

Appendix A: Waiver Administration and Operation

1. State Line of Authority for Waiver Operation. Specify the state line of authority for the operation of the waiver (*select one*):

<ul style="list-style-type: none">● The waiver is operated by the state Medicaid agency. Specify the Medicaid agency division/unit that has line authority for the operation of the waiver program (<i>select one</i>):	<input type="radio"/> The Medical Assistance Unit (<i>specify the unit name</i>) (<i>Do not complete Item A-2</i>)	
	<ul style="list-style-type: none">● Another division/unit within the state Medicaid agency that is separate from the Medical Assistance Unit. Specify the division/unit name. This includes administrations/divisions under the umbrella agency that has been identified as the Single State Medicaid Agency. (<i>Complete item A-2-a</i>)	Office of Long-Term Living
<input type="radio"/> The waiver is operated by a separate agency of the state that is not a division/unit of the Medicaid agency. Specify the division/unit name:		
	In accordance with 42 CFR §431.10, the Medicaid agency exercises administrative discretion in the administration and supervision of the waiver and issues policies, rules and regulations related to the waiver. The interagency agreement or memorandum of understanding that sets forth the authority and arrangements for this policy is available through the Medicaid agency to CMS upon request. (<i>Complete item A-2-b</i>).	

2. Oversight of Performance.

a. Medicaid Director Oversight of Performance When the Waiver is Operated by another Division/Unit within the State Medicaid Agency. When the waiver is operated by another division/administration within the umbrella agency designated as the Single State Medicaid Agency. Specify (a) the functions performed by that division/administration (i.e., the Developmental Disabilities Administration within the Single State Medicaid Agency), (b) the document utilized to outline the roles and responsibilities related to waiver operation, and (c) the methods that are employed by the designated State Medicaid Director (in some instances, the head of umbrella agency) in the oversight of these activities.

The OBRA waiver is administered by the Pennsylvania Department of Human Services (DHS), Office of Long-Term Living (OLTL), an office within the Single State Medicaid Agency. OLTL exercises administrative discretion in the administration and is responsible for oversight of the waiver, as well as all policies, procedures and regulations. OLTL is responsible for the development of waiver related policies, rules, and regulations, which are issued electronically by OLTL through Bulletins and other communications.

The Deputy Secretary of the Office of Long-Term Living reports directly to the Secretary of the Department of Human Services (DHS), the head of the Single State Medicaid agency. The Secretary of DHS and the Deputy Secretary of the Office of Long-Term Living meet weekly to discuss

operations of the waiver and other long-term living programs, and gain consent on Waiver policies, rules and guidelines. In addition, the OLTL Policy staff meet with the State Medicaid Director on a monthly basis.

All waiver-related policies, renewals and amendments undergo an extensive review process, which includes review by the State Medicaid Director. Policy guidance, which is authorized through the 55 Pa. Code, Chapter 52 regulations, is issued after it is reviewed by OLTL Bureau Directors, the Long-Term Services and Supports Subcommittee of the Medical Assistance Advisory Committee, DHS leadership offices, including Legal, Policy and Budget (if applicable) and the State Medicaid Director, and issued after signature by OLTL's Deputy Secretary. All waiver-related documents go through the same process but are additionally issued for public comment through the Pa. Bulletin, OLTL listservs and a disability advocacy group. They are then further reviewed by the DHS Secretary's Office, the Governor's Offices of Budget, General Counsel and Policy and, finally, by the Legislative Reference Bureau.

The following details waiver-related organizational responsibilities within OLTL:

- The Bureau of Fee for Service Programs (BFFSP) manages provider focused activities and functions in OLTL and is responsible for the day-to-day operations and oversight of the OBRA waiver including, but not limited to, service plan reviews and providing technical assistance to Service Coordinators. The BFFSP coordinates all provider enrollment activities. The BFFSP provides programmatic guidance to service providers and general training and technical support for the bureau, OLTL, business partners and contracted staff. The bureau ensures compliance with federal regulations related to the HCB Settings Rule in coordination with the Quality Management Efficiency Teams (QMETs) that conduct reviews of enrolled providers.
- The Bureau of Coordinated and Integrated Services (BCIS) is responsible for the administration and oversight of the Community HealthChoices (CHC) Managed Care Organizations (MCO) and the Living Independently for the Elderly (LIFE) managed care program, known nationally as the Program for All-Inclusive Care for the Elderly, which provide managed long-term services and supports to eligible recipients. The BCIS also manages the enrollment contracts, including participant outreach, assessment, and the independent enrollment broker (IEB).
- The Bureau of Policy Development and Communications Management (BPDCM) supports the strategic policy and communication goals across all bureaus and the Deputy Secretary's Office. The BPDCM plans, coordinates, evaluates, and develops policies and procedures across the OLTL, and coordinates internal and external communication with stakeholders. The bureau serves as a liaison with other DHS programs and policy offices and other commonwealth agencies, supports all bureaus in the development of consistent policy, evaluating impact, and improving strategic direction. The bureau responds to all right to know requests, develops and processes new regulations, and submits state plan and waiver documents to the federal government.
- The Bureau of Quality Assurance and Program Analytics (BQAPA) is responsible for ensuring that valid statistical and procedural methodologies are used to collect and analyze quality control data to evaluate and improve service delivery. The bureau manages data analysis to measure the effectiveness of program design and operations, and ensures required reports are provided to CMS and other regulatory entities. The bureau also supports OLTL management in the development and implementation of policies and procedures, oversees the analysis of data obtained through consumer satisfaction surveys and provider performance measures, and directs all activities related to incident management and risk reduction.

- Bureau of Finance (BOF) manages and monitors OLTLs appropriations and operating budget. The BOF serves as liaison to the DHS budget office and the Governor's budget office. The bureau develops and manages related fiscal activities including rate setting, cost reporting, budget reporting and submissions, audits, and fiscal management of grants and contracts.

b. Medicaid Agency Oversight of Operating Agency Performance. When the waiver is not operated by the Medicaid agency, specify the functions that are expressly delegated through a memorandum of understanding (MOU) or other written document, and indicate the frequency of review and update for that document. Specify the methods that the Medicaid agency uses to ensure that the operating agency performs its assigned waiver operational and administrative functions in accordance with waiver requirements. Also specify the frequency of Medicaid agency assessment of operating agency performance:

3. Use of Contracted Entities. Specify whether contracted entities perform waiver operational and administrative functions on behalf of the Medicaid agency and/or the operating agency (if applicable) (select one):

- **Yes. Contracted entities perform waiver operational and administrative functions on behalf of the Medicaid agency and/or operating agency (if applicable).** Specify the types of contracted entities and briefly describe the functions that they perform. *Complete Items A-5 and A-6.*

OLTL retains the authority over the administration of the OBRA Waiver, including the development of Waiver related policies, rules, and regulations, which are distributed by OLTL through Bulletins and other communications issued electronically. OLTL only delegates specific functions in order to ensure strong quality oversight of the Waiver program. OLTL retains authority for all administrative decisions and supervision of the organizations OLTL contracts with.

OLTL contracts with an independent Assessment Entity to conduct the initial level of care determinations, hereafter referred as Functional Eligibility Determinations. The selected entity has subcontracts with local organizations to perform the Functional Eligibility Determinations and will be responsible for monitoring these local organizations to ensure that initial Functional Eligibility Determinations are completed within 10 days after the participant referral from the Independent Enrollment Broker.

OLTL also contracts with one non-governmental non-state entity to facilitate eligibility determinations (waiver related enrollment activities), excluding level of care determinations, for multiple home and community-based waivers managed by OLTL, including the OBRA waiver. Specifically, the Independent Enrollment Broker (IEB) is responsible for the following activities:

 - Complete the initial in-home visit and needs assessment;
 - Educate individuals on their rights and responsibilities in the waiver program, opportunities for self-direction, appeal rights, the Services and Supports Directory, and the right to choose from any qualified provider;

- Provide applicants with choice of receiving ICF-ORC institutional services, waiver services, or no services and documenting the applicant's choice on the OLTL Freedom of Choice Form;
- Provide applicants with a list of qualified Service Coordination agencies and document the individual's choice of Service Coordinator on the OLTL Service Provider Choice Form;
- Assist the applicant to obtain a completed physician certification form from the individual's physician;
- Refer the applicant to the independent Assessment Entity for the functional eligibility determination;
- Assist the participant to complete the financial eligibility determination paperwork;
- Facilitate the transfer of the new enrollee to their selected Service Coordination Entity, including sending copies of all completed assessments and forms;
- Maintain a waiting list for services as necessary; and
- Conduct beneficiary support services (BSS).

OLTL also contracts with one Fiscal Employer/Agent (F/EA) to perform certain functions for the successful operation of participant direction.

These administrative functions delegated to the FMS by OLTL include:

- Execute Medicaid provider agreements with qualified vendors and direct care workers;
- Assist in implementing the state's quality management strategy related to FMS; and
- Provide written financial reports to the participant, the Service Coordinator and OLTL on a monthly and quarterly basis and as requested by the participant, Service Coordinator and OLTL.

In addition to these delegated activities, the F/EA also serves to:

- Enroll participants in Financial Management Service (FMS) and apply for and receive approval from the IRS to act as an agent on behalf of the participant;
- Provide orientation and skills training to participants on required documentation for all directly hired direct care workers, including the completion of federal and state forms; the completion of timesheets; good hiring and firing practices; establishing work schedules; developing job descriptions; training and supervision of workers; effective management of workplace injuries; and workers compensation;
- Establish, maintain and process records for all participants and direct care workers with confidentiality, accuracy and appropriate safeguards;
- Conduct criminal background checks and, when applicable, child abuse clearances, on potential employees;
- Assist participants in verifying direct care workers citizenship or alien status;
- Distribute, collect and process direct care worker timesheets as verified and approved by the participant;
- Prepare and issue direct care workers' payroll checks, as approved in the participant's Individual Support Plan;
- Maintain funds for individual service budgets separately and with full accounting;
- Withhold, file and deposit federal, state and local income taxes in accordance with federal IRS and state Department of Revenue rules and regulations;
- Broker workers' compensation for all direct care workers through an appropriate agency;
- Process all judgments, garnishments, tax levies or any related holds on workers' pay as may be required by federal, state or local laws;
- Prepare and disburse IRS Forms W-2's and/or 1099's, wage and tax statements and related documentation annually; and

	<ul style="list-style-type: none"> Establish an accessible customer service system for the participant and the Service Coordinator. <p>Performance of annual redeterminations of level of care is currently conducted by service coordination entities as described in Appendix C.</p> <p>Administration and oversight of these contracts falls within the purview of OLTL and the Department of Human Services. The assessment methods used to monitor performance of contracted entities are described below in A-1-6 below.</p>
<input type="radio"/>	<p>No. Contracted entities do not perform waiver operational and administrative functions on behalf of the Medicaid agency and/or the operating agency (if applicable).</p>

4. **Role of Local/Regional Non-State Entities.** Indicate whether local or regional non-state entities perform waiver operational and administrative functions and, if so, specify the type of entity (*Select one*):

<input checked="" type="radio"/>	<p>Not applicable</p>
<input type="radio"/>	<p>Applicable - Local/regional non-state agencies perform waiver operational and administrative functions. Check each that applies:</p>
	<p><input type="checkbox"/> Local/Regional non-state public agencies conduct waiver operational and administrative functions at the local or regional level. There is an interagency agreement or memorandum of understanding between the Medicaid agency and/or the operating agency (when authorized by the Medicaid agency) and each local/regional non-state agency that sets forth the responsibilities and performance requirements of the local/regional agency. The interagency agreement or memorandum of understanding is available through the Medicaid agency or the operating agency (if applicable). <i>Specify the nature of these agencies and complete items A-5 and A-6:</i></p>
	<p><input type="checkbox"/> Local/Regional non-governmental non-state entities conduct waiver operational and administrative functions at the local or regional level. There is a contract between the Medicaid agency and/or the operating agency (when authorized by the Medicaid agency) and each local/regional non-state entity that sets forth the responsibilities and performance requirements of the local/regional entity. The contract(s) under which private entities conduct waiver operational functions are available to CMS upon request through the Medicaid agency or the operating agency (if applicable). <i>Specify the nature of these entities and complete items A-5 and A-6:</i></p>

5. **Responsibility for Assessment of Performance of Contracted and/or Local/Regional Non-State Entities.** Specify the state agency or agencies responsible for assessing the performance of contracted and/or local/regional non-state entities in conducting waiver operational and administrative functions:

OLTL remains the ultimate authority for Waiver policies, rules, and regulations; and retains the ultimate authority on all administrative decisions. OLTL retains the responsibility for supervision and assessment of the performance of contracted entities. OLTL provides information and technical assistance to contractors through targeted technical assistance and upon request.

6. **Assessment Methods and Frequency.** Describe the methods that are used to assess the performance of contracted and/or local/regional non-state entities to ensure that they perform assigned waiver operational

and administrative functions in accordance with waiver requirements. Also specify how frequently the performance of contracted and/or local/regional non-state entities is assessed:

OLTL holds contracts with selected entities to perform certain administrative elements on behalf of the SMA. OLTL has established standardized processes for oversight and monitoring of contracted entities.

Independent Assessment Entity:

OLTL contracts with an independent Assessment Entity to conduct the initial Functional Eligibility Determinations of participants. A contract manager, located in the Bureau of Coordinated and Integrated Services, is assigned to this contract and requires quarterly reports on timeliness of the determinations and the agency's adherence to the contract requirements. Monthly and yearly reports on all program requirements will also be required and reviewed for compliance.

The IAE is required to request and complete all assessments electronically through the OLTL assessment system, . As assessment results are submitted, the assessment system captures all corresponding information and populates various reports that the OLTL can review and monitor during regular intervals (daily, weekly, monthly, quarterly, annually). Reports include information on contract requirements and waiver assurances.

Fiscal/Employer Agent:

OLTL's Bureau of Fee for Service Programs oversees the contractual obligations of the Fiscal/Employer Agent (F/EA) using operations reports that are submitted to the Bureau monthly.

Independent Enrollment Broker:

OLTL contracts with a statewide Independent Enrollment Broker (IEB) to facilitate the waiver enrollment process. The IEB is managed in the OLTL Bureau of Coordinated and Integrated Services and assessed with bi-weekly face-to-face or conference call meetings. Performance management as part of the contract includes the following performance measures and data collection:

- Data for all open applications, detailed weekly
- Open applications by time period, weekly summary
- Number of applications at each status in the eligibility process, weekly summary
- All Unduplicated Applications in process during identified time period, detailed monthly
- Timeliness for detailed activities between major milestones, detailed monthly
- Reasons for delayed in-home visit, monthly summary
- Application timeliness, detailed monthly and quarterly
- Problem identification report, as required
- Performance measurement reports measuring timeliness and target criteria the contractor must meet or exceed, monthly.

In addition, OLTL has included specific Service Level Agreements (SLAs) in the IEB contract which OLTL uses to hold the vendor accountable to identified levels of performance.

Areas of noncompliance are shared and reviewed internally with OLTL Bureau Directors, Division Directors and/or their designees, SMEs and other OLTL staff pertinent to discuss any necessary follow-up actions. When the deficiency is significant or ongoing, the supporting vendor or direct service provider may be required to develop a CAP. The plan must include methods for remedying the areas of deficiency, including timeframes to complete the actions. CAPs must be submitted to OLTL for approval within 15 working days of the request. OLTL reviews and approves the CAP within 30 working days of submission. OLTL monitors plan implementation to determine if the area of deficiency has been corrected within the established timeframes. If the deficiency has not been corrected, the supporting vendor or direct service provider will receive additional technical assistance and, in some cases, a new CAP will be requested, or financial sanctions will be imposed.

7. **Distribution of Waiver Operational and Administrative Functions.** In the following table, specify the entity or entities that have responsibility for conducting each of the waiver operational and administrative functions listed (*check each that applies*):

In accordance with 42 CFR §431.10, when the Medicaid agency does not directly conduct a function, it supervises the performance of the function and establishes and/or approves policies that affect the function. All functions not performed directly by the Medicaid agency must be delegated in writing and monitored by the Medicaid Agency. *Note: More than one box may be checked per item. Ensure that Medicaid is checked when the Single State Medicaid Agency (1) conducts the function directly; (2) supervises the delegated function; and/or (3) establishes and/or approves policies related to the function.* Note: Medicaid eligibility determinations can only be performed by the State Medicaid Agency (SMA) or a government agency delegated by the SMA in accordance with 42 CFR § 431.10. Thus, eligibility determinations for the group described in 42 CFR § 435.217 (which includes a level-of-care evaluation, because meeting a 1915(c) level of care is a factor of determining Medicaid eligibility for the group) must comply with 42 CFR § 431.10. Non-governmental entities can support administrative functions of the eligibility determination process that do not require discretion including, for example, data entry functions, IT support, and implementation of a standardized level-of-care evaluation tool. States should ensure that any use of an evaluation tool by a non-governmental entity to evaluate/determine an individual's required level-of-care involves no discretion by the non-governmental entity and that the development of the requirements, rules, and policies operationalized by the tool are overseen by the state agency.

Function	Medicaid Agency	Other State Operating Agency	Contracted Entity	Local Non-State Entity
Participant waiver enrollment	✓	□	✓	□
Waiver enrollment managed against approved limits	✓	□	□	□
Waiver expenditures managed against approved levels	✓	□	□	□
Level of care evaluation	✓	□	✓	□
Review of Participant service plans	✓	□	□	□
Prior authorization of waiver services	✓	□	□	□
Utilization management	✓	□	✓	□
Qualified provider enrollment	✓	□	□	□
Execution of Medicaid provider agreements	✓	□	✓	□
Establishment of a statewide rate methodology	✓	□	□	□

Rules, policies, procedures and information development governing the waiver program	✓	□	□	□
Quality assurance and quality improvement activities	✓	□	✓	□