

# 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*):

<input checked="" type="radio"/>	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> )	
<input checked="" type="radio"/>	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:

- Bureau of Participant Operations (BPO) – effectively operationalizes home and community-based waiver programs through oversight of participant enrollment functions; review and approval of individual service plans, provision of programmatic guidance to service coordinators and providers. Also manages the participant helpline and provides assistance to service coordinators on protective services cases.
- Bureau of Policy and Regulatory Management – evaluates existing policies and develops new policies to provide uniform guidelines to other OLTL bureaus and to the HCBS provider community. Develops and submits waiver amendment to CMS; develops communications for providers and the general public to convey OLTL's policies and strategic vision; develops regulations, statements of policy and rate notices as needed; monitors and reviews state and federal policies for impact on HCBS programs.
- Bureau of Bureau of Quality and Provider Management – conducts quality management and improvement monitoring of long-Term Living programs and services to ensure compliance with federal and state regulations and the delivery of quality programs to assure the health and welfare of consumers; ensures that program and service delivery systems achieve desired outcomes. It also oversees provider management functions for OLTL including provider certification and enrollment; updates provider files; oversees MA provider billing; prepares financial reports as appropriate, including reports required by the Centers for Medicare and Medicaid Services (CMS) and other regulatory agencies.
- Bureau of Finance – is responsible for financial operational management of the waivers and ongoing monitoring of expenditures and related information; oversees and develops HCBS service rates; provides budget analysis to help inform policy decisions.

**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:

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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*):

<p>●</p>	<p><b>Yes. Contracted entities perform waiver operational and administrative functions on behalf of the Medicaid agency and/or operating agency (if applicable).</b> Specify the types of contracted entities and briefly describe the functions that they perform. <i>Complete Items A-5 and A-6.</i></p> <p>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.</p> <p>Through the current Title XIX Medicaid Waiver Grant Agreement, OLTL currently contracts with fifty-two (52) local Area Agencies on Aging to perform the initial level of care determination as specified in Appendix B-6. Thirty-three of these entities are Local/Regional non-state public agencies, while nineteen are Local/Regional non-governmental non-state entities. These agreements end on September 30, 2017.</p> <p>Effective October 1, 2017, OLTL will be entering into a contract with an independent Assessment Entity to conduct the initial level of care determinations, hereafter referred as Functional Eligibility Determinations. The selected entity will have 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.</p> <p>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 Entity (IEE) is responsible for the following activities:</p> <ul style="list-style-type: none"><li>● Complete the initial in-home visit and needs assessment;</li><li>● 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;</li><li>● 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;</li><li>● 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;</li><li>● Assist the applicant to obtain a completed physician certification form from the individual's physician;</li></ul>
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- 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; and
- Maintain a waiting list for services as necessary.

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 support 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 support 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 support workers with confidentiality, accuracy and appropriate safeguards;
- Conduct criminal background checks and, when applicable, child abuse clearances, on potential employees;
- Assist participants in verifying support workers citizenship or alien status;
- Distribute, collect and process support worker timesheets as verified and approved by the participant;
- Prepare and issue support 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 support 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
- Establish an accessible customer service system for the participant and the Service Coordinator.

The Fiscal/Employer Agent is also responsible for procuring a Support Broker(s) to provide employer-related assistance and training to common-law employers.

Performance of annual redeterminations of level of care is currently conducted by service coordination entities as described in Appendix C.

	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.
<input type="radio"/>	<b>No. Contracted entities do not perform waiver operational and administrative functions on behalf of the Medicaid agency and/or the operating agency (if applicable).</b>

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"/>	<b>Not applicable</b>
<input type="radio"/>	<b>Applicable - Local/regional non-state agencies perform waiver operational and administrative functions. Check each that applies:</b>
<input type="checkbox"/>	<b>Local/Regional non-state public agencies</b> conduct waiver operational and administrative functions at the local or regional level. There is an <b>interagency agreement or memorandum of understanding</b> 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>
<input type="checkbox"/>	<b>Local/Regional non-governmental non-state entities</b> 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 <b>contract(s)</b> 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>

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 has undertaken a number of efforts to strengthen the methods for overseeing entities performing administrative elements on behalf of the SMA. Through redrafting of contracts for entities performing

administrative functions on behalf of the Commonwealth with specific reporting criteria to establishing programmatic and fiscal regulations, OLTL has established firmer footing upon which to base a strong assessment method and frequency for monitoring.

OLTL is contracting with an independent Assessment Entity to conduct the initial Functional Eligibility Determinations of participants. A contract manager, who will be an employee of OLTL, will be assigned to this contract and will require quarterly reports on timeliness of the determinations and the agency's adherence to the contract requirements. OLTL will aggregate information on findings from the Assessment Entity to ascertain trends in non-compliance areas. Data will be presented at the Quality Management Meeting (QM2) to discuss the areas of non-compliance and develop statewide strategies to reverse negative trends. Strategies include issuing or re-issuing instructions to the Assessment Entity regarding performance obligations, implementing or revising training on the Assessment Entity's responsibilities, or recommending contract revisions. A yearly report on all program requirements will also be required and reviewed for compliance.

OLTL oversees the contractual obligations of the Fiscal/Employer Agent (F/EA). OLTL staff conduct an onsite annual operational review of the contracted F/EA to ensure that all required functions are performed in accordance with all OLTL requirements including the Waiver assurances and the F/EA contract. These requirements include, but are not limited to, participant satisfaction, timeliness and accuracy of payments to workers, accuracy of information provided to participants and workers by the F/EA, timeliness and accuracy of tax filings on behalf of the participant and executed agreements between the F/EA and the workers or other vendors. In addition to the annual onsite operational review, there is significant oversight conducted on a monthly basis. The contract requires the F/EA to provide OLTL with monthly utilization reports, quarterly and annual status reports, as well as problem identification reports; these reports cover activities performed and issues encountered during the reporting period. OLTL will utilize these reports to monitor performance to ensure services are being delivered according to the contract.

If the F/EA exhibits noncompliance in any area of the waiver or contract, it will receive a Statement of Findings. The F/EA is required to develop a Corrective Action Plan (CAP) in response to each finding and remediate areas of non-compliance. The CAP is due to OLTL within 15 days of issuance of findings to the F/EA. OLTL reviews and approves or disapproves the CAP within 15 days of receipt. The F/EA is expected to implement the approved CAP. If the F/EA does not develop a satisfactory CAP, OLTL will draft a CAP and require the F/EA to implement the OLTL drafted CAP. A satisfactory CAP requires the provider to resolve the finding in a reasonable amount of time given the resources available. OLTL reviews the CAP to ensure the provider's plan to resolve the finding is both timely and complete. Through a follow-up onsite review, OLTL validates that corrective actions are taken to remediate each instance of noncompliance within a prescribed timeframe and that other necessary actions are taken to avoid a recurrence.

F/EA findings are also presented at the Quality Management Meeting (QM2) to discuss the areas of non-compliance and develop statewide strategies to improve F/EA performance. Strategies include issuing or re-issuing instructions to the F/EA regarding performance obligations, implementing or revising training for the F/EA, participants or participant's workers on their responsibilities, or recommending contract revisions.

The Office of Long Term Living also oversees the performance of the enrollment function which has been delegated to the Independent Enrollment Entity. The Independent Enrollment Entity (IEE) is monitored annually on contracted performance measures. In addition to the annual contract monitoring, OLTL oversees ongoing operation through IEE performance on contracted performance measures that are collected monthly from the IEE and provided to the contract administrator and the Metrics and Analytics Division within the office of the Chief of Staff. Performance measures include sufficient staff

to ensure calls are answered by a live person, at least 95% of the time, and the average phone wait time is less than 60 seconds for 100% of the calls. Other measures ensure timeliness of specific tasks such as conducting initial visits within seven days and forwarding information to the chosen Service Coordination Entity within two days. Systems information is contained in the contractor's Datamart database and it is loaded to OLTL to validate reports. If the Independent Enrollment Entity fails to meet established performance measure standards it must respond to the findings and remediate areas of non-compliance. If the Independent Enrollment Entity fails to remediate non-compliance it can result in adverse action against the contracted entity, including contract termination.

**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.*

Function	Medicaid Agency	Other State Operating Agency	Contracted Entity	Local Non-State Entity
Participant waiver enrollment	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>
Waiver enrollment managed against approved limits	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waiver expenditures managed against approved levels	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Level of care evaluation	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>
Review of Participant service plans	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prior authorization of waiver services	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Utilization management	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>
Qualified provider enrollment	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Execution of Medicaid provider agreements	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>
Establishment of a statewide rate methodology	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rules, policies, procedures and information development governing the waiver program	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality assurance and quality improvement activities	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>