

CENTERS FOR MEDICARE & MEDICAID SERVICES

SPECIAL TERMS AND CONDITIONS

ATTACHMENT H

Health System Transformation for Individuals with Developmental Disabilities

The receipt of expenditure authority for transformation for the period of April 1, 2013 to March 31, 2014, is contingent upon the state's compliance and CMS' receipt of the following deliverables:

1. Money Follows the Person (MFP)

New York will submit to CMS and receive approval for a detailed MFP operational protocol amendment to the current approved MFP protocol that is consistent with terms and conditions related to the Intellectual and Developmental Disability IDD population, for implementation April 1, 2013.

2. Balancing Incentive Program Work Plan

No later than September 1, 2013, New York will submit to CMS for approval a detailed structural change work plan to implement the Balancing Incentive Program. The work plan must meet all CMS requirements and align the infrastructure requirements for the Balancing Incentive Program and MFP, including reaching the Balancing Incentive Program target expenditure benchmark of 50 per cent across all Medicaid long term services and supports (LTSS) expenditures by October 1, 2015. In addition, the work plan must provide the following deliverables:

- a. To demonstrate its implementation of successful person-centered planning, New York must provide an affirmative commitment that the state will establish an independent process for assuring that individual person-centered plans meet the needs of enrollees served in community-based settings, a description of the process the state will use to ensure that person-centered plans are implemented with fidelity to the established process, and a timeline for implementation of the process. New York will implement the approved process for person-centered planning for demonstration participants in accordance with a timeline approved by CMS and subsequently incorporated into this attachment.
- b. Given the critical nature of available/appropriate residential settings for the populations being served under this demonstration, New York must provide a description of the state's current housing options for persons with IDD, or the "system as is" model. This baseline must include the number of individuals in group homes, small ICF's/IDD, large ICFs/IDD, and non-traditional housing models, the maximum number of individuals living in each residence type, and any required licensure or accreditation for each housing type.
- c. New York must provide a detailed description of the process used to determine whether residential settings for persons transitioned from institutions as part of the demonstration meet CMS standards for home and community-based settings, and /or qualify as residences in the MFP program. This plan must include a description of the process the state will use to independently assess whether these settings meet the

characteristics set forth in the current 1915(c) policy. New York must update its process to comport with subsequent federal regulatory changes, and must provide a description of the updated process and the state's proposed timeline for implementation of the regulatory changes to CMS within 90 days of such final regulatory change.

3. 1915(b)/(c) Application

- a. New York must: submit to CMS an approvable 1915(b)/(c) waiver application no later than April 1, 2013, that includes:
 - i. Demonstration of capacity (e.g. the state has enough slots in settings that meet HCBS setting standards or are MFP qualifying settings based on the percentages the state has agreed to meet pursuant to paragraph b of section 4 of this attachment) to serve persons transitioned from ICFs, including those transitioned through MFP;
 - ii. Evidence that the community- based settings in which Medicaid HCBS are provided meet CMS HCBS settings standards; and
 - iii. Outline objectives with regard to competitive employment, person-centered planning, self-direction, and quality measurement/improvement.
 - iv. Assurances that
 1. DISCOs meet the MCO licensure requirement;
 2. DISCOs are regulated as Prepaid Inpatient Health Plans (PIHPs) that are subject to review by External Quality Review Organizations (EQRO);
 3. New York will incorporate DISCOs in the overall managed care quality strategy;
 4. New York will comply with conflict free case management standards required in the Balancing Incentive Program, and
 5. New York will prohibit plans from making eligibility determinations and enrollment.
 6. New York will adopt practice guidelines for care coordinators based on the Council on Quality and Leadership (CQL) personal outcome measures will annually assess managed care quality using personal outcome data. New York will provide a report on its progress toward the development of CQL measures by September 1, 2013. The progress report will include the state's work plan for the implementation of the measures, including the roll-out of the measures, the specific outcome measures to be used, and the baseline against which the measures will be compared. New York will provide quarterly updates on its progress in implementing the work plan.
 - v. In addition, New York must submit as part of the 1915(b)/(c) waiver application an approvable rate methodology that is understandable, delineates all elements in the rate methodology, and describes how all components are factored into the methodology. The methodology must assure that the rates produced are economic and efficient and lead to quality outcomes for beneficiaries. The rate methodology will apply to all services provided in the waiver and all public providers. In the same amendment, New York will provide the current rate structure for private/voluntary providers, commit to a waiver amendment submission on July 1, 2013 delineating the standard brick

methodology to be used to bring all voluntary providers under the full brick methodology rate construction for all services no later than September 2015.

- b. New York will submit amendment requests to existing 1915(c) HCBS waivers by May 1, 2013 to increase slots, by reserving capacity for people being de-institutionalized, to increase HCBS capacity to serve individuals enrolled in 1915(c) programs in the community.

4. Residential Transitions and Supportive Housing

- a. By January 1, 2014, New York will transition a total of 148 residents from the Finger Lakes and Taconic ICFs in accordance with the following milestones:
 - i. 7 residents will be transitioned prior to July 1, 2013,
 - ii. 20 additional people transitioned by October 1, 2013, and
 - iii. the remaining 121 persons transitioned to community-based settings that meet CMS HCBS settings standards referenced in the 1915(i) Notice of Proposed Rulemaking published in the federal register in April 2012.
- b. At least 30% of those persons (or a total of 44 persons) transitioned from institutions, both campus-based and non-campus-based ICFs, will qualify for MFP (i.e. can be transitioned into an MFP qualified residence). New York will transition the balance of the persons in the Finger Lakes and Taconic ICF target population (who are not transitioned to MFP qualified residences) into residential settings that comport with CMS requirements for home and community-based settings as outlined in the 1915(i) NPRM. New York must submit quarterly reports of the total number of persons transitioned to the community, the size and licensure category of the residential settings into which persons were transitioned (e.g. 4 person group home), and an assurance that the residential settings comport with CMS requirements.
- c. No later than August 1, 2013, New York must submit a draft timeline for transition of the residents of the remaining campus and non-campus-based ICF's to community-based settings. New York and CMS will finalize the plan by October 1, 2013. This plan must detail the pace of remaining transitions, taking into account the housing availability chart developed by the state. Upon approval by CMS, the transition plan and related deliverables will be incorporated as Appendix (insert letter).
- d. New York will provide quarterly updates on the progress for increasing the availability of supportive housing options, including "non-traditional housing models" such as the "Home of Your Own", Family Care, Shared Living, Customized Residential Options, and AFI. Each quarterly update will include the number of new housing units that are available to persons being transitioned from ICFs, and meet CMS standards for HCBS settings.

5. Supported Employment Services and Competitive Employment

- a. By May 31, 2013, New York must provide CMS with a baseline count of the number of enrollees receiving supported employment services and the number of enrollees engaged in competitive employment for the most recent period for which data is available (i.e. May 1, 2012 through April 30, 2013). Thereafter, the state must provide

CMS with a quarterly report documenting the state's progress toward the agreed-upon goal of increasing the number of persons engaged in competitive employment, through Supported Employment, by 700 persons above the previous 12 month enrollment, with no exceptions for attrition during the period of April 1, 2013 and March 31, 2014. Given the expected fluctuations triggered by school timelines (e.g. graduations), New York will increase the number of persons in competitive employment by no less than 250 persons by October 1, 2013, with no exceptions for attrition. Only integrated gainful employment at minimum wage or higher will be considered competitive employment. The quarterly report also must include a description of activities the state has undertaken during the quarter to increase the number of demonstration participants engaged in competitive employment.

- b. Effective July 1, 2013, New York will no longer permit new admissions to sheltered workshops. The state will report the number of enrollees that remain in sheltered workshops in each quarterly report as required under paragraph 62.
- c. By October 1, 2013, New York will submit to CMS a draft plan for CMS review, and a final plan no later than January 1, 2014, on its transformation towards competitive employment. Both the draft and final plans must include a detailed proposal/work plan for increases in the number of individuals in competitive employment and the number of students exiting the educational system moving directly into competitive employment. The plan must include a timeline for closing sheltered workshops, and a description of the collaborative work with the New York educational system for training/education to key stakeholders on the availability and importance of competitive employment.
- d. New York will target youth as a priority in its employment initiative. No later than April 1, 2013, New York will submit an amendment request for its 1915(c) waiver for its Pathways to Employment services to shorten the time frame for transition from this service into Supported Employment. The state will report to CMS on an annual basis the number of students who are aging out of the educational system and who have been determined eligible for OPWDD services, the number who enter VR, and the number who enter OPWDD because they are not found ready by DVR, and any websites/sources for employment data.

6. Consumer Self-Direction

- a. New York will implement a self-directed approach in which demonstration participants and/or their designated representatives will be given the option of self-directing by employer authority and budget authority or, at the preference of the individual, either employer authority or budget authority. Employer authority is present when an individual and/or their designated representative fully controls the recruitment, training, hiring, discharge performance review, performance pay increases, and supervision of individuals who furnish their services. Budget authority is present when an individual has decision-making authority over how funds in their individualized budget for waiver services are spent. As part of the design and implementation of this self-directed approach, New York will include the following components:

- b. New York will increase the number of people offered the option to self-direct their services through increased education to all stakeholders in a consistent manner statewide. This education will be provided to at least 1,500 beneficiaries (with designated representatives as needed) per quarter beginning on April 1, 2013. New York will submit a quarterly report of the number of training/education sessions conducted and the number of persons attending the sessions. New York will share training materials and curricula for these sessions with CMS, and make them available statewide by May 1, 2013.
- c. In the design and implementation of its 1915(b)/(c) waiver and other MLTSS models authorized by this demonstration, New York will incorporate and enhance opportunities for self-direction by demonstration participants. If the state utilizes the agency with choice model of self-direction, New York will assure that these agencies provide maximum control by the beneficiary, and include a performance indicator(s) to assure that beneficiaries exercise choice and control. New York will report to CMS on a quarterly basis its efforts to enhance self-direction, and the results of the performance measurement.
- d. New York will incorporate and document risk mitigation strategies to be used in its 1915(b)/(c) concurrent waiver and other MLTSS models authorized by this demonstration, in which there is meaningful negotiation with the beneficiary and representative as appropriate. If a participant is terminated voluntarily or involuntarily from the self-directed service delivery option, the MCO/PIHP must transition the participant to the traditional agency direction option and must have safeguards in place to ensure continuity of services. Involuntary discharges will be accompanied by the right to a fair hearing so the beneficiary may have the opportunity to defend actions or inactions that resulted in the involuntary discharge. The state retains the right to immediately stop services pending the hearing if they think there is immediate risk of harm to the beneficiary by remaining in the self-direction program.
- e. New York will provide a report to CMS no later than July 1, 2013, on the current number of persons with IDD and other disabilities who self-direct their services under this demonstration. New York will enable a total of 1,245 new beneficiaries to self-direct services for the period of July 1, 2013 through March 31, 2014 subject to the following:
 - i. By September 30, 2013, 350 new beneficiaries will self-direct services;
 - ii. By December 31, 2013, 425 new beneficiaries will self-direct services;
 - iii. By March 31, 2014, 470 new beneficiaries will self-direct services.
- f. By January 1, 2014, New York will submit to CMS for approval the state's policies on self-direction that demonstrate its commitment to and implementation of self-direction.