Unit to the individual and his/her family/legal representative and include Notice to the recipient of applicable hearing rights as set forth above for eligibility determinations, copied to the PRAT and the case manager.

C. The PRAT approves all or part of a request for additional services based on a determination of need, and allocates the funding or resource at the time of the decision. The PRAT will document their approval on **DMR Form # 225, PRAT HCBS Waiver Recommendation Form** and copy the Case Manager for the recipient's file. Approval of additional waiver services does **not** require DMR Central Office review.

The DMR Region **will provide** immediate notice to the DMR Central Office Waiver Unit of any changes in waiver services through the submission of **DMR form 223, Notification of Waiver Services** once those services are initiated. The case manager will coordinate necessary amendments to the Individual Plan and Budget as appropriate.

7. Hearing Process

All determinations by the DMR Central Office Waiver Unit to deny waiver eligibility or deny additional requested waiver services are subject to a request for hearing before DSS in accordance with the Uniform Administrative Procedures Act. The DMR division of Legal & Government Affairs will coordinate the hearing process and presentation of the department's position at such hearings. Waiver participants are not precluded from using the DMR Programmatic Administrative Review (PAR) process prior to a request for a DSS hearing if desired.

If an applicant/waiver recipient prevails at the DSS hearing, the DMR Regional Office will be notified and DMR shall implement the hearing decision as soon as possible thereafter.

8. Children and Minors

Persons under the age of eighteen (18), and older than three (3), may be enrolled in the waiver *if* they are seeking, and are approved by the Waiver Unit, waiver service(s) which will be provided on at least a monthly basis. Any HCBS Waiver(s) cannot be used *solely* for the purposes of establishing Medicaid eligibility. Applications for children will be approved by DMR **only** if there is a legitimate need for at least monthly waiver services and, without such service(s), along with other state-funded, generic and natural supports the child will imminently require an ICF/MR residential placement outside the family home OR such service(s) will allow the child to return to the family home.

The enrollment of children and minors presents some critical distinctions from the enrollment of adults. Children and minors who are potentially eligible for the waiver, generally, have a right to a Free Appropriate Public Education (FAPE) through their 21st year. Legal parental obligations, generally, continue through the age of majority. Given these legal rights and obligations, waiver enrollment of children - if there is a legitimate need for regular and/or periodic waiver services – is permitted.

If, however, a child or minor needs out-of-home placement, in most cases, a Child Protective Services or educational issue is presented and the HCBS waiver is not the mechanism to address such issues, i.e., if a child requires out-of-home placement as a result of abuse, or a child requires a residential/educational placement to benefit from his/her right to FAPE.

E. References

1. Statutes: CGS 4a-12, CGS 17b-222
2. Rules, Regulations and Policy – 42CFR 441.301 – 42CFR 441.303
3. Rules, Regulations and Policy or Instructions –

- DMR Procedure II.B.2.32, II.B.2.34, PAR procedure
- DMR Procedure I.B.1.PR.001 Administration of Requests for Day and Residential Supports, the PRAT
- DMR Policy 1.C.PO.100 Utilization Resource Review
- DMR Procedure 1.C.PR.001 Utilization Resource Review
- DMR Policy #7 effective date of 5/1/86. Programmatic Administrative Review
- 4. "Settlement Agreement", *ARC/Connecticut v. O'Meara*, 3:01CV1871, March 30, 2005 (Settlement Agreement approved by U.S. District Court, May 19, 2005).

F. Attachments

1. DMR Forms
219, 222, 223, 224, 225, and 296
2. DSS Form W-1518
3. Notification of Enrollment in the DMR HCBS Waiver
4. Notification of Approval and Anticipated Initiation Date
5. Notification of Denial of HCBS Application or Services
6. Connecticut HCBS Waiver Fact Sheet

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WAIVER ENROLLMENT FOR NEW APPLICANTS

- q **CM submits PRAT Request for Service/Support and Level of Need Assessment**
- q **PRAT reviews Priority and makes Priority Assignment**
- q **PRAT notifies individual and CM of available waiver slot, or referral to possible funded opportunities**

- If referral, CM meets with family, reviews the HCBS Waiver Fact Sheet, and determines if the family will participate in the HCBS Waiver enrollment process:**
 - Ø **yes, proceed with referral process**
 - Ø **no, suspend referral process, complete DMR 224, Reasons for Declining to Submit Medicaid and/or HCBS Waiver Application, submit to Regional Waiver Liaison or PQC**

- q **When authorized, CM coordinates IP process, completes waiver application and enrollment packet, and submits to CM Supervisor to initiate the Regional Approval process:**
 - Ø **Medicaid (Title 19) Application if needed**
 - Ø **DMR 219, Level of Care**
 - Ø **DMR 222, Service Selection**
 - Ø **DMR 223, Notification of Waiver Services**
 - Ø **DSS W-1518, HCBS Referral to Regional DSS Office**
 - Ø **IP and, Proposed Individual Budget of appropriate**

- q **The CM Supervisor sends completed Case Management Supervisor Individual Plan Review form along with the above documents to the Resource Management unit for fiscal review and processing as described in the IFS Waiver Manual**

- q **PRAT receives regionally approved packet and recommends waiver approval/denial to the CO Waiver Unit**
 - Ø **Submits DMR 225, PRAT HCBS Waiver Recommendation and all documents to CO Waiver Unit**

- q **CO Waiver Unit issues final decision on enrollment and sends approval/denial and due process notice to the individual/legal representative and copies CM.**

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Waiver Recipients Request for Additional /Enhanced Services

- q **Additional Service/Support(s) requested: CM submits PRAT Request for Service/Support, and updated Level of Need Assessment if needed**
- q **PRAT reviews request and recommends approval/denial**
 - Ø **Approval: DMR 225 to CM**
 - Ø **CM completes DMR 223, Notification of Services, submits to Regional Waiver Liaison or PQC**
 - Ø **PQC submits to CO Waiver Unit**

 - Ø **Approval with future initiation date: Notice of Approval and Anticipated Initiation Date sent to individual/legal representative and case manager by PRAT**
 - Ø **If individual requests appeal of initiation date, PRAT submits DMR 225 to CO Waiver Unit**
 - Ø **CO Waiver Unit issues final decision on request and sends approval, or denial with due process notice, to the individual/legal representative and copies CM. If approved, copies PRAT to initiate service/support planning for individual**

 - Ø **Denial: DMR 225 to CO Waiver Unit**
 - Ø **CO Waiver Unit issues final decision on request and sends approval, or denial with due process notice, to the individual/legal representative and copies CM. If approved, copies PRAT to initiate service/support planning for individual**
- q **For authorized service request, CM also coordinates IP amendment, budget amendment/adjustment as appropriate, and submits to CM Supervisor to initiate the Regional Approval process:**
 - Ø **DMR 223, Notification of Waiver Services**
 - Ø **IP Amendment and Budget Amendment as appropriate**