SUMMARY OF PUBLIC COMMENTS FOR THE AMENDMENT TO THE 1915(c) Medicaid Waiver for Individuals with Intellectual and Developmental Disabilities (I/DD Waiver)

July 2018

During November and December 2017 prior to the formal public input process that began on December 18, 2017, DHS/MQD and DOH/DDD conducted ten (10) public information sessions to explain the proposed changes to the waiver. Nine (9) sessions were held in-person on Oahu (West, East and Windward) and neighbor islands (Hawaii – Hilo, Hawaii - Kona, Maui and Kauai). One session was held via teleconference with stakeholders on Molokai. A total of 304 individuals attended the public information sessions. Letters were mailed to each participant and their families that summarized the proposed changes in the amendment application and how to provide input (email, fax, phone, mail). Copies of the entire waiver application were available to participants and families via the website, several offices of DHS/MQD and DOH/DDD and through their case managers upon request. All providers received an email with the same information. In compliance with federal requirements for a minimum of 30 days for public input, interested members of the public were given 45 days to submit written comments through February 2, 2018. The tribal consultation ended on February 2, 2018. Following is the summary of all comments received from 11 individuals and organizations.

SUPPORTS INTENSITY SCALE (SIS), SERVICE MIX AND SUPPORTS BUDGET QUESTIONS

1. *One commenter asked about the process for notifying a participant about their appeal rights if the re-evaluation results in a change of LOC [level of care] and loss of services, including if participant is advised of the availability of assistance/free representation available in the state?*

STATE RESPONSE:

LOC is not determined by the SIS and therefore, the SIS will not result in the loss of waiver eligibility. When there is reduction, termination, or suspension of waiver services, a Notice of Action is issued. The Notice of Action includes information on how to request a hearing and where to get help with an appeal, such as the Hawaii Disability Rights Center or Legal Aid.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

2. *One commenter asked several questions about the "Supports Intensity Scale" (SIS) and raised concerns about its use in other states that it "has been criticized as a tool that will actually eliminate people who had already been in ICF/MR's:*
   a. *What data can be presented that the SIS is a "normed", accurate tool?*
   b. *Who will be conducting the SIS to clients?*
   c. *What training is provided to the person conducting the SIS?*

d. What credential/certification is required by the person conducting the SIS?

STATE RESPONSE:

DDD is not using the SIS assessment to determine eligibility for waiver services. The SIS is administered to current waiver participants or newly eligible participants to identify the participant's support needs (level of assistance).

a. The Supports Intensity Scale (SIS) was first published in 2003 by the American Association on Intellectual and Developmental Disabilities (AAIDD). The assessment tool was developed by AAIDD over a five-year period from 1998 to 2003 and normed with over 1,300 culturally diverse people with intellectual and developmental disabilities aged 16–72 in 33 states and two Canadian provinces. The psychometric properties of the tool are strong: research published in peer-reviewed journals around the world continuously demonstrates the reliability and validity of the SIS-A (http://aaidd.org/sis#.WoM8fujwbcs). Before the SIS, a person's level of need was usually measured by the skills a person lacked or by level of disability. The SIS shifts the focus to what support a person needs. It measures the support needs (level of assistance) that a person with intellectual or developmental disabilities would need to do the same things that people without disabilities do, such as dress, go shopping, bathe, go to work, keep up a home, or have relationships. Since its publication, researchers around the world have shown that the SIS is a valid and reliable assessment tool. It measures what it tries to measure -- the type and amount of support an individual needs. Examples of such studies include: Thompson, J., Tasse, M. & Mclaughlin, C. (2008). Interrater reliability of the Supports Intensity Scale (SIS) American Journal on Mental Retardation , 113 (5), 231-237. Fortune, J., Agosta, J., & Bershadsky, J. (2011). 2011 Validity and Reliability Results Regarding the SIS. Human Services Research Institute: Tualatin, OR.

b. SIS assessments are conducted by DDD Case Managers and staff who have been trained and certified by AAIDD.

c. Each staff person must successfully complete Interview Training conducted by an AAIDD trainer or an AAIDD-recognized trainer, participate in guided practice and conduct a number of practice interviews.

d. After completing all required training and practice interviews, each staff person must perform demonstration of all interviewer skills and strategies, and successfully pass the Interviewer Reliability and Qualification Review (IRQR). Annual re-certification is required.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

3. One commenter asked what percentile levels of the SIS (a sample SIS form is available online) are equal to the 7 levels on the handout?

STATE RESPONSE:

The seven Support Levels provide a way to think about the relative support needs of the participants served in the waiver. The percentile scores available in the SIS Support Needs Index *are not* used to define any of these levels. Each of the support levels depicts a group of people with similar support

needs. People within each group vary regarding the exact type and amount of service they need, but generally the people have a lot in common regarding the overall level of support they need. Three of the levels (3, 6 and 7) are associated with medical or behavioral needs, and these types of needs are separate from the support needs the Supports Needs Index measures. Levels 1, 2 4, and 5 depict support need, low to high, but also are associated with a particular service mix that is tailored to the general support needs of people in each group. To define these support levels, parts of the Supports Needs Index are used to set boundaries between each of the levels. As a result, when building these types of resource-related groups, percentile rankings are not helpful. The State is most interested in understanding the type of support needs of participants that define each level, and then identify a service mix that should be associated with each level.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

4. *One commenter asked about "Add-On" services that are available. Are "Add Ons" included in the Support Budget? How are they added on?*

STATE RESPONSE:

Services in the Add-on category will be added on during the service planning process according to individual need. The Add-on services are not subject to the base budget, but may have separate limits as provided in the service definition. DDD will provide additional training and resources for participants, families, providers, and case managers throughout the phase-in of the supports budgets and add-on services.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

5. *One commenter asked if the Supports Budget is an annual budget.*

STATE RESPONSE:

Yes, the supports budget is an annual budget that begins with the plan year after the participant's Individualized Service Plan (ISP).

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

6. *One commenter asked about whether the client needs to have the case manager approve monthly use of the support budget? Or does the client make changes directly to the agency providing the service?*

STATE RESPONSE:

Once the budget and service mix have been determined through the ISP process, any change in services during the plan year will need to be authorized through the case manager. The case manager will ensure that any changes to services a) align with the ISP and b) are within the Supports Budget. The participant

has flexibility to use services within the Individual Supports Budget without needing monthly approval from the case manager. Providers can adjust day-to-day services that are requested by the participant and will monitor the overall utilization of services to stay within the individual supports budget. However, because each service has a specific rate and code, the case manager must assist with requests to redistribute between services through the authorization process. This redistribution or rebalancing of services will typically occur once toward the end of the participant's plan year.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

7. *Questions were received about supports budgets if the participant experienced changes. How would situations be addressed where the budget is used up before the end of the year (e.g. need for additional personal assistance services because of an illness or injury). How would a participant request additional services that is not be a long appeal process? Does the client lose amounts of the budget not used during the month? (e.g. client is hospitalized for one week and does not use PAB services for that time)*

STATE RESPONSE:

The participant (with his/her circle) is responsible to utilize the service hours as authorized in the ISP. If there is a change in condition, the participant or legal representative should contact the case manager. There is also an exception process review, which is a new process separate from the Utilization Review and is designed to expedite the review and decision process. If the participant's requested services are reduced or denied, the participant will be given a Notice of Action with information on his or her appeal rights.

If a participant is hospitalized, the unused hours are still available for use during the plan year. The budget is not managed monthly; participants do not lose budget dollars if they were not used in the month. Budgets are managed annually; therefore, the participant, provider, and the family will need to be responsible for utilizing the budget throughout a 12-month period.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

8. *Two commenters expressed support for the direction that the amendment changes reflected but asked about resources and training for providers during this systems transformation and how the State would partner with and support providers to develop a highly skilled workforce, while balancing the need for employees to enjoy some level of job security with the Waiver participants' need to create more individualized and flexible supports. The concern is if waiver providers are not able to sustain their businesses, it would negatively impact the ability to meet the diverse needs of Waiver participants in the future.*

STATE RESPONSE:

The State appreciates this feedback and shares the commitment to continued partnership with waiver providers, participants, families, and other stakeholders. We recognize that the system changes

proposed in waiver amendment #2 will take time, resources, training, and further discussion about the best approaches to support providers to develop their workers' skills. The approved rate models are one key approach to helping providers sustain their businesses by ensuring the rates reflect the providers' Cost of doing business. The legislature has authorized increased funding to support the I/DD waiver. DDD works closely with providers that are interested in expanding the services they offer to create more individualized supports for participants, especially related to expanding employment opportunities through the Discovery & Career Planning and Individual Employment Supports services. DDD will provide additional training and technical assistance throughout the process of implementing the changes in the waiver.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

9. One commenter asked if PAB workers would be RBTs.

STATE RESPONSE:

Direct support workers who provide Personal Assistance/Habilitation (PAB) services are not required to become Registered Behavior Technicians (RBTs); however, some workers may wish to pursue the RBT credential to increase their career opportunities. Currently, the Behavior Analysis law has an exception for the I/DD waiver and workers who implement behavior support plans are not currently required to have the RBT credential. The rate models do include a higher rate for RBTs to reflect the additional training and credential those workers have achieved. DDD continues to partner with the Hawaii Association of Behavior Analysis (HABA) on workforce development to increase the number of licensed behavior analysts and RBTs working within the I/DD waiver.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

10. One commenter suggested for the first year of implementation, it would better to "rollover" current levels of services. This would give time for clients to adjust to the new service delivery system.

STATE RESPONSE:

The State will be phasing in the Individual Supports Budgets, with approximately one-third adopting the Individual Supports budget in each of the next three years. The first year of implementation of the new Individual Supports Budget will be for Cohort 1 (participants living in licensed or certified settings) only. Participants in Cohort 1 received the SIS assessment during state fiscal year 2018 to identify the participant's level of supports needs.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

11. One commenter asked what the budget amount is for each level of support. The commenter also raised a concern about testing the model to see if the "budget" actually supports the 565 sample of

clients in the "Process". If the budget does not adequately support the sample group, the model is wrong.

STATE RESPONSE:

DDD mailed an Informational Brief to every participant and legal representative in January 2018. The Informational Brief includes a table with the support budget ranges for each level of support, copied below for reference. Note: The budget ranges in the table do NOT include Residential Habilitation and other add-on services such as Skilled Nursing, Employment, Training & Consultation, Non-Medical Transportation, etc.

Individual Supports Budget Ranges

- **Licensed / Certified Settings** (includes ADH, CLS-Ind, and CLS-G)
- **Living in Family Home** (includes ADH, CLS-Ind, CLS-G, PAB, Chore, and Respite)
- **Living Independently** (includes ADH, CLS-Ind, CLS-G, PAB, and Chore)

SIS Level	Budget	License Certified - All Other Islands	License Certified - Big Island	Family Home- All Other Islands	Family Home - Big Island	Independent - All Other Islands	Independent - Big Island
1	Low	$15,938	$18,555	$30,041	$34,465	$34,754	$40,887
1	High	$21,250	$24,740	$40,054	$45,953	$46,338	$54,516
2	Low	$16,938	$19,698	$40,941	$47,075	$43,587	$51,102
2	High	$22,584	$26,264	$54,588	$62,766	$58,116	$68,136
3	Low	$21,326	$24,588	$49,698	$56,951	$50,885	$59,508
3	High	$28,434	$32,784	$66,264	$75,934	$67,846	$79,344
4	Low	$21,326	$24,588	$55,293	$63,431	**Requires exception review.** (Individuals living independently who have exceptional support needs are authorized on a case by case basis)	
4	High	$28,434	$32,784	$73,724	$84,574		
5	Low	$24,477	$27,971	$74,384	$85,255		
5	High	$32,636	$37,294	$99,178	$113,673		
6	Low	$25,260	$28,652	$86,070	$97,742		
6	High	$33,680	$38,202	$114,760	$130,322		
7	Low	$26,055	$29,736	$86,811	$99,130		
7	High	$34,740	$39,648	$115,748	$132,174		

The initial service mixes/budgets were created using a process that included a review of past service utilization by supports level. In addition, a week-long validation process was completed to review and "test" the supports budgets against 102 participant files from the sample to validate that the budget/services would adequately support the needs of each person in the 7 levels. The validation

process involved stakeholders from the community as well as staff from DDD and MQD. Overall, the results of the validation process were affirming, however, in certain cases, adjustments were made to the initial budget/services as deemed necessary before finalizing for the waiver amendment.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

12. *Two commenters requested additional information sessions and opportunities to use a tool that calculates the costs of services to understand how the services work within the Individual Supports Budget.*

STATE RESPONSE:

DDD will be providing training throughout the state for providers and family members on the Individual Supports Budget. Training will include scenarios with opportunities to use the tool on laptops to calculate budgets.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

SKILLED NURSING TRANSITION QUESTIONS

13. *Two questions were received related to the number of participants that would need to move to another home setting because of the transition from Skilled Nursing and what/how will the Division deal with "transfer trauma" for those who may be required to move from long-term home placements to a new home placement during this transition?*

STATE RESPONSE:

Based on record reviews, it does not appear at this time that any waiver participants will need to change the setting they live in as a result of a transition of nursing services to their health plan. The State will coordinate closely with MQD, the health plan, and caregivers to support the change from Skilled Nursing in the waiver to nursing services through the health plan.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

14. *The State received one question whether consideration is being given to "licensing" and/or certifying these original home settings for Med-QUEST eligibility to avoid any transfers/patient trauma [if a participant's services change from waiver to long-term supports and services]? Are modified licensing requirements under consideration to avoid transfers?*

STATE RESPONSE:

The State supports an approach that will allow people to age in place. This broader policy discussion will need to take place across systems and at the Legislative level as it likely will involve aligning funding

streams, rates, and administrative rules. In certain settings, such as E-ARCH, our understanding is that people can move relatively easily from one funding stream to another.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

15. *One stakeholder asked what would cause a participant already at a SNF LOC to suddenly receive reduced or terminated services, outside of death or relocation to another state/country?*

STATE RESPONSE:

The 1915(c) I/DD Waiver is based on the level of care for Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). The SNF LOC (Skilled Nursing Facility Level of Care) applies to the 1115 QUEST Integration plan for individuals requiring long-term supports and services (LTSS). Because this public comment period is to address the 1915(c) I/DD Waiver, the State will focus on questions specific to the waiver, and will defer responses to comments on the 1115 Waiver for that public comment period.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

16. *One commenter asked (with regard to the transition from Skilled Nursing to Private Duty Nursing), whether any of these consumers needing transitional placement (to another home setting) be impacted by Hawaii's current housing shortage – does DD Division have adequate housing needed to serve all Waiver consumers?*

STATE RESPONSE:

As noted in a previous response, the State supports an approach that will enable participants to age in place whenever possible. In the event that someone needed to move to a different home to receive the appropriate level of services, DDD and MQD would work closely to ensure the plan and services are coordinated. DDD is exploring different models that other states have developed to identify opportunities for participants, such as shared living,. The broader policy discussions about lack of affordable housing in Hawaii will need to take place across systems and involve the Legislature. The 1915(c) waiver prohibits using waiver funds to pay for "room and board" costs.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

RATES QUESTIONS

17. *One commenter asked about the rate models process.*
    How often will the state conduct future Waiver rate reevaluations?
    Will these expenses be built into future department budgets?
    How will the Division promote this fiscal need with legislators?

STATE RESPONSE:

The State undertook a comprehensive rate study in 2016-17. The resulting rates are being phased-in through state fiscal year 2021. The State expects that another comprehensive study will be conducted when the waiver is reauthorized.

In the interim, however, the rate models and the data sources upon which they rely are publicly available on the DDD website, allowing both the State and stakeholders to gauge the ongoing appropriateness of the rates, particularly if there is a significant change to provider costs (for example, if the State were to adopt a higher minimum wage).

DDD engaged with legislators to provide information and education about the waiver requirements. The legislature increased the DDD budget to support the rates.

CHANGE TO WAIVER:

The State proposed rate changes with this amendment as a result of public feedback and ongoing analysis of data.

18. *Several commenters expressed concerns about the rates for Licensed Behavior Analysts and Registered Behavior Technicians because providers were having difficulty recruiting and retaining qualified staff.*

STATE RESPONSE:

The State appreciates the feedback and reviewed rates paid by other agencies and entities. The State also considered the nature of the service which is focused on adults with long-standing behavioral challenges and is typically delivered in the family home and community rather than a clinic, office, or school setting.

CHANGE TO WAIVER:

In Appendix J, a proposed rate increase was included for the following services: Training & Consultation – Behavior Analysis by a licensed behavior analysis; Personal Assistance/Habilitation (PAB) by an RBT; Adult Day Health (ADH) by an RBT; and Community Learning Services (CLS) by an RBT.

19. *Two commenters asked about adding a "per hour" rate to Consumer-Directed Non-Medical Transportation that accounts for paying at least minimum wage and costs for vehicle/gas/insurance.*

STATE RESPONSE:

The State considered various approaches to paying for consumer-directed non-medical transportation - including trip, 15-minute, and per-mile units - and determined that a per-mile unit best aligns payments with the service received and provider costs. No change is being made to the per-mile billing unit. The rate model established for consumer-directed non-medical transportation incorporates a driver wage that exceeds the State's minimum wage. No change to the rate is necessary.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

20. *One commenter recommended that the waiver include a rate for public funded para-transit transportation systems at the going rate charged to the public*

STATE RESPONSE:

The State researched the para-transit transportation rates on all islands and has proposed an increase to $6.00 to match the highest per-trip cost for a rider on one of the islands. The State will continue to monitor the cost for riders using para-transit services and can seek an increase through an amendment to the waiver at a future date if necessary.

CHANGE TO WAIVER:

The proposed increase to $6.00 per trip is included with the 1915(c) waiver amendment submitted to the Centers for Medicare and Medicaid Services (CMS).

21. *Two commenters requested that the State consider an increase in the rate for Training & Consultation provider that assess participants' needs for Specialized Medicaid Equipment and Supplies (SMES).*

STATE RESPONSE:

The State recently undertook a rate study that produced models that consider the typical wage for therapists in Hawaii based on U.S. Bureau of Labor Statistics data, a comprehensive fringe benefits package, therapists' non-billable responsibilities, and support and administrative costs. The State believes that the rates resulting from the approved rate methodology are adequate for these services. The State will continue to review the rates paid to its providers in comparison to other insurers and may adjust with a future amendment.

CHANGE TO WAIVER:

No change was made to the waiver amendment.

FINANCIAL MANAGEMENT AND CONSUMER-DIRECTED QUESTIONS

22. *One commenter asked several questions about the Financial Management Services (FMS) contractor for the consumer-direction option, how the contract was procured, asking for more information on what FMS entails, and whether participants/families contract directly with the FMS.*

STATE RESPONSE:

DDD issued a Request for Proposal (RFP) in 2017 in accordance with state procurement rules. A contract was awarded to Acumen Fiscal Agent. Financial Management Services (FMS) are designed to support participants and their designated representatives in their role as employers of consumer-directed (CD) employees. FMS include:

- assisting the CD employer with the paperwork necessary to be employers and for their employees to begin work;
- processing time sheets, paying employees in compliance with the Fair Labor Standards Act and state statutes, paying and reporting employer's share of taxes and insurance coverage, and ensuring compliance with all federal and state requirements.;
- training the CD employer about budgeting and providing supports for implementing budget authority;
- training the CD employer on supervisory skills if the CD employer requests it; and
- maintaining a worker registry that CD employers can access.

Participants and families do not contract directly with Acumen Fiscal Agent. DDD manages the contract and ensures services are provided to participants and families in accordance with the scope of services. The Hawaii State Procurement Office posts contract awards on the Hawaii Awards & Notices Data System (HANDS). Members of the public can obtain a copy of the contract by submitting a Request for Information (RFI).

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

COMMUNITY LEARNING SERVICES (CLS) QUESTIONS

23. *A question was received regarding how the CLS "is used to support the goals and outcomes identified in the ISP" and the need to coordinate with the child's IEP (individual education plan), noting that both of these plans must work together and any modifications made to one (plan) should be reflected in the other, particularly for transition-age children.*

STATE RESPONSE:

The State agrees that coordination is very important between service agencies for waiver participants, including transition-age youth. In Appendix D-1-d of the waiver, the State specified the case manager is responsible for coordination between waiver and services provided by other agencies, such as the Department of Education. Because this is an overarching requirement, it is addressed in the Plan of Service Section D of the waiver, rather than in the service descriptions for all waiver services located in Section C.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

24. Several questions were received regarding Community Learning Services (CLS) as a new service.

- *a. What are the administrative rules for CLS?*
- *b. What is the definition of CLS?*
- *c. Where and how will CLS be delivered?*
- *d. Who will provide the services and what credentials/certification will apply to the provider?*
- *e. What is the fee schedule for each service? Clients will need to know the rates in order to calculate the supports based on their budget.*
- *f. Will this service create shortages in other service providers (such as PAB workers)? PAB workers are already difficult to find.*

STATE RESPONSE:

Community Learning Service (CLS) was approved as a new waiver service effective June 1, 2017 and participants have begun using the service with their Individualized Service Plan (ISP) after July 1, 2017. CLS is not a new service in the Amendment #2 proposal to CMS.

a. Waiver services, including CLS, are defined in the 1915(c) Home and Community Based Services waiver, approved by CMS, and further described in the Waiver Standards. Both documents are available on the Department of Health – Developmental Disabilities Division website health.hawaii.gov/ddd/.
b. Community Learning Services are delivered in the participant's community.
c. Providers that deliver Personal Assistance/Habilitation (PAB) are also approved to deliver CLS. The staff receive additional training from the provider as part of their annual training curriculum to learn how to support participants in integration and full membership in their communities. No special certification or credential is required.
d. The rates model for services and the fee schedule are posted on the DOH-DDD website.
e. Many providers are utilizing their PAB direct support workers to also provide CLS. Prior to the introduction of CLS in 2017, PAB workers did both the in-home and community services under one service. Now, the same workers can provide both PAB in the home and CLS in the community.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

25. One commenter asked whether community providers under contract with DVR are eligible for DD CLS contracts, as well?

STATE RESPONSE:

I/DD waiver providers can submit proposals when DVR issues its RFP for Community Rehabilitation Program (CRP) providers. Conversely, CRP providers under contract with DVR could apply to become an I/DD waiver provider if the application demonstrates the applicant's skills and capacity to meet the

Medicaid Waiver Standards. Currently, there are at least three I/DD waiver providers that are also under contract with DVR as CRP providers.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

26. One commenter asked if CLS also include benefits counseling for eligible Social Security beneficiaries and if so, is this a service paid under a DD CLS contract?

STATE RESPONSE:

Benefits Counseling is delivered within another waiver service: Discovery and Career Planning. It is available to any participant aged 14 and older who is interested in employment. Discovery and Career Planning is delivered by an approved I/DD waiver provider that then submits claims for payment through the Med-QUEST's contracted fiscal agent, Conduent.

CHANGE TO WAIVER:

No change was made to the 1915(c) waiver amendment.

CONSUMER DIRECTION

27. One stakeholder expressed concern that the waiver requires the legal guardian to be the employer if the participant is unable to "freely choose" a non-legal representative. The legal guardian should be able to appoint a non-legal representative.

STATE RESPONSE:

The State appreciates the feedback. The intent is to ensure the participant has the supports needed to use the consumer direction option by a designated representative that may or may not be the legal guardian and recognizes that some participants may need the assistance of the legal guardian to select a non-legal designated representative to serve as the consumer directed employer.

CHANGE TO WAIVER:

In Appendix E, language was changed to clarify that the legal guardian may serve as the employer on behalf of the participant or can assist the participant to select a non-legal designated representative to serve as the employer. The legal guardian or a non-legal designated representative serving as the employer cannot be paid to provide waiver services to the participant. The legal guardian is responsible for ensuring that their authority granted by the court may be delegated to a non-legal designated representative.

28. One commenter asked what age a consumer-directed employer must be.

STATE RESPONSE:

The State requires an employer to be at least 18 years of age and will add that to the waiver.

CHANGE TO WAIVER:

In Appendix E, a limitation was added that the consumer-directed employer must be age 18 or older.

GENERAL QUESTIONS

The following questions were not related to proposed changes for the amendment. The questions and the state's responses are included for information but did not result in any changes to the waiver amendment.

29. *One commenter asked about the intent of the 1115 waiver changes to enhance services, provide more and better choice, provide fair and appropriate rates for contracted waiver providers, and prohibit "waitlists" for consumers to receive eligible waiver services.*

STATE RESPONSE:

Because the purpose of these public comments is specific to the 1915(c) I/DD Waiver, the State will focus on questions specific to the 1915(c) I/DD Waiver, and will defer responses to comments on the 1115 Waiver until that public comment period.

30. *One commenter asked about the long term plans to meet the continuing growing housing need of DD Waiver consumers in the community?*

STATE RESPONSE:

Please note no changes are being made in this amendment related to housing; however, in the I/DD Waiver application approved for July 2016, Residential Habilitation was added to the array of services with a per diem rate that is tiered based on licensed or certified capacity of each home. This moved services provided in these homes from Personal Assistance/Habilitation based on a 15-minute unit, to a more comprehensive service description and daily rate. Further, the State has recruited providers on each of the neighbor islands to implement subcontracts with licensed and certified providers, which is allowing the caregivers to be paid for Residential Habilitation. This model incentivizes provider and caregivers to provide Residential Habilitation, and we expect to see a growth in the number of caregivers, especially on the neighbor islands. DDD has also implemented its reorganization, and has a position dedicated to resource development for housing.

31. *One commenter asked about the transition for a young person receiving Applied Behavior Analysis (ABA) services through Early Periodic Screening, Diagnosis and Treatment (EPSDT) when the student ages out of school. The commenter indicated the importance of a seamless transition.*

STATE RESPONSE:

When a young person becomes eligible for the waiver, the person's needs are comprehensively assessed and the Individualized Service Plan is developed. If there is a need for a functional behavioral assessment and behavioral support plan, that is addressed through a waiver service called Training and Consultation, which is provided by a licensed professional, either a licensed behavior analyst or licensed psychologist. Part of the scope of practice of these licensed professionals is to review past assessments and behavior support plans, whether they were done by the Department of Education (DOE) or a

Department of Human Services Med-QUEST Division (MQD) health plan. DDD case managers coordinate closely with both the DOE and MQD on transitions.

32. *One question was received about whether transportation to/from the program was included in the maximum 1560 hours of Adult Day Health (ADH).*

STATE RESPONSE:

The annual limit of 1560 hours is a combined total of ADH and Community Learning Services – Group (CLS-G) services. The time to transport waiver participants to and from the ADH site is required but is not counted as "billable" hours. The time to transport to and from the ADH site does not reduce the total of 1560 hours. The time spent transporting waiver participants to and from CLS-G activities in the community from the ADH site would be counted as 'billable" hours that would be used against the maximum of 1560 hours.

33. *The State received questions from one commenter about the Adverse Event Reporting process within 24 hours and the responsibility of the case manager to investigate 24/7.*

STATE RESPONSE:

In accordance with the DDD Policy & Procedure #3.07 (Adverse Event Report for People Receiving Developmental Disabilities Division Services) and the Waiver Appendix G-1-b, the AER must be reported verbally within 24 hours or next working day of the critical event and a written AER form must be submitted within 72 hours (exclusive of weekends and holidays) to the DOH/DDD case manager. Based on the available information, the DOH/DDD case manager must assess if there is potential for further injury or harm to the participant and/or others in the home or program setting and notify his/her supervisor immediately. The supervisor in consultation with his/her section supervisor, Case Management Branch Chief, DOH/DDD Administrator, and DOH/DDD Medical Director will determine if an initial onsite assessment is warranted and identify the DOH/DDD staff who will be conducting the assessment. Reports of abuse and neglect are reported to the appropriate protective services agency for investigation. The DDD Policy and Procedure for Adverse Event Reporting and the Waiver Appendix G-1-d also specify DDD's responsibility for completing investigations for specific AER. State case managers are not responsible for conducting investigations.

34. *The state received questions from one commenter about whether the Individualized Service Plan must be reviewed/modified after each AER, how a crisis intervention plan is updated and how the information is coordinated with the Individualized Education Plan (IEP) for children.*

STATE RESPONSE:

The Case Manager is required to assess, and if warranted, describe action steps to be taken with timelines. This includes referrals to the Clinical Interdisciplinary Team (CIT) or Behavior Supports Review Committee (BSRC) and update the ISP with risk factors that need to be addressed to minimize risks, any change in health condition and or need. As part of the ISP, the case manager, participant, guardian (if applicable), and circle of support discuss information from the participant's medical, waiver provider and specialty medical reports. Other documents used include the case management assessments and

other reports (e.g., speech, occupational, educational, etc.) that will be integrated into the participant's ISP as agreed upon by the participant and guardian (if applicable).

35. *One commenter asked whether certified ABA service providers are used for crisis intervention plans or any modifications to ISPs for waiver recipients if adverse event(s) warrant revised behavior plan.*

STATE RESPONSE:

The I/DD Waiver does not include ABA or Applied Behavior Analysis as a specific service. The waiver includes Training and Consultation provided by a Licensed Behavior Analyst or Psychologist or other professional within the scope of their license that can be accessed when indicated, including when adverse events indicate a need for a functional behavioral assessment and development of a behavioral support plan, and any ensuing changes to the ISP. Case managers or clinical staff in DDD can make this recommendation. DDD also maintains a Behavior Support Review Committee to systematically review restrictive interventions and to ensure that positive behavior supports are used.

36. *One commenter asked about language in the waiver related to how data relating to critical events is analyzed and reported, and how the public can access the information. The commenter also asked whether families and guardians of consumers directly involved in these reported critical events are notified of this information.*

STATE RESPONSE:

DDD has an active Quality Assurance and Improvement Program (QAIP). Several of the QAIP standing committees involve providers, self-advocates, and family members. DDD is launching a recruitment for broader representation. Among the quality committees is the Mortality Review Committee which is inviting stakeholders to become members. DDD is launching a new website, which will include a section for quality reports. In accordance with DDD Policy and Procedure #3.07 and the I/DD Waiver Appendix G-1-d, whenever DDD investigates an AER, the participant's family or legal guardian, if applicable, and other relevant parties will be informed of the investigation results within 14 days of completing the investigation. As noted in Appendix G-1-d, for all other types of AERs, the case manager communicates with the participant, family and guardian by phone or in-person for follow-up activities and to report the results, including any actions to be taken by the case manager.

37. *One commenter asked questions about the Behavior Supports Review Committee (BSRC), including who is on the committee and whether any member of the public or other agency outside of DDD is involved.*

STATE RESPONSE:

The Behavior Support Review Committee (BSRC) was described and approved by CMS in June 2016 in the I/DD Waiver. DDD Policy & Procedure #2.03 (Behavior Support Review) addresses the membership of the BSRC, among which is a volunteer who may include a family member or parent of a participant receiving services from the DDD, DDD provider agency representative, community member with no direct involvement with a DDD provider agency, or consumer receiving services from the DDD.

38. One commenter offered suggestions for the DDD Quality Assurance and Improvement Program (QAIP) to address basic waiver infrastructure issues, such as access to services by geographic area.

STATE RESPONSE:

Thank you for the feedback. The DDD QAIP is comprised of three subcommittees: Quality Services and Care, Service Provision and Access, and Safety and Well-Being. DDD will refer these recommendations to the appropriate QAIP subcommittee for consideration.