

# Application for a §1915 (c) HCBS Waiver

## HCBS Waiver Application Version 3.5

### Submitted by:

Department of Human Services, Commonwealth of Pennsylvania
--

<b>Submission Date:</b>	
-------------------------	--

<b>CMS Receipt Date (CMS Use)</b>	
-----------------------------------	--

*Provide a brief one-two sentence description of the request (e.g., renewal of waiver, request for new waiver, amendment) Include population served and broad description of the waiver program:*

### Brief Description:

*The OBRA waiver has been developed to emphasize deinstitutionalization, prevent or minimize institutionalization and provide an array of services and supports in community-integrated settings. Services available through the OBRA waiver include Adult Daily Living Services (Basic and Enhanced), Community Integration, Home Health Services (Nursing, Physical Therapy, Occupational Therapy and Speech and Language Therapy), Personal Assistance Services, Prevocational Services, Residential Habilitation, Residential Habilitation Enhanced Staffing, Respite, Service Coordination, Structured Day Habilitation, Structured Day Habilitation Enhanced Staffing, Supported Employment, Therapeutic and Counseling Services, Personal Emergency Response System, Home Modifications, Specialized Medical Equipment and Supplies, Vehicle Modifications, Assistive Technology and Community Transition Services – services designed to support individuals to live more independently in their homes and communities*

State:	
Effective Date	

# 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.

State:	
Effective Date	

# 1. Request Information

A. The State of Pennsylvania requests approval for a Medicaid home and community-based services (HCBS) waiver under the authority of §1915(c) of the Social Security Act (the Act).

B. Waiver Title (optional): OBRA Waiver

C. Type of Request (select only one):

<input type="radio"/>	<b>New Waiver (3 Years)</b>	CMS-Assigned Waiver Number (CMS Use):	
<input type="radio"/>	<b>New Waiver (3 Years) to Replace Waiver #</b>		
	CMS-Assigned Waiver Number (CMS Use):		
	<i>Attachment #1 contains the transition plan to the new waiver.</i>		
	<b>Renewal (5 Years) of Waiver #</b>		
<input type="radio"/>	<b>Amendment to Waiver #</b>	0235	

D. Type of Waiver (select only one):

<input type="radio"/>	<b>Model Waiver.</b> In accordance with 42 CFR §441.305(b), the State assures that no more than 200 individuals will be served in this waiver at any one time.
<input checked="" type="radio"/>	<b>Regular Waiver,</b> as provided in 42 CFR §441.305(a)

E.1 Proposed Effective Date: January 1, 2025

E.2 Approved Effective Date (CMS Use):

F. Level(s) of Care. This waiver is requested in order to provide home and community-based waiver services to individuals who, but for the provision of such services, would require the following level(s) of care, the costs of which would be reimbursed under the approved Medicaid State plan (check each that applies):

<input type="checkbox"/>	<b>Hospital (select applicable level of care)</b>	
<input type="radio"/>	Hospital as defined in 42 CFR §440.10. If applicable, specify whether the State additionally limits the waiver to subcategories of the hospital level of care:	
<input type="radio"/>	Inpatient psychiatric facility for individuals under age 21 as provided in 42 CFR § 440.160	
<input type="checkbox"/>	<b>Nursing Facility (select applicable level of care)</b>	
<input type="radio"/>	As defined in 42 CFR §440.40 and 42 CFR §440.155. If applicable, specify whether the State additionally limits the waiver to subcategories of the nursing facility level of care:	
<input type="radio"/>	Institution for Mental Disease for persons with mental illnesses aged 65 and older as provided in 42 CFR §440.140	
<input checked="" type="checkbox"/>	<b>Intermediate Care Facility for Individuals with Intellectual Disabilities (as defined in 42 CFR §440.150). If applicable, specify whether the State additionally limits the waiver to subcategories of the ICF/IID facility level of care:</b>	

State:	
Effective Date	

	Intermediate Care Facility for Persons with Other Related Conditions (ICF/ORC)
--	--

**G. Concurrent Operation with Other Programs.** This waiver operates concurrently with another program (or programs) approved under the following authorities (*check the applicable authority or authorities*):

<input type="checkbox"/>	Services furnished under the provisions of §1915(a)(1)(a) of the Act and described in Appendix I		
<input type="checkbox"/>	Waiver(s) authorized under §1915(b) of the Act. <i>Specify the §1915(b) waiver program and indicate whether a §1915(b) waiver application has been submitted or previously approved:</i>		
	Specify the §1915(b) authorities under which this program operates ( <i>check each that applies</i> ):		
<input type="checkbox"/>	§1915(b)(1) (mandated enrollment to managed care)	<input type="checkbox"/>	§1915(b)(3) (employ cost savings to furnish additional services)
<input type="checkbox"/>	§1915(b)(2) (central broker)	<input type="checkbox"/>	§1915(b)(4) (selective contracting/limit number of providers)
<input type="checkbox"/>	A program operated under §1932(a) of the Act. <i>Specify the nature of the State Plan benefit and indicate whether the State Plan Amendment has been submitted or previously approved.</i>		
<input type="checkbox"/>	A program authorized under §1915(i) of the Act		
<input type="checkbox"/>	A program authorized under §1915(j) of the Act		
<input type="checkbox"/>	A program authorized under §1115 of the Act. <i>Specify the program:</i>		
<input checked="" type="checkbox"/>	Not applicable		

State:	
Effective Date	

## 2. Brief Waiver Description

**Brief Waiver Description.** *In one page or less*, briefly describe the purpose of the waiver, including its goals, objectives, organizational structure (e.g., the roles of state, local and other entities), and service delivery methods.

Pennsylvania's OBRA Waiver has been developed to emphasize deinstitutionalization, prevent or minimize institutionalization and provide an array of services and supports in community-integrated settings. The OBRA waiver provides home and community-based services to persons with development disabilities aged 18 and over who require an Intermediate Care Facility for Persons with Other Related Conditions (ICF/ORC) level of care and is designed to support individuals to live more independently in their homes and communities and to provide a variety of services that promote community living, including participant directed service models and traditional agency-based service models.

DHS, as the State Medicaid Agency (SMA), retains authority over the administration and implementation of the OBRA Waiver. The Office of Long-Term Living, (OLTL) as part of the single SMA, is responsible for ensuring that the OBRA Waiver operates in accordance with applicable Federal laws and regulations as well as meeting all 1915 (c) waiver assurances. OLTL maintains oversight of contracted and local/regional entity functions and the development and distribution of policies, procedures and rules related to Waiver operations. OLTL also ensures that waiver services are provided by qualified enrolled Medicaid providers. The OLTL administers OBRA Waiver services statewide to all participants who meet programmatic eligibility requirements and are Medicaid eligible.

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.

Participants access services through a statewide Independent Enrollment Broker (IEB) that assists individuals with enrollment into the waiver. The initial level of care determinations are delegated to an Independent Assessment Entity.

Services are provided through qualified providers that are enrolled as Medical Assistance providers. OLTL has written provider agreements with service providers across the commonwealth who meet all waiver requirements and are enrolled in Medical Assistance. These local OBRA Waiver providers are responsible for direct services to participants. The statewide Vendor Fiscal/Employer Agent executes and holds Medicaid provider agreements with individual support service workers hired by participants choosing to self-direct their services.

State:	
Effective Date	

### 3. Components of the Waiver Request

The waiver application consists of the following components. *Note: Item 3-E must be completed.*

- Waiver Administration and Operation.** Appendix A specifies the administrative and operational structure of this waiver.
- B. Participant Access and Eligibility.** Appendix B specifies the target group(s) of individuals who are served in this waiver, the number of participants that the State expects to serve during each year that the waiver is in effect, applicable Medicaid eligibility and post-eligibility (if applicable) requirements, and procedures for the evaluation and reevaluation of level of care.
- C. Participant Services.** Appendix C specifies the home and community-based waiver services that are furnished through the waiver, including applicable limitations on such services.
- D. Participant-Centered Service Planning and Delivery.** Appendix D specifies the procedures and methods that the State uses to develop, implement and monitor the participant-centered service plan (of care).
- E. Participant-Direction of Services.** When the State provides for participant direction of services, Appendix E specifies the participant direction opportunities that are offered in the waiver and the supports that are available to participants who direct their services. *(Select one):*

<input checked="" type="radio"/>	The waiver provides for participant direction of services. <i>Appendix E is required.</i>
<input type="radio"/>	Not applicable. The waiver does not provide for participant direction of services. <i>Appendix E is not completed.</i>

- F. Participant Rights.** Appendix F specifies how the State informs participants of their Medicaid Fair Hearing rights and other procedures to address participant grievances and complaints.
- G. Participant Safeguards.** Appendix G describes the safeguards that the State has established to assure the health and welfare of waiver participants in specified areas.
- H. Quality Improvement Strategy.** Appendix H contains the overall systems improvement for this waiver.
- I. Financial Accountability.** Appendix I describes the methods by which the State makes payments for waiver services, ensures the integrity of these payments, and complies with applicable federal requirements concerning payments and federal financial participation.
- J. Cost-Neutrality Demonstration.** Appendix J contains the State’s demonstration that the waiver is cost-neutral.

### 4. Waiver(s) Requested

- A. Comparability.** The State requests a waiver of the requirements contained in §1902(a)(10)(B) of the Act in order to provide the services specified in Appendix C that are not otherwise available under the approved Medicaid State plan to individuals who: (a) require the level(s) of care specified in Item 1.F and (b) meet the target group criteria specified in Appendix B.
- B. Income and Resources for the Medically Needy.** Indicate whether the State requests a waiver of §1902(a)(10)(C)(i)(III) of the Act in order to use institutional income and resource rules for the medically needy *(select one):*

<input checked="" type="radio"/>	Yes
<input type="radio"/>	No
<input type="radio"/>	Not applicable

State:	
Effective Date	

C. **Statewideness.** Indicate whether the State requests a waiver of the statewideness requirements in §1902(a)(1) of the Act (*select one*):

<input type="radio"/>	<b>Yes</b> ( <i>complete remainder of item</i> )
<input checked="" type="radio"/>	<b>No</b>

If yes, specify the waiver of statewideness that is requested (*check each that applies*):

<input type="checkbox"/>	<b>Geographic Limitation.</b> A waiver of statewideness is requested in order to furnish services under this waiver only to individuals who reside in the following geographic areas or political subdivisions of the State. <i>Specify the areas to which this waiver applies and, as applicable, the phase-in schedule of the waiver by geographic area:</i>
<input type="checkbox"/>	<b>Limited Implementation of Participant-Direction.</b> A waiver of statewideness is requested in order to make <i>participant direction of services</i> as specified in <b>Appendix E</b> available only to individuals who reside in the following geographic areas or political subdivisions of the State. Participants who reside in these areas may elect to direct their services as provided by the State or receive comparable services through the service delivery methods that are in effect elsewhere in the State. <i>Specify the areas of the State affected by this waiver and, as applicable, the phase-in schedule of the waiver by geographic area:</i>

## 5. Assurances

In accordance with 42 CFR §441.302, the State provides the following assurances to CMS:

- A. **Health & Welfare:** The State assures that necessary safeguards have been taken to protect the health and welfare of persons receiving services under this waiver. These safeguards include:
  1. As specified in **Appendix C**, adequate standards for all types of providers that provide services under this waiver;
  2. Assurance that the standards of any State licensure or certification requirements specified in **Appendix C** are met for services or for individuals furnishing services that are provided under the waiver. The State assures that these requirements are met on the date that the services are furnished; and,
  3. Assurance that all facilities subject to §1616(e) of the Act where home and community-based waiver services are provided comply with the applicable State standards for board and care facilities as specified in **Appendix C**.
- B. **Financial Accountability.** The State assures financial accountability for funds expended for home and community-based services and maintains and makes available to the Department of Health and Human Services (including the Office of the Inspector General), the Comptroller General, or other designees, appropriate financial records documenting the cost of services provided under the waiver. Methods of financial accountability are specified in **Appendix I**.
- C. **Evaluation of Need:** The State assures that it provides for an initial evaluation (and periodic reevaluations, at least annually) of the need for a level of care specified for this waiver, when there

State:	
Effective Date	

is a reasonable indication that an individual might need such services in the near future (one month or less) but for the receipt of home and community-based services under this waiver. The procedures for evaluation and reevaluation of level of care are specified in **Appendix B**.

**D. Choice of Alternatives:** The State assures that when an individual is determined to be likely to require the level of care specified for this waiver and is in a target group specified in **Appendix B**, the individual (or, legal representative, if applicable) is:

1. Informed of any feasible alternatives under the waiver; and,
2. Given the choice of either institutional or home and community-based waiver services.

**Appendix B** specifies the procedures that the State employs to ensure that individuals are informed of feasible alternatives under the waiver and given the choice of institutional or home and community-based waiver services.

**E. Average Per Capita Expenditures:** The State assures that, for any year that the waiver is in effect, the average per capita expenditures under the waiver will not exceed 100 percent of the average per capita expenditures that would have been made under the Medicaid State plan for the level(s) of care specified for this waiver had the waiver not been granted. Cost-neutrality is demonstrated in **Appendix J**.

**F. Actual Total Expenditures:** The State assures that the actual total expenditures for home and community-based waiver and other Medicaid services and its claim for FFP in expenditures for the services provided to individuals under the waiver will not, in any year of the waiver period, exceed 100 percent of the amount that would be incurred in the absence of the waiver by the State's Medicaid program for these individuals in the institutional setting(s) specified for this waiver.

**G. Institutionalization Absent Waiver:** The State assures that, absent the waiver, individuals served in the waiver would receive the appropriate type of Medicaid-funded institutional care for the level of care specified for this waiver.

**H. Reporting:** The State assures that annually it will provide CMS with information concerning the impact of the waiver on the type, amount and cost of services provided under the Medicaid State plan and on the health and welfare of waiver participants. This information will be consistent with a data collection plan designed by CMS.

**I. Habilitation Services.** The State assures that prevocational, educational, or supported employment services, or a combination of these services, if provided as habilitation services under the waiver are: (1) not otherwise available to the individual through a local educational agency under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) or the Rehabilitation Act of 1973; and, (2) furnished as part of expanded habilitation services.

**J. Services for Individuals with Chronic Mental Illness.** The State assures that federal financial participation (FFP) will not be claimed in expenditures for waiver services including, but not limited to, day treatment or partial hospitalization, psychosocial rehabilitation services, and clinic services provided as home and community-based services to individuals with chronic mental illnesses if these individuals, in the absence of a waiver, would be placed in an IMD and are: (1) age 22 to 64; (2) age 65 and older and the State has not included the optional Medicaid benefit cited in 42 CFR §440.140; or (3) under age 21 when the State has not included the optional Medicaid benefit cited in 42 CFR §440.160.

State:	
Effective Date	



## 6. Additional Requirements

*Note: Item 6-I must be completed.*

- A. Service Plan.** In accordance with 42 CFR §441.301(b)(1)(i), a participant-centered service plan (of care) is developed for each participant employing the procedures specified in **Appendix D**. All waiver services are furnished pursuant to the service plan. The service plan describes: (a) the waiver services that are furnished to the participant, their projected amount, frequency and duration and the type of provider that furnishes each service and (b) the other services (regardless of funding source, including State plan services) and informal supports that complement waiver services in meeting the needs of the participant. The service plan is subject to the approval of the Medicaid agency. Federal financial participation (FFP) is not claimed for waiver services furnished prior to the development of the service plan or for services that are not included in the service plan.
- B. Inpatients.** In accordance with 42 CFR §441.301(b)(1)(ii), waiver services are not furnished to individuals who are in-patients of a hospital, nursing facility or ICF/MR.
- C. Room and Board.** In accordance with 42 CFR §441.310(a)(2), FFP is not claimed for the cost of room and board except when: (a) provided as part of respite services in a facility approved by the State that is not a private residence or (b) claimed as a portion of the rent and food that may be reasonably attributed to an unrelated caregiver who resides in the same household as the participant, as provided in **Appendix I**.
- D. Access to Services.** The State does not limit or restrict participant access to waiver services except as provided in **Appendix C**.
- E. Free Choice of Provider.** In accordance with 42 CFR §431.51, a participant may select any willing and qualified provider to furnish waiver services included in the service plan unless the State has received approval to limit the number of providers under the provisions of §1915(b) or another provision of the Act.
- F. FFP Limitation.** In accordance with 42 CFR §433 Subpart D, FFP is not claimed for services when another third-party (e.g., another third party health insurer or other federal or state program) is legally liable and responsible for the provision and payment of the service. FFP also may not be claimed for services that are available without charge, or as free care to the community. Services will not be considered to be without charge, or free care, when (1) the provider establishes a fee schedule for each service available and (2) collects insurance information from all those served (Medicaid, and non-Medicaid), and bills other legally liable third party insurers. Alternatively, if a provider certifies that a particular legally liable third party insurer does not pay for the service(s), the provider may not generate further bills for that insurer for that annual period.
- G. Fair Hearing:** The State provides the opportunity to request a Fair Hearing under 42 CFR §431 Subpart E, to individuals: (a) who are not given the choice of home and community-based waiver services as an alternative to institutional level of care specified for this waiver; (b) who are denied the service(s) of their choice or the provider(s) of their choice; or (c) whose services are denied, suspended, reduced or terminated. **Appendix F** specifies the State's procedures to provide individuals the opportunity to request a Fair Hearing, including providing notice of action as required in 42 CFR §431.210.
- H. Quality Improvement.** The State operates a formal, comprehensive system to ensure that the waiver meets the assurances and other requirements contained in this application. Through an ongoing process of discovery, remediation and improvement, the State assures the health and welfare of participants by monitoring: (a) level of care determinations; (b) individual plans and services delivery; (c) provider qualifications; (d) participant health and welfare; (e) financial oversight and (f) administrative oversight of the waiver. The State further assures that all problems identified

State:	
Effective Date	

through its discovery processes are addressed in an appropriate and timely manner, consistent with the severity and nature of the problem. During the period that the waiver is in effect, the State will implement the Quality Improvement Strategy specified throughout the application and in **Appendix H**.

**I. Public Input.** Describe how the State secures public input into the development of the waiver:

--

**J. Notice to Tribal Governments.** The State assures that it has notified in writing all federally-recognized Tribal Governments that maintain a primary office and/or majority population within the State of the State’s intent to submit a Medicaid waiver request or renewal request to CMS at least 60 days before the anticipated submission date as provided by Presidential Executive Order 13175 of November 6, 2000. Evidence of the applicable notice is available through the Medicaid Agency.

**K. Limited English Proficient Persons.** The State assures that it provides meaningful access to waiver services by Limited English Proficient persons in accordance with: (a) Presidential Executive Order 13166 of August 11, 2000 (65 FR 50121) and (b) Department of Health and Human Services “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (68 FR 47311 - August 8, 2003). **Appendix B** describes how the State assures meaningful access to waiver services by Limited English Proficient persons.

## 7. Contact Person(s)

**A.** The Medicaid agency representative with whom CMS should communicate regarding the waiver is:

<b>First Name:</b>	Jennifer
<b>Last Name</b>	Hale
<b>Title:</b>	Policy Director
<b>Agency:</b>	Office of Long-Term Living, Department of Human Services
<b>Address 1:</b>	6 <sup>th</sup> Floor, Forum Place
<b>Address 2:</b>	555 Walnut Street
<b>City</b>	Harrisburg
<b>State</b>	PA
<b>Zip Code</b>	17101
<b>Telephone:</b>	717-346-0495
<b>E-mail</b>	jehale@pa.gov
<b>Fax Number</b>	(717) 265-7698

**B.** If applicable, the State operating agency representative with whom CMS should communicate regarding the waiver is:

<b>First Name:</b>	
<b>Last Name</b>	
<b>Title:</b>	
<b>Agency:</b>	

State:	
Effective Date	

<b>Address 1:</b>	
<b>Address 2</b>	
<b>City</b>	
<b>State</b>	
<b>Zip Code</b>	
<b>Telephone:</b>	
<b>E-mail</b>	
<b>Fax Number</b>	

State:	
Effective Date	

## 8. Authorizing Signature

This document, together with Appendices A through J, constitutes the State's request for a waiver under §1915(c) of the Social Security Act. The State assures that all materials referenced in this waiver application (including standards, licensure and certification requirements) are *readily* available in print or electronic form upon request to CMS through the Medicaid agency or, if applicable, from the operating agency specified in Appendix A. Any proposed changes to the waiver will be submitted by the Medicaid agency to CMS in the form of waiver amendments.

Upon approval by CMS, the waiver application serves as the State's authority to provide home and community-based waiver services to the specified target groups. The State attests that it will abide by all provisions of the approved waiver and will continuously operate the waiver in accordance with the assurances specified in Section 5 and the additional requirements specified in Section 6 of the request.

**Signature:**     Jennifer Hale      
 State Medicaid Director or Designee

<b>Date:</b>	
--------------	--

<b>First Name:</b>	Sally
<b>Last Name</b>	Kozak
<b>Title:</b>	Medicaid Director
<b>Agency:</b>	Department of Human Services
<b>Address 1:</b>	625 Forster Street
<b>Address 2:</b>	Room 515, Health & Welfare Building
<b>City</b>	Harrisburg
<b>State</b>	PA
<b>Zip Code</b>	17120
<b>Telephone:</b>	(717) 787-1870
<b>E-mail</b>	sakozak@pa.gov
<b>Fax Number</b>	(717) 787-4639

State:	
Effective Date	

### **Attachment #1: Transition Plan**

Specify the transition plan for the waiver:

--

State:	
Effective Date	

## Attachment #2: Home and Community-Based Settings Waiver Transition Plan

Specify the state's process to bring this waiver into compliance with federal home and community-based (HCB) settings requirements at 42 CFR 441.301(c)(4)-(5), and associated CMS guidance.

*Consult with CMS for instructions before completing this item. This field describes the status of a transition process at the point in time of submission. Relevant information in the planning phase will differ from information required to describe attainment of milestones.*

*To the extent that the state has submitted a statewide HCB settings transition plan to CMS, the description in this field may reference that statewide plan. The narrative in this field must include enough information to demonstrate that this waiver complies with federal HCB settings requirements, including the compliance and transition requirements at 42 CFR 441.301(c)(6), and that this submission is consistent with the portions of the statewide HCB settings transition plan that are germane to this waiver. Quote or summarize germane portions of the statewide HCB settings transition plan as required.*

*Note that Appendix C-5 HCB Settings describes settings that do not require transition; the settings listed there meet federal HCB setting requirements as of the date of submission. Do not duplicate that information here.*

*Update this field and Appendix C-5 when submitting a renewal or amendment to this waiver for other purposes. It is not necessary for the state to amend the waiver solely for the purpose of updating this field and Appendix C-5. At the end of the state's HCB settings transition process for this waiver, when all waiver settings meet federal HCB setting requirements, enter "Completed" in this field, and include in Section C-5 the information on all HCB settings in the waiver.*

The state assures that this waiver amendment or renewal will be subject to any provisions or requirements included in the state's most recent and/or approved home and community-based settings Statewide Transition Plan. The state will implement any CMCS required changes by the end of the transition period as outlined in the home and community-based settings Statewide Transition Plan.

State:	
Effective Date	

## Additional Needed Information (Optional)

Provide additional needed information for the waiver (optional):

### TELESERVICES

Teleservices are the delivery of direct services using remote technology. The following direct services may be rendered via teleservices:

- Cognitive Rehabilitation Therapy Services
- Counseling Services

Participants must have an informed choice to receive direct services in-person or via teleservices. Teleservices may only occur when the Individual Service Planning team determines that using remote technology is the most appropriate service delivery method to meet the participant's needs (including health and safety needs) and goals. This determination must be based on consideration of all of the following:

- Service delivery complies with the requirements in the service definition, OLTL policies, and regulations.
- Teleservices must be provided by means that allow for live two-way communication with the participant, no recording of the interaction shall be captured. Live video or audio transmission is only allowable to persons designated by the participant and designated staff employed by the provider responsible for direct service delivery. Providers can call participants over the phone as an incidental component of teleservices to check-in with participants as allowed in the service definition or in emergency circumstances when all other criteria are met. Monitoring of devices is not allowable under teleservices.
- The provider has explained to the participant and everyone else residing in the home the impact that teleservices will have on their privacy.
  - o The use of live video communication devices in bathrooms is strictly prohibited as part of teleservices.
    - o It is allowable for staff to provide live audio prompts needed by the participant in bathrooms and bedrooms as part of teleservices. The participant must be alerted prior to the activation of any audio communication device unless the participant turns on the audio communication device themselves.
    - o Live real time video communication between the participant and a staff person as part of teleservices may only occur in a participant's bedroom when all of the following are met:
      - The participant has chosen to receive teleservices in their bedroom due to a medical condition which makes it difficult or impossible for them to leave their bedroom to receive services in another room in the house or the participant would like privacy from others in the home (family, housemates, etc.) during the receipt of services;
      - The participant turns the video communication device on and off themselves or requests assistance in turning the video communication device on and off;
      - The participant does not share a bedroom with others; and
      - Service delivery via video communication will not be performed as part of any activity during which privacy would generally be expected (while a participant is in a state of undress, during sexual activities, etc.).

State:	
Effective Date	

o All live real time audio and video communication devices used to render teleservices in any part of the home or community must include indicators that let the participant know that the equipment is on and operating in audio or video mode.

- How teleservices will support community integration.
- How teleservices will promote improved health and welfare.
- The request to use teleservices was initiated by a request from the participant and/or the family/representative when appropriate, and not the provider.
- How the participant's need for in-person support during service provision will be met.
- The provider, in conjunction with the Individual Service Planning team, has developed a back-up plan that will be implemented should there be a problem with the technology.

The provider is responsible for ensuring that any technology used to render teleservices are HIPAA compliant and that the delivery of teleservices has been reviewed and accepted by the HIPAA compliance officer. The provider is also responsible for providing initial and ongoing training and support to the participant, and anyone designated by the participant, regarding the operation of the technology used during teleservices, including turning it on and off at-will.

State:	
Effective Date	



State:	
Effective Date	