



Children's Waiver FAQ to Address HCBS COVID-19 Questions

HCBS/LOC Eligibility Redetermination

1. Questions:

What happens if I cannot complete the HCBS/LOC during the State of Emergency due to being unable to gather the appropriate documents and information?

Answer:

All attempts should be made to timely complete the HCBS/LOC re-assessment, when possible. Care managers should continue to conduct these assessments if it is in the best interest of the child/youth. During the COVID-19 emergency, Medicaid enrollees should continue to receive the same services as prior to the State of Emergency to the extent possible.

The delay in documents being sent due to this emergency should not delay the completion of the HCBS/LOC tool. If providers and professionals share the information with the HHCM or C-YES evaluator telephonically with the intent of sending the documentation, the HHCM or C-YES evaluator does not need to wait to receive the documentation prior to completing the HCBS/LOC eligibility determination. The HHCM or C-YES evaluator must follow up within no more than 90 days to ensure the documentation is obtained for the case record.

If the HCBS/LOC cannot be conducted due to the inability to connect with the family, providers, and other resources for information to complete the HCBS/LOC, then the Appendix K does allow for the annual HCBS/LOC eligibility determination re-assessment requirement to be suspended. When annual re-assessment is delayed, care management MUST continue to monitor the participants needs and their Plan of Care services to ensure appropriate continuation in the HCBS Children's Waiver and should document all updates and reviews in the participant's case record/file.

2. Questions: NEW 8/26/20

What happens if the HHCM or C-YES evaluator cannot obtain documentation within 90 days to for the case record?

Answer:

90 Days is the expectation, however, if the documentation cannot be obtained within this timeframe due to COVID-19, the HHCM and C-YES should obtain the documentation as soon as possible to ensure proper documentation is in place for potential audits. Documentation of efforts to obtain the supporting documentation should be indicated in the case record.

3. Questions:

If the HCBS/LOC reassessment is not completed, when does the HHCM need to complete the annual re-assessment?

Answer:

If the annual re-assessment is not able to be completed timely, then proper documentation in the case record to the reasons why must be documented. The annual re-assessment of



HCBS/LOC eligibility determination that is not completed will be extended up to one year past the due date of the re-assessment.

Example: *If the annual HCBS/LOC re-assessment is due on June 15, 2020 and it was unable to be completed, then the next annual HCBS/LOC re-assessment will be due June 15, 2021.*

4. Questions:

If the HCBS re-assessment was due in July 2020 and could not be completed due to the lack of obtaining the proper documentations, LPHA form, etc., but now in September 2020 all the information is received to be able to complete the HCBS re-assessment, should the HHCM do it or if they miss the annual then just wait the full year?

Answer:

If the HHCM/CYES obtains the information to conduct the HCBS/LOC re-assessment after the due date, the information should be properly documented in the case record and any information that impacts changes to the Plan of Care should be reviewed and made with the child/family. However, it is not necessary for the HCBS/LOC re-assessment to be completed. The HHCM/CYES should wait the full year to conduct a timely HCBS re-assessment.

5. Questions:

If the HCBS/LOC is coming up due, at this point, should a HHCM just not do them to reduce the possibility of the child being found ineligible and getting into this debate or discharge or don't discharge?

Answer:

All attempts should be made to timely complete the HCBS/LOC re-assessment, when possible. If the HCBS/LOC cannot be conducted due to the inability to connect with the family, providers, and other resources for information to complete the HCBS/LOC, then the Appendix K does allow for the annual HCBS/LOC eligibility determination re-assessment requirement to be suspended. Refer to the below if the participant is found ineligible.

6. Questions: NEW 8/26/20

To ensure the HCBS/LOC assessment is completed timely, when can the care manager start the eligibility re-assessment process?

Answer:

Due to the amount of time to gather supporting documentation and to work with the child/youth/family, it is recommended that at least two (2) months prior of the annual re-assessment due date, the HHCM and C-YES evaluator begin the re-assessment process, specifically if needing to work with OPWDD regarding the Medically Fragile/Developmental Disability or the Developmental Disability in Foster Care target populations.

7. Questions:

Does the HCBS/LOC re-assessment need to be completed for a significant life event?

Answer:

No, HCBS/LOC re-assessments for a significant life event has been waived during the State of Emergency.

Please note: *That should a child/youth enter an institutional level of care for more than 90 days,*



and then later is being discharged, that child/youth would have been discharged from the Children's Waiver and therefore, remittance to the Children's Waiver would have to occur as new enrollment with a complete HCBS/LOC eligibility determination.

8. Questions:

If the child continues to receive HCBS eligible for a year without the HHCM conducting the HCBS, when does the HHCM have to conduct the HCBS eligibility?

Answer:

If there is proper documentation that the child/youth continues to need and want HCBS but the annual HCBS/LOC re-assessment will not be conducted, then the child/youth has another year of eligibility and the next annual HCBS/LOC re-assessment will be the following year 2021 with the same due date.

Discharge

9. Questions:

What happens if the HHCM conducts the annual HCBS/LOC re-assessment and the child is no longer found eligible?

Answer:

If a Children's Waiver participant is found ineligible after a HCBS/LOC re-assessment has been completed, the care manager should properly document the decision to discharge from HCBS after discussion with the child/youth (if age appropriate), the family, HCBS providers, other involved professionals, and the Managed Care Plan (if enrolled). The care manager may consult with the Department on individual cases and request a temporary override as necessary so that the child/youth can continue to receive HCBS.

*If the participant's Medicaid is depended upon Children's Waiver eligibility and enrollment (Family of One Budgeting) and is no longer HCBS eligible then the participant **should not** be discharged and receive another year of eligibility. Unless the participant, parent, guardian, or legally authorized representative would like the participant to be disenrolled.*

Reminder: *Children/youth who are eligible for Medicaid due to being eligible and enrolled in the Children's Waiver (Family of One budgeting), may be receiving a number of Medicaid services. If the child/youth with Family of One budgeting is disenrolled from the Children's Waiver, they would lose Medicaid and their other Medicaid services. During COVID-19, Medicaid enrollees should continue to receive the same services as prior to the State of Emergency to the extent possible. For Children's Waiver participants that are Medicaid eligible under a "Family of One" budget, please refer to the guidance [Medicaid Eligibility Status Impact on HCBS Eligible Children](#) for additional information how loss of Waiver eligibility impacts Medicaid eligibility for the "Family of One" population and how eligibility should be maintained during the State of Emergency.*

9a. Added 8/26/20:

HHCM/C-YES should not be completing the override form for this purpose to continue Children's waiver enrollment for ineligible participants. Children's Waiver participants who are found ineligible should be discharged, as outlined above, unless the welfare and safety of the participant is of concern, i.e. no other supports and or services are in place. Participants who



are found ineligible and remain enrolled, documentation of such reasons must be outlined in the participants case record. Contact BH.Transition@health.ny.gov with questions.

10. Questions:

Can Children's Waiver children/youth be discharged from Waiver?

Answer:

Yes, children/youth can be disenrolled from the Children's Waiver during COVID-19 emergency if the child/youth, parent, guardian, or legally authorized representative chooses to disenroll or if the participants moves out of New York State. In addition, if the child/youth is found ineligible after the annual re-assessment has been conducted, the child should be disenrolled from the waiver unless they are eligible under Family of One budgeting (please see the question above).

11. Questions:

If the parent requested discharge, can we discharge?

Answer:

Yes. If the participant (or their parent/guardian) requests discharge from HCBS, the HHCM/CYES should comply, and this request should be properly documented, and Notice of Decision sent.

12. Questions:

If the HHCM cannot connect with the family for a while, can the child be discharged?

12a. Questions: NEW 8/26/20

What does a care manager do if the family is non-responsive or continues to be inactive?

Answer:

The HHCM should document the diligent efforts to connect with the family and work with involved providers and professionals. If the child/youth, is having contact with providers and services, and continuing to work on Plan of Care goals, then the child/youth should not be discharged. A letter should be sent to the family regarding the role of the HHCM and the need to ensure continuous work toward goals. Additionally, the HHCM should work with providers and the Medicaid Managed Care Plan (MMCP) (if enrolled), to help to connect with the family.

*If the child/youth, parent, guardian, or legally authorized representative is not in contact with the HHCM nor any involved providers, professionals, or MMCP, then the care team should work together and share how contact attempts have been made and determine a plan to contact the family. Part of this plan should be a letter sent to the family, notifying them that if lack of contact continues, then the child/youth will be discharged from the Children's Waiver and the potential loss of Medicaid if the child/youth has Family of One Medicaid budgeting. All diligent efforts should be documented in the case record and after three (3) months of lack of contact with the HHCM/CYES **AND** HCBS providers, the child/youth can be discharged.*

13. Questions:

HCB Services need to be provided monthly, but the COVID-19 guidance indicates, "The monthly HCB Service requirement is waived, should the HCBS provider be unable to reach the participant/their family or if it is demonstrated that the need for services is less than monthly. This monthly service requirement can only be waived for two (2) consecutive months". Can the child be discharged after the second month?



Answer:

*As noted in the question/answer above, there should be continuous communication between the HHCM/CYES and the HCBS provider(s) regarding contact with the child/family. Other care team members, including the MMCP (if enrolled) should be consulted regarding contact with the child/family and possible disenrollment. Efforts to engage the family should be documented in the case record. Within the second months, a letter sent to the family notifying them that if lack of contact continues, then the child/youth will be discharged from the Children's Waiver and the potential loss of Medicaid if the child/youth has Family of One Medicaid budgeting. After three (3) months of lack of contact with the HHCM/CYES **AND** HCBS providers, the child/youth can be discharged.*

14. Questions:

If HCBS providers have discharged and there are no other providers in the area – does the HHCM discharge the child/youth from Waiver?

Answer:

The HCBS provider should not be discharging the child/youth without notification to the HHCM/CYES as this effects the child/youth's Plan of Care. If the child/youth has been successful in the HCBS and is no-longer in need of HCBS, then this is a discussion the HHCM/CYES should have with the child/family and care team members regarding discharge.

If the child/youth is in need of HCBS and has been discharged from HCBS, the child/youth should continue to be enrolled in the Children's Waiver. The HHCM/CYES should continually document efforts to local an HCBS provider to meet the needs of the child/youth identified. The MMCP (if enrolled) and the lead HH should be contacted for assistance.

15. Questions: NEW 8/26/20

Can the care manager discharge a child/youth who enters placement, residential?

Answer:

The 1915(c) HCBS Children's Waiver requirement indicates that a participant who is HCBS eligible and enrolled and then placed in an institutional level of care (residential, hospital, etc.), must be discharged from HCBS after 90 days of placement. Should the participant be discharged before the 90 days, then the participant remains continuously enrolled in waiver. While the participant is in placement, HCBS and HH billing cannot occur.

Documentation

16. Questions:

New guidance with the appendix K went out about the consent needing to be back dated to the date of the verbal consent date, what does the HHCM or HCBS provider do, if that was not done?

Answer:

When verbal consent has been given and the signed consent is obtained later, then the signature date must be the date when verbal consent was given, to ensure any communication and or work completed by the HHCM, C-YES, or HCBS provider falls within the consent time period. If the signature date has not been dated for the date of the verbal consent/meeting, then there should be a note mentioned in the case record of the actual verbal consent date and the



signature date. The signed consent form must have an added note by the HHCM, C-YES, or HCBS provider noting when the original verbal consent/meeting dated was and then initialed by the HHCM, C-YES, or HCBS provider. This should be explained to the member/family and a copy of the consent sent to the member/family.

17. Questions:

What happens if the child/youth loses their Medicaid eligibility, then can the child/youth be discharged from the Waiver?

Answer:

During COVID-19, a child/youth should not lose their Medicaid eligibility because of requirements in the Safe Act. If families are experiencing issues with Medicaid eligibility the Local Department of Social Services and or the NYS Department of Health HHSC@health.ny.gov should be contacted ASAP.

18. Questions: NEW 8/26/20

What does the HHCM do if the HCBS enrolled child/youth no longer has a K-code, it has expired?

Answer:

If a K-code has expired or is not on an HCBS participant's Medicaid file, please contact CapacityManagement@health.ny.gov

19. Questions:

What types of documentation and the age of these documents is needed for HCBS reauthorization? In other words, how recent does a Psychiatric or Psychological assessment have to be in order to support the HCBS eligibility determination?

Answer:

Since HCBS is annual assessment most supporting documentation, similar to Health Home documentation, should not be older than a year.

All questions regarding the Appendix K and or HCBS Children's Waiver should be sent to BH.Transition@health.ny.gov