Application for a §1915(c) Home and Community-Based Services Waiver

PURPOSE OF THE HCBS WAIVER PROGRAM

The Medicaid Home and Community-Based Services (HCBS) waiver program is authorized in §1915(c) of the Social Security Act. The program permits a State to furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community and avoid institutionalization. The State has broad discretion to design its waiver program to address the needs of the waiver's target population. Waiver services complement and/or supplement the services that are available to participants through the Medicaid State plan and other federal, state and local public programs as well as the supports that families and communities provide.

The Centers for Medicare & Medicaid Services (CMS) recognizes that the design and operational features of a waiver program will vary depending on the specific needs of the target population, the resources available to the State, service delivery system structure, State goals and objectives, and other factors. A State has the latitude to design a waiver program that is cost-effective and employs a variety of service delivery approaches, including participant direction of services.

Request for an Amendment to a §1915(c) Home and Community-Based Services Waiver

1. Request Information

A. The **State** of **Virginia** requests approval for an amendment to the following Medicaid home and community-based services waiver approved under authority of §1915(c) of the Social Security Act.
B. **Program Title:**
Family and Individual Support Waiver
C. **Waiver Number:VA.0358**
Original Base Waiver Number: VA.0358.
D. **Amendment Number:**
E. **Proposed Effective Date:** *(mm/dd/yy)*

Approved Effective Date of Waiver being Amended: 07/01/13

2. Purpose(s) of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:
The Commonwealth is requesting to amend the current rate structure to include customized rate structures for individuals with highly complex medical or behavioral needs.

When developing the supports levels/tier reimbursement structure for the redesigned waivers, it was the Commonwealth's desire to capture the support needs and associated appropriate reimbursement level for the substantial majority of our population. In doing this, however, the Commonwealth recognized that there would be extreme outliers within the population. These outliers are made up of individuals with highly complex medical and/or behavioral needs that require more involved and expensive supports. Their data would have skewed the distribution of certain measures of central tendency within a data set, namely the mean (average) and range. The affected mean or range would have incorrectly displayed a bias toward the "outlier" value. As a direct result, when determining the tiered rate structure, "outliers" were excluded. The reimbursement rates for a given tier reflect an accurate range for the individuals within their approved tier based on their scoring via the Supports Intensity Scale® assessment.

Prior to the waiver redesign, CMS approved the implementation of an exceptional rate (1.25 times the normal waiver rate) for congregate residential services. Providers serving these individuals, as well as the individuals themselves, underwent an application and approval process through DBHDS. It is the expectation that the new waiver rates will be sufficient for the majority of individuals previously receiving an exceptional rate. There is, however, a small cohort of individuals (particularly individuals being discharged from the Training Center who are extremely medically fragile and/or behaviorally challenged), for whom customized rates will be necessary.

INDIVIDUALS ELIGIBLE FOR THE CUSTOMIZED RATE:
These extremely medically fragile and/or behaviorally challenged individuals are those whose support needs place them in levels six or seven but who have a higher level of need than will be accommodated by the tier four rates, as well as any individual for whom it is determined that the only other resource is to be served out of state, in a state operated mental health or DD facility, or in a more restrictive environment. They are identified as those who require greater support in order to find in-state providers willing to serve them. These individuals' needs outweigh the resources provided within the current waiver rate structure. Their needs may warrant:
• Increased staffing ratios, and/or
• Higher credentialed staff, and/or
• Increased programmatic oversight.

Individuals with extraordinary behavioral needs are defined as individuals who threaten the safety of staff and others around them, require increased staffing to immediately address behavioral incidents, require direct 1:1 or 2:1 intervention to mitigate harm to themselves, others, property, or prevent serious incidents in the community to preclude police involvement and/or arrest. Often, these individuals' challenging behaviors are triggered spontaneously, necessitating providers to staff individuals at 1:1 or 2:1 (depending on the severity of the behavior) for some or all of the day. Other individuals require constant supervision to mitigate the frequency of these very challenging behaviors. Individuals who have a high frequency of such behaviors will routinely require additional hours of 1:1 or 2:1 supports. This level of staff intervention allows for appropriate supervision both in the home, as well as in the community to prevent and/or reduce social isolation. Shared staffing ratios in these more unique cases (as typically occur in group homes and day services) often do not provide adequate oversight as staff is required to work directly with such individuals to prevent, mitigate, or respond immediately to behavioral incidents, while another staff protects others in the area to ensure all individuals in the setting are safe. In addition, the supervision and oversight required by more experienced/highly trained direct support staff requires clinical professionals who are themselves more highly trained and experienced than is routinely expected/present in these service settings.

Medically, an individual may require 1:1 or 2:1 staff support when he has a health history or recent health complication that puts him at risk for acute medical complications resulting in hospitalization or death. For example, an individual may require 1:1 during meal time due to severe risk of aspiration; another may require 2:1 during transfers due to a combination of illnesses such as dementia and osteoporosis, resulting in an increased risk of falling that is so high that he may sustain a fracture or head injury. In an effort to fully integrate individuals with severe medical conditions into the community, increased staff are provided during transition periods to prevent emergency medical activities. Staff may require more frequent or intensive training to have the skills needed to perform more challenging health supports such as total personal care and the implementation of nursing delegated tasks. Licensed professionals may need to provide additional supports outside of waiver funding to protect a person's health and safety such as facilitating hospital admissions and discharges, interfacing with the hospital team and providing generalized staff training on skills not covered by typical staff training programs.

SERVICES THAT MAY QUALIFY FOR A CUSTOMIZED RATE:
A. Supported Living
B. In-Home Support services
C. Community Coaching
D. Group Day

CUSTOMIZED RATE DETERMINATION:
DBHDS will review an application for each individual for whom a provider requests a customized rate to determine if:
a. The individual has exceptional medical support needs that outweigh the resources provided within the current waiver rate structure and/or
b. The individual has exceptional behavioral support needs that outweigh the resources provided within the current waiver rate structure AND
c. The individual requires higher level staffing ratios of 1:1 or 2:1 to ensure the safety of the individual and others around them and/or
d. The individual requires higher credentialed staff to ensure proper supports are given and/or
e. The program budget reflects a need for increased programmatic costs based on submitted budget template.

As part of the review process, DBHDS will determine any and all providers/resources that are available in the state to support the individual. If it is determined that the individual cannot be served by other providers within the state or is being required to move to a more restrictive setting such as an institution to secure a service that could be provided within an individual's current community setting given sufficient funding, this information will be reviewed to further validate the need for a customized rate.

3. Nature of the Amendment

A. Component(s) of the Approved Waiver Affected by the Amendment. This amendment affects the following component(s) of the approved waiver. Revisions to the affected subsection(s) of these component(s) are being submitted concurrently *(check each that applies)*:

Component of the Approved Waiver	Subsection(s)
☑ Waiver Application	Purpose
☐ Appendix A – Waiver Administration and Operation	
☐ Appendix B – Participant Access and Eligibility	
☐ Appendix C – Participant Services	
☐ Appendix D – Participant Centered Service Planning and Delivery	
☐ Appendix E – Participant Direction of Services	
☐ Appendix F – Participant Rights	
☐ Appendix G – Participant Safeguards	
☐ Appendix H	
☑ Appendix I – Financial Accountability	I2a