DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

**Medicaid and CHIP Operations Group**

September 16, 2021

Susan Birch, Director
Dr. Charissa Fotinos, Acting Medicaid Director
Health Care Authority
PO Box 45502
Olympia, WA 98504-5010

RE: Washington: Approval of 1915(b)(4) WA-15, 1915(c) HCBS waiver amendments (WA.0409.R03.11, WA.0410.R03.13, WA.1186.R01.08, WA.40669.R02.10, and WA.0443.R03.05), and 1915(k) State Plan Amendment (SPA) WA-21-0011

Dear Ms. Birch and Dr. Fotinos:

The Centers for Medicare & Medicaid Services (CMS) is approving Washington's application for an initial 1915(b)(4) Fee-For-Service Selective Provider Contracting Waiver, WA-15, titled Consumer Directed Employer (CDE). This initial 1915(b)(4) waiver will allow the state to transfer the administrative functions and responsibilities of personal care and respite Individual Provider (IP) management from the Department of Social and Health Services (DSHS) and Area Agency on Aging (AAA) staff to a single contracted CDE vendor, the Consumer Direct Care Washington, LLC. The 1915(b) waiver is authorized under section(s) 1915(b)(4) of the Social Security Act (the Act) and provides a waiver of the following section[s] of Title XIX:

- Section 1902(a)(1) Statewideness
- Section 1902(a)(23) Freedom of Choice

The decision to approve this 1915(b) waiver is based on the information submitted to CMS indicating that the state's proposal is consistent with the Medicaid program and will meet all statutory and regulatory requirements assuring beneficiaries access to care and quality services; and will demonstrate waiver cost-effectiveness for section 1915(b) waiver programs.

This 1915(b)(4) waiver will run concurrently with the following authorities:

- WA-21-0011 SPA -1915(k) Community First Choice/Optional State Plan Personal Care Services
- WA.0409.R03.11 –1915(c) Basic Plus Waiver
- WA.0410.R03.13 – 1915(c) Core Waiver
- WA.1186.R01.08 – 1915(c) Individual and Family Services (IFS) Waiver
- WA.40669.R2.10 – 1915(c) Children's Intensive In-Home Behavioral Support (CIIBS) Waiver
- WA.0443.R03.05 – 1915(c) New Freedom Waiver

The initial 1915(b) waiver is effective for 5 years beginning October 1, 2021 through September 30, 2026. The state may request renewal of the 1915(b) waiver by providing evidence and documentation of satisfactory performance and oversight. Washington's request that this authority be renewed should be submitted to the CMS no later than July 2, 2026. The state will report all managed care waiver expenditures on the CMS 64-9 report. Washington is responsible for documenting cost- effectiveness, access and quality in subsequent renewal requests. The state must arrange for an independent evaluation or assessment of the 1915(b)waiver program and submit the findings when renewing the section 1915(b) waiver program. At a minimum, the Independent Assessment (IA) is a requirement of the first two waiver periods. The IA should be submitted with the waiver renewal request ninety (90) days before the expiration of the approved waiver program, July 2, 2026.

Simultaneously, CMS is also approving the 1915(k) Community First Choice, Home and Community Based Services (HCBS) State Plan amendment (SPA), Transmittal Number WA-21-0011. With this amendment, the state is adding the Consumer Directed Employer (CDE) as the employer of individual providers within those State Plan services. This SPA is approved effective October 1, 2021, as requested by the state. Enclosed is a copy of the CMS-179 summary form, as well as the approved pages for incorporation into the Washington State Plan.

In addition, CMS is approving your request to amend the following Washington §1915(c) Home and Community-Based Services (HCBS) waivers: Basic Plus, Core, Individual and Family Services (IFS), and Children's Intensive In-Home Behavioral Support (CIIBS) waivers for individuals with intellectual or developmental disability and the New Freedom waiver for individuals requiring a nursing facility level of care. The CMS Control Numbers for the waiver amendments are as follows: Basic Plus (WA.0409.R03.11), Core (WA.0410.R03.13), IFS (WA.1186.R01.08), CIIBS (WA.40669.R02.10), and New Freedom (WA.0443.R03.05). The amendments are approved effective October 1, 2021, as requested by the state.

The 1915(c) waiver amendments reference concurrent operation with a §1915(b)(4) waiver and reflects implementation of the Consumer Directed Employer (CDE), which will be the new employer of individual providers. Additionally, the Basic Plus, Core, IFS, and CIIBS waiver amendments make the following changes:

- Add Crisis Diversion Bed Provider (State-operated) to the Stabilization Services – Crisis Diversion Bed service;
- Add qualified Specialized Habilitation providers as qualified Staff/Family Consultation Service providers to Stabilization Services – Staff/Family Consultation Services;
- Add qualified Specialized Habilitation providers as qualified Staff/Family Consultation Services providers;
- Reference the transition to a Consumer Directed Employer (CDE), who will become the employer of Respite Individual Provider (IP) waiver providers;
- Reference concurrent operation with a §1915(b)(4) waiver;
- Revise Respite provider qualifications for independent providers to conform with implementation of CDE in concurrent §1915(b)(4) waiver;
- Increase participant capacity based on new legislative funding;
- Revise estimates for utilization and expenditures for waiver services to reflect increased estimates;

- Add and revise language in various performance measures;
- Revise service estimates in Appendix J to increase the number of users and increase the cost per unit for respite.
- For the Basic Plus waiver, correct a cost per unit error for staff/family consultation that was approved in the previous amendment;
- For the Core waiver, revise provider qualifications for Child Foster Home for Residential Habilitation;
- For the IFS waiver, increase the annual budget allocation for waiver services by 30%
- For the CIIBS waiver, revise service estimates in Appendix J to increase the number of users and increase the cost per unit for respite and adjusted the number of users in Specialized Equipment and Supplies to account for replacing an old service and increased the number of users. Average units per user was also decreased for multiple services in WY5 to account for the phasing-in of new participants.

With respect to the 1915(c) waiver amendments, this approval is subject to your agreement to serve no more individuals than the total number of unduplicated participants indicated in Appendix J.2 of the waivers. If the state wishes to serve more individuals or make any other alterations to these waivers, an amendment must be submitted for approval.

It is important to note that CMS' approval of these waivers solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at http://www.ada.gov/olmstead/q&a_olmstead.htm.

We appreciate the cooperation and effort provided by you and your staff during the review of these actions. If you have any questions concerning this information, please contact Nick Sukachevin at (206) 615-2416 or via email at Nickom.Sukachevin@cms.hhs.gov for the 1915(c) waivers and 1915(k) SPA, or Tonya Dobbin at (410) 786-3032 or via email at Tonya.Dobbin@cms.hhs.gov for the 1915(b) waiver.

Sincerely,

George P. Failla Jr -S
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George P. Failla, Jr., Acting Director
Division of HCBS Operations and Oversight

Carrie A. Smith -S
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Carrie Smith, Deputy Director
Disabled and Elderly Health Programs Group

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