

NOTICE OF INTENT TO SUBMIT WAIVER AMENDMENTS SOLICITATION OF PUBLIC INPUT

Pursuant to 42 C.F.R. § 42 C.F.R. § 441.304, the Idaho Department of Health and Welfare Division of Medicaid (Department) provides public notice of its intent to submit waiver amendments to the Centers for Medicare and Medicaid Services (CMS) for Idaho’s Aged and Disabled (A&D) §1915(c) waiver.

Medicaid plans to consult with Idaho Tribal representatives regarding this change in compliance with section 5006(e) of the American Recovery and Reinvestment Act of 2009 during our regularly scheduled quarterly meeting scheduled for May 2019.

Pursuant to 42 C.F.R. § 441.304, public notice of the proposed waiver amendments will be published on **March 22, 2019** in the newspapers of widest circulation in each Idaho city with a population of 50,000 or more and on the Department’s website. On **March 22, 2019**, copies of the public notice and the proposed waiver amendments will be made available for public review during regular business hours at all regional Medicaid offices of the Idaho Department of Health and Welfare. The public will be given the opportunity to comment on the proposed Aged and Disabled waiver amendment for a period of at least 30 days.

PROPOSED WAIVER CHANGES

The proposed waiver amendments will revise the Personal Needs Allowance (PNA) for certain participants. The PNA is used in the post-eligibility calculation of income that determines participant responsibility, known as “Share of Cost”.

The Centers for Medicare and Medicaid Services (CMS) identified that Idaho is not in compliance with the reasonableness requirements described at 42 CFR 435.726(c)(i). In order to retain ongoing authority to administer the Aged and Disabled Waiver, the State must apply consistent PNA standards to meet the reasonableness requirements. In order to comply, the PNA for participants who have no rent or mortgage expense will be changed from 150% to 100% to standardize the allowance. This change will result in the Share of Cost increasing for a small number of participants (191 members in State Fiscal Year (SFY) 2018) receiving Home and Community Based Services.

PUBLIC REVIEW

A copy of the proposed Aged and Disabled §1915(c) waiver amendment will be posted on the Department’s website at: <http://healthandwelfare.idaho.gov/Medical/Medicaid/tabid/123/Default.aspx> no later than **March 22, 2019**.

Copies of the proposed waiver amendments are also available for public review upon request during regular business hours at any regional Medicaid services office of the Idaho Department of Health and Welfare.

LOCATIONS FOR PUBLIC REVIEW OF PROPOSED CHANGES

Regional Medicaid Offices	
Region 1	1120 Ironwood Drive, Suite 102, Coeur d’Alene, ID 83814
Region 2	1118 F Street, Lewiston, ID 83501

Region 3	3402 Franklin Road, Caldwell, ID 83605
Region 4	1720 Westgate Drive, Suite A, Boise, ID 83704
Region 5	601 Pole Line Road, Suite 3 Twin Falls, ID 83301
Region 6	1070 Hiline Rd, Suite 260, Pocatello, ID 83201
Region 7	150 Shoup Avenue, Suite 20, Idaho Falls, ID 83402

PUBLIC COMMENT

The Department is accepting written and recorded comments regarding these waiver amendments for a period of 30 calendar days. **Comments must be submitted by one of the methods below by close of business Sunday, April 21, 2019.**

Hand Deliver to: Medicaid Central Office
Idaho Department of Health and Welfare
3232 W. Elder Street
Attn: Jennifer Pinkerton
Boise, ID 83705

Mail to: PO Box 83720
Boise, ID 83720-0036

FAX: (208) 332-7283

Email: HCBSWaivers@dhw.idaho.gov (Attn: Cost Sharing Feedback)

The Department will review all comments received prior to submitting the waiver amendments to CMS. A summary document of the comments received in addition to the Department's response will be posted online once they have been reviewed and compiled.

Note:

Aged and Disabled (A&D) Waiver pages with no proposed changes were omitted from this document.

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.

Request for an Amendment to a §1915(c) Home and Community-Based Services Waiver

1. Request Information

- A. The **State of Idaho** requests approval for an amendment to the following Medicaid home and community-based services approved under authority of the §1915(c) of the Social Security Act.
- B. **Program Title:**
Aged and Disabled Waiver
- C. **Waiver Number: ID.1076**
Original Base Waiver Number: ID.1076.90.R3A3.04
- D. **Amendment Number: ID.1076.R06.05**
- E. **Proposed Effective Date: (mm/dd.yy)**

07/01/2019

Approved Effective Date of Waiver being Amended: TBD

2. Purpose(s) of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:

Character Count: 0 out of 6000

Adjust the Personal Needs Allowance (PNA) cost sharing requirement for married participants with a community spouse who have no rent or mortgage expense to be consistent with Federal requirements.

2. Nature of the Amendment

- A. **Component(s) of the Approved Waiver by the Amendment.** This amendment affects the following component(s) of the approved waiver. Revisions to the affected subsection(s) of these component(s) are being submitted concurrently (*check each that applies*):

Component of the Approved Waiver	Subsection(s)
<input checked="" type="checkbox"/> Waiver Application	6-I, 8
<input type="checkbox"/> Appendix A – Waiver Administration and Operation	
<input checked="" type="checkbox"/> Appendix B – Participant Access and Eligibility	B-5.d.i
<input type="checkbox"/> Appendix C – Participant Services	
<input type="checkbox"/> Appendix D – Participant Centered Service Planning and Delivery	
<input type="checkbox"/> Appendix E – Participant Direction of Services	
<input type="checkbox"/> Appendix F – Participant Rights	
<input type="checkbox"/> Appendix G – Participant Safeguards	
<input type="checkbox"/> Appendix H	
<input type="checkbox"/> Appendix I – Financial Accountability	
<input type="checkbox"/> Appendix J – Cost-Neutrality Demonstration	

- B. **Nature of the Amendment.** Indicate the nature of the changes to the waiver that are proposed in the amendment (*check each that applies*):
 - Modify target group(s)**
 - Modify Medicaid eligibility**
 - Add/delete services**
 - Revise service specifications**
 - Revise provider qualifications**
 - Increase/decrease number of participants**

- Revise cost neutrality demonstration**
 - Add participant-direction of services**
 - Other**
- Specify:

Character Count: 0 out of 6000

Application for a §1915(c) Home and Community-Based Services Waiver

1. Request Information (1 of 3)

A. The **State of Idaho** 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. Program Title *(optional - this title will be used to locate this waiver in the finder):*

Aged and Disabled Waiver

C. Type of Request: amendment

Requested Approval Period: *(For new waivers requesting five-year approval periods, the waiver must serve individuals who are dually eligible for Medicaid and Medicare.)*

- 3 years 5 years

Original Base Waiver Number: ID.1076

Waiver Number: [ID.1076.R06.03]

Draft ID: ID.003.06.05

D. Type of Waiver *(select only one):*

Regular Waiver

E. Proposed Effective Date of Waiver being Amended: 10/01/2017

Approved Effective Date of Waiver being Amended: 10/01/2017

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

Character Count: 5988 out of 6000

The Department continues to engage in extensive outreach efforts to inform stakeholders of updates to the Aged and Disabled waiver program and provides opportunities to provide public comment on associated deliverables. Outreach activities include:

1. Recurring meetings with the Personal Assistance Oversight Committee (PAO). The PAO is a subcommittee of the Medical Care Advisory Committee (MCAC). The purpose of the PAO is to plan, monitor, and recommend changes to the Medicaid HCBS waivers and personal assistance programs. Such recommendations would be submitted to the MCAC. The PAO consists of providers of personal assistance services and participants of such services, advocacy organizations representing such participants, and other interested parties. This committee meets quarterly and is open to the public. The upcoming availability of the draft waiver amendment and public comment period was discussed during the March 20, 2019 PAO meeting.
2. Recurring meetings with a stakeholder group advocating for Medicaid for Workers with Disabilities (MWD) improvements. The Personal Needs Allowance (PNA) adjustment has been a topic of conversation at several of these meetings over the last year.

3. Tribal solicitations were mailed to the Tribal Representatives during the week of March 15, 2019, 2019. In addition, ongoing feedback is solicited from Tribal representatives during the quarterly Tribal Meetings. Tribal noticing and cost sharing exemptions will be discussed during the April 8, 2019 meeting.
4. Changes to Idaho Administrative Code (IDAPA) to align with the changes in the PNA require outreach as part of the rule promulgation process. A Negotiated Rulemaking meeting will be hosted in May, 2019, in Boise, Idaho, with a WebEx and toll-free conference call option for those unable to attend in-person to share information about the proposed rules and solicit feedback. Public hearings to solicit additional testimony about the change in PNA calculation are scheduled for May, 2019 (Lewiston and Idaho Falls) and May, 2019 in Boise.
5. The Department will publish notices in the newspapers of widest circulation in the state, the Idaho Press Tribune, the Idaho Statesman, the Idaho State Journal, the Post Register, and the Coeur D'Alene Press, notifying stakeholders of the opportunities for comment on the Aged and Disabled 1915(c) waiver amendment prior to the CMS submittal in June, 2019.

The Department will make the draft A&D waiver amendment available for public review on March 15, 2019, in all regional Department of Health and Welfare offices and Public Health District Offices. In counties in which the Department does not have a regional office, the materials will be made available at Public Health District offices, Self Reliance offices, and the County Clerk's office. These materials are also posted on the main Medicaid webpage at <https://healthandwelfare.idaho.gov/Medical/Medicaid/tabid/123/Default.aspx> under "Proposed Changes & Public Notice for Waiver Services."

Public comment will be accepted via mail, email, fax, and telephone message from March 22, 2019 through close of business on April 21, 2019.

Public Feedback:

A document summarizing comments received and the State's respective responses will be posted on the Department's website at <http://healthandwelfare.idaho.gov/Medical/Medicaid/tabid/123/Default.aspx> under the "Proposed Changes & Public Notice for Waiver Services" header.

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:

State Medicaid Director or Designee

Submission Date:

Note: The Signature and Submission Date fields will be automatically completed when the State Medicaid Director submits the application.

Last Name:	Butrick
First Name:	Robin
Title:	Medicaid Director Designee
Agency:	Department of Health and Welfare - Division of Medicaid
Address:	P.O. Box 83720
Address 2:	
City:	Boise
State:	Idaho
Zip:	83720-0009
Phone:	(208) 364-1863
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Attachments

Attachment #1: Transition Plan

Check the box next to any of the following changes from the current approved waiver. Check all boxes that apply.

- Replacing an approved waiver with this waiver.
- Combining waivers.
- Splitting one waiver into two waivers.
- Eliminating a service.
- Adding or decreasing an individual cost limit pertaining to eligibility.
- Adding or decreasing limits to a service or a set of services, as specified in Appendix C.
- Reducing the unduplicated count of participants (Factor C).
- Adding new, or decreasing, a limitation on the number of participants served at any point in time.
- Making any changes that could result in some participants losing eligibility or being transferred to another waiver under 1915(c) or another Medicaid authority.
- Making any changes that could result in reduced services to participants.

Appendix B: Participant Access and Eligibility

B-5: Post-Eligibility Treatment of Income (4 of 7)

Note: The following selections apply for the time periods before January 1, 2014 or after December 31, 2018.

a. Post-Eligibility Treatment of Income Using Spousal Impoverishment Rules

The State uses the post-eligibility rules of §1924(d) of the Act (spousal impoverishment protection) to determine the contribution of a participant with a community spouse toward the cost of home and community-based care if it determines the individual's eligibility under §1924 of the Act. There is deducted from the participant's monthly income a personal needs allowance (as specified below), a community spouse's allowance and a family allowance as specified in the State Medicaid Plan. The State must also protect amounts for incurred expenses for medical or remedial care (as specified below).

i. Allowance for the personal needs of the waiver participant

(select one):

- SSI standard**
- Optional State supplement standard**
- Medically needy income standard**
- The special income level for institutionalized persons**
- A percentage of the Federal poverty level**

Specify percentage:

- The following dollar amount:**

Specify dollar amount:

If this amount changes, this item will be revised

- The following formula is used to determine the needs allowance:**

Specify formula:

Character Count: 2473 out of 4000

<p>If a person:</p> <p>1) Is not residing in adult residential care or a certified family home (CFH) and has a rent/mortgage obligation,</p> <p>Then 180% of SSI single benefit rate plus the below personal needs allowances (PNAs) if there is enough income.</p> <p>If a person:</p> <p>1) Is married with a community spouse and does not live in adult residential care or a CFH, and does not have a rent/mortgage obligation,</p> <p>Then 100% of SSI single benefit rate plus the below PNAs if there is enough income.</p> <p>If a person:</p> <p>1) Has no rent or mortgage obligation and is not married with a community spouse, or</p> <p>2) Is residing in adult residential care or a CFH,</p> <p>Then the SSI single benefit rate plus the following PNAs if there is enough income:</p> <p>Personal Needs Allowances:</p>
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Persons with earned income. The PNA is increased by \$200 or the amount of their earned income, whichever is less. A greater PNA is needed to offset costs incurred in earning income.

Persons with taxes mandatorily withheld from unearned income for income tax purposes before the individual receives the income. A greater PNA is needed to offset mandatory income taxes.

Persons with court-ordered guardian. The PNA is increased by guardianship fees not to exceed 10% of the monthly benefit handled by the guardian, or \$25, whichever is less. Where the guardian and the trustee are the same individual, the total deduction for guardian and trust fees must not exceed \$25. A greater PNA is needed to offset guardian fees.

Persons with a trust. The PNA is increased by trust fees, not to exceed \$25 paid to the trustee for administering the trust. A greater PNA is needed to offset trust fees.

Blind or disabled employed persons with impairment-related work expenses. Impairment-related work expenses are items and services purchased or rented to perform work. The items must be needed due to the participant's impairment. The actual monthly expense of the impairment related items is deducted. Expenses must not be averaged. A greater PNA is needed to offset impairment-related work expenses.

Income garnished for child support. Child support payments withheld from earned or unearned income due to a court order are considered "income garnished for child support". Such payments may increase the PNA if not already deductible from income under 42 CFR 435.726 (c) (3) for children living in the individual's home with no community spouse living in the home.

See IDAPA 16.03.18.400, IDAPA 16.03.05.723, and IDAPA 16.03.05.725

Other

Specify:

- ii. **If the allowance for the personal needs of a waiver participant with a community spouse is different from the amount used for the individual's maintenance allowance under 42 CFR §435.726 or 42 CFR §435.735, explain why this amount is reasonable to meet the individual's maintenance needs in the community.**

Select one:

Allowance is the same

Allowance is different.

Explanation of difference:

The allowance for individuals residing in the community who incur a rent or mortgage expense is being increased as the cost of these expenses in Idaho has outpaced the Social Security Cost of Living Adjustments (COLAs) over the last decade. This change will

increase the amount of disposable income that participants retain after their Share of Cost to contribute towards their housing expenses.

Married versus unmarried participants are likely to incur different personal needs expenses. A higher allowance is applied to a participant with a spouse that does not receive Home and Community-Based Services to ensure that the couple has sufficient disposable income to meet their shared needs (such as housing, utilities, and other living expenses).

iii. Amounts for incurred medical or remedial care expenses not subject to payment by a third party, specified in 42 CFR §435.726:

- a. Health insurance premiums, deductibles and co-insurance charges
- b. Necessary medical or remedial care expenses recognized under State law but not covered under the State's Medicaid plan, subject to reasonable limits that the State may establish on the amounts of these expenses.

Select one:

- Not Applicable (see instructions)** *Note: If the State protects the maximum amount for the waiver participant, not applicable must be selected.*
- The State does not establish reasonable limits.**
- The State uses the same reasonable limits as are used for regular (non-spousal) post-eligibility.**