

**Illinois Department of Human Services
Division of Developmental Disabilities**

**Waiver Renewals in 2022
and
Rules Process**

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Agenda

- What is a Waiver?
- Waivers being renewed
- Overview of Renewal Process
- Proposed Changes
- What are Administrative Rules?
- Administrative Rules related to DD services
- The process of updating Administrative Rules
- Status of Rules

What is a Waiver?

- Section 1915(c) of the Social Security Act permits a state to waive certain Medicaid requirements in order to furnish an array of home and community-based services that promote community living for Medicaid beneficiaries and, thereby, avoid institutionalization.
- Waiver services complement and/or supplement the services that are available through the Medicaid State plan and other federal, state and local public programs as well as the supports that families and communities provide to individuals.

What is a Waiver?

States have flexibility in designing waivers, including the latitude to:

- Determine the target group(s) of Medicaid beneficiaries who are served through the waiver;
- Specify the services that are furnished to support waiver participants in the community;
- Incorporate opportunities for participants to direct and manage their waiver services;
- Determine the qualifications of waiver providers;
- Design strategies to assure the health and welfare of waiver participants;
- Promote the cost-effective delivery of home and community-based services;
- Link the delivery of waiver services to other state/local programs and their associated service delivery systems; and,
- Develop and implement a quality improvement strategy to ensure that the waiver meets essential federal statutory assurances and to continuously improve the effectiveness of the waiver in meeting participant needs.

Waiver Programs



- Illinois operates nine (9) HCBS Medicaid Waivers and each is designed for individuals with similar needs and offers a different set of services. DDD operates 3 of these HCBS Medicaid Waivers.
 - Adults with Developmental Disabilities (DD) Waiver (~23,000)
 - Children’s Support Waiver (~ 1000)
 - Children’s Residential Waiver (~200)

Waiver Renewals

- DDD waivers are all on a 5-year renewal cycle
- Due to renew July 1, 2022
 - Children's Residential Waiver (Child Group Homes/CGH)
 - Children's Support Waiver (Home-Based Services/CHBS)
- Due to renew December 11, 2022*
 - Adults with Developmental Disabilities Waiver (Residential and Home-Based Services/AHBS)

*Planning to renew the Adults with DD Waiver with the Children's Waivers to get them all on the same renewal cycle

Renewal Process

- DDD  Healthcare & Family Services (HFS)  CMS
- Federal CMS Technical Guide:
 - “In order to ensure the continuous operation of a waiver, a waiver renewal application should be submitted to CMS at least 90 but preferably 180 calendar days prior to the end of the waiver period.”
- CMS 90-Day Clock for response
 - Informal dialogue vs. Formal Request for Additional Information

Renewal Process

- Timeline:
 - Waiver Revision (Now through November 2021)
 - Submission to HFS for Review (Early to mid November 2021)
 - 30-day Public Comment Period (By December 1, 2021)
 - Submission to CMS (By January 1, 2022)

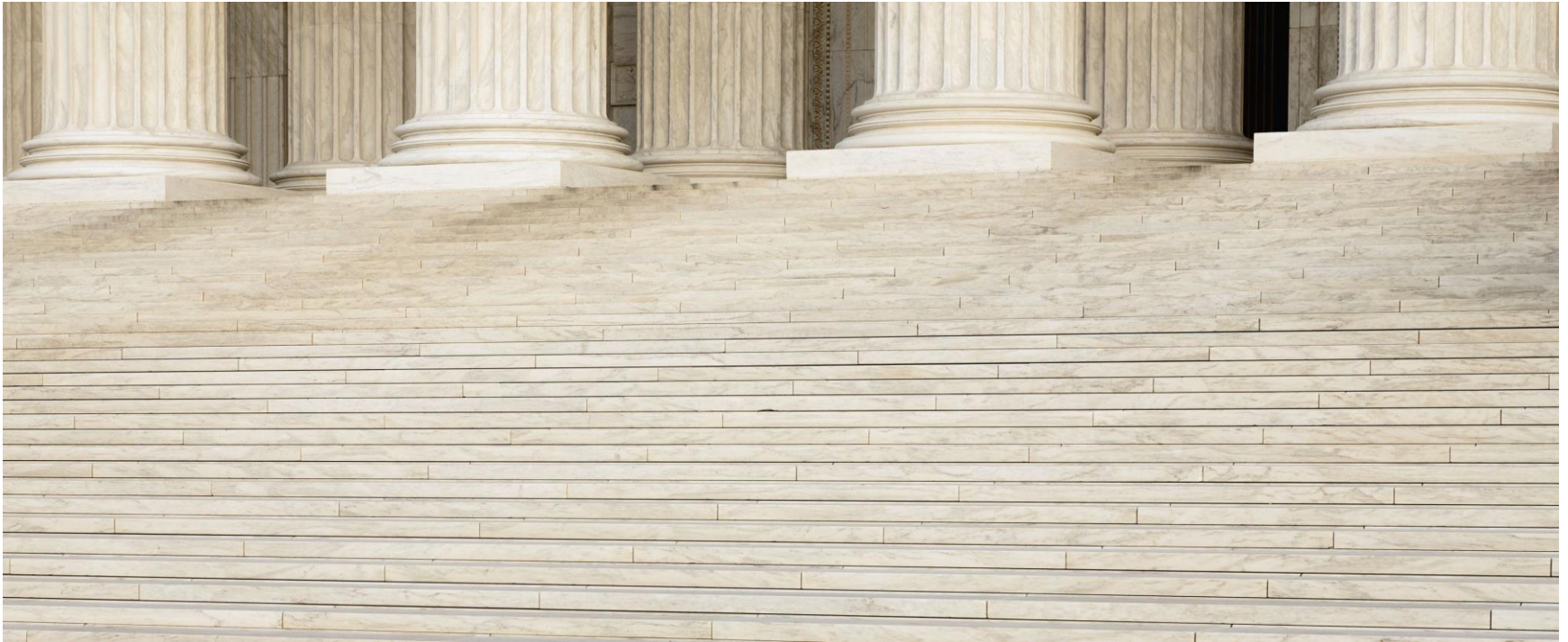
Proposed Changes

- Because of the timeline for renewing the waivers, **we won't be proposing changes which require significant funding increases that are dependent on IL General Assembly Appropriation.** These changes will be addressed through waiver amendments.
- Exceptions:
 - The Child Group Homes' 3% increase from FY21 becoming permanent
 - Increasing ISC visits under the Adults with DD Waiver to 4 visits/year
 - Increasing ISC funding to allow for institutional outreach, SODC transition monitoring and out of state placement monitoring

Proposed Changes

- General Changes
 - Clarifying Medicaid Agency and Operating Agency responsibilities
 - Clarifying language to align with policy
 - Aligning language across all State HCBS waivers
 - Grammar

Administrative Rules



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Administrative Rules:

- Are official regulations developed by State agencies, such as the Department of Human Services, Division of Developmental Disabilities (DDD).
- Outline how State agencies will implement Federal and/or State laws.
- Are used to define the practices related to services.



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DDD Administrative Rules:

The Division of Developmental Disabilities (DDD) has oversight for 6 Rules:

1. **Rule 115** (Title 59, Part 115): Community Integrated Living Arrangements (CILA)
2. **Rule 116** (Title 59, Part 115): Medication Administration
3. **Rule 117** (Title 59, Part 115): Home Base Supports

...DDD Administrative Rules:

4. **Rule 119** (Title 59, Part 119)– Community Day Services, formerly Developmental Training
5. **Rule 120** (Title 59, Part 119)– Medicaid HCBS Waiver programs
6. **Rule 144** (Title 89, Part 144) – Intermediate Care Facilities for individuals with Developmental Disabilities (ICF/DD)

All DHS Rules:

<https://www.dhs.state.il.us/page.aspx?item=22450>

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Rule Amendments

Changes to Administrative Rules require an agency, such as the Division, to submit proposed Rule language to the **Joint Committee for Administrative Rules (JCAR)**

Note: JCAR is a bipartisan legislative oversight committee.



Rule Amendments

- JCAR publishes the proposed changes in the **Illinois Register** (<https://www.ilsos.gov/departments/index/register/home.html>).
- This publication begins the **First Notice public comment period** in which people have an opportunity to formally respond to the proposed changes.
- There is also a **Second Notice public comment period** in which people have an opportunity to formally respond to the proposed changes.

Rule Amendments

- JCAR determines whether there are no reasonable objections to creating or changing the Rule.
- If JCAR determines there are no reasonable objections, the Department of Human Services will “file the Rule for Adoption” (make the changes final and post it on the DHS website).

DDD's Role

- Responsible for making changes. Currently revising 4 of the 6 Rules: 115, 117, 119 and 120.
- Oversees the **DD Regulatory Advisory Board**, which is mandated by Illinois law. This Board provides input to the changes in Rules 115, 116, 117, 119 and 120.
- Posted draft copies of the draft rules prior to starting the JCAR process to ensure stakeholders can give feedback early in the process:
<https://www.dhs.state.il.us/page.aspx?item=135845>

Rules vs. Policy/Procedures

- The Rule making process is separate from the Divisions' policies and procedures that are used to communicate system processes.
- The Division's policies and procedures are communicated through Information Bulletins, manuals and guidelines.
- In addition, all Home and Community-Based Services are detailed in one of the Division's three Waivers:
<https://www2.illinois.gov/hfs/MedicalClients/HCBS/Pages/default.aspx>.

Where are we now?

- Rule 115 (for CILA) – Was posted for First Notice in February of 2021. DDD has reviewed all comments and is finishing changes to the draft. Will go back to JCAR in November/December for Second Notice.
- Rule 117 (for HBS), Rule 119 (for CDS) and Rule 120 (for all DD Waivers) – recently been reviewed by the DDRAB and being prepared to go to JCAR for First Notice. We anticipate this will occur in December.

QUESTIONS?



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