

**MEDICAID POLICY INFORMATION SHEET**

**Policy Analyst:** Morgan VanDenBerg

**Phone Number:** 517-335-2302

Initial

Public Comment

Final

**Brief description of policy:**

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. This policy describes the expanded service coverage of Overnight Health and Safety Support (OHSS) included in the latest renewal applications of behavioral health’s existing HCBS waivers.

**Reason for policy (problem being addressed):**

The purpose of this policy is to comply with the terms of a lawsuit settlement.

**Budget implication:**

- budget neutral
- will cost MDHHS \$ 6.3 million, and is budgeted in current appropriation
- will save MDHHS \$

**Is this policy change mandated per federal requirements?**

Yes - federal legal settlement

**Does policy have operational implications on other parts of MDHHS?**

The waiver changes will significantly increase the operational duties performed by the Behavioral Health and Developmental Disabilities Administration (BHDDA) Federal Compliance Section for waiver related operational duties including, state level waiver initial and annual recertification approval processing, training, technical assistance, waiver support application role/access support, federally mandated reporting etc.

**Does policy have operational implications on other departments?**

Prepaid Inpatient Health Plans (PIHP) will have increased administrative duties.

**Summary of input:**

- controversial
- acceptable to most/all groups
- limited public interest/comment

**Supporting Documentation:**

State Plan Amendment Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please provide status: <input type="checkbox"/> Approved <input type="checkbox"/> Pending <input type="checkbox"/> Denied Date:                      Approval                      Date:	Public Notice Required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, Submission Date: <b>6/14/19</b>
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<b>DRAFT FOR PUBLIC COMMENT</b>		
	<b>Michigan Department of Health and Human Services</b>	<b>Project Number:</b> 1928-BHDDA <b>Date:</b> December 4, 2019

**Comments Due:** January 8, 2020  
**Proposed Effective Date:** As Indicated  
**Direct Comments To:** Morgan VanDenBerg  
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**Policy Subject:** §1915(c) Renewal Applications for the Children’s Waiver Program (CWP), the Habilitation Supports Waiver (HSW), and the Waiver for Children with Serious Emotional Disturbances (SEDW)

**Affected Programs:** Medicaid, Healthy Michigan Plan, MICHild

**Distribution:** Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

**Summary:** Michigan Medicaid’s three Behavioral Health Home and Community-Based Services (HCBS) waiver programs are authorized in §1915(c) of the Social Security Act. The programs permit the state to furnish an array of HCBS that assist Medicaid beneficiaries to live in the community and avoid institutionalization.

**Purpose:** This policy describes the expanded service coverage of Overnight Health and Safety Support (OHSS) included in the latest renewal applications of the three behavioral health HCBS waivers.

**Cost Implications:** Cost projections completed by Milliman indicate an estimated budget impact of \$6.3 million for overnight health and safety for the three §1915(c) waiver populations.

<b>State Plan Amendment Required:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <b>If yes, date submitted:</b> 8/1/2019	<b>Public Notice Required:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <b>Submitted date:</b> 6/14/2019
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**Tribal Notification:** Yes  No  - **Date:** 4/18/2019

**THIS SECTION COMPLETED BY RECEIVER**

<input type="checkbox"/> <b>Approved</b>	<input type="checkbox"/> <b>No Comments</b>
<input type="checkbox"/> <b>Disapproved</b>	<input type="checkbox"/> <b>See Comments Below</b>
	<input type="checkbox"/> <b>See Comments in Text</b>

<b>Signature:</b>	<b>Phone Number</b>
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**Signature Printed:**

<b>Bureau/Administration</b> <i>(please print)</i>	<b>Date</b>
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# Proposed Policy Draft

Michigan Department of Health and Human Services  
Medical Services Administration

**Distribution:** Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

**Issued:** February 1, 2020 (Proposed)

**Subject:** §1915(c) Renewal Applications for the Children's Waiver Program (CWP), the Habilitation Supports Waiver (HSW), and the Waiver for Children with Serious Emotional Disturbances (SEDW)

**Effective:** As Indicated (Proposed)

**Programs Affected:** Medicaid, Healthy Michigan Plan, MICHild

## **General Information**

Michigan Medicaid's three Behavioral Health Home and Community-Based Services (HCBS) waiver programs are authorized in §1915(c) of the Social Security Act. The programs permit a state to furnish an array of HCBS that assist Medicaid beneficiaries to live in the community and avoid institutionalization. This policy describes the expanded service coverage of Overnight Health and Safety Support (OHSS) included in the latest renewal applications of behavioral health's existing HCBS waivers that are effective October 1, 2019. Coverage is based on medical necessity and is provided in an unlicensed setting in the community or an individual's home. Services are provided through the PIHP, its affiliate CMHSPs if applicable, and/or its contracted behavioral health providers.

**NOTE:** OHSS is not available for individuals residing in licensed settings. Payment of OHSS may not be made directly or indirectly to responsible relatives (i.e., spouses or parents of minor children) or a legal guardian.

## **Eligibility**

To be eligible for OHSS, an individual must:

- be Medicaid eligible;
- be enrolled in one of the following waiver programs: CWP, HSW, or SEDW;
- be living in a community-based setting (not in a hospital, Intermediate Care Facility for Individuals with Intellectual Disabilities or ICF/IID, nursing facility, licensed foster care, correctional facility or child caring institution); and
- require supervision overnight to ensure and maintain the health and safety of an individual living independently.

The need for OHSS must be reviewed and established through the person-centered planning process with the beneficiary's specific needs identified that outline health and safety concerns and a history of behavior or action that have placed the beneficiary at risk of obtaining or maintaining their independent living arrangement. Each provider of OHSS services will ensure the provision of, or provide as its minimum responsibility, overnight supervision activities appropriate to the beneficiary's needs to achieve or maintain independent living, health, welfare, and safety.

### **Coverage**

For purposes of this service, "overnight" includes the hours between 8:00 p.m. and 8:00 a.m.

The purpose of OHSS is to enhance individual safety and independence with a provider supervising the health and welfare of a beneficiary overnight. OHSS is defined as the need for a provider to be present to oversee and be ready to respond to a beneficiary's unscheduled needs if they occur during the overnight hours when they are typically asleep.

OHSS services are generally furnished on a regularly scheduled basis, for multiple days per week, or as specified in the Individual Plan of Service (IPOS), encompassing both health and safety support services needed for the individual to reside successfully in their home and community-based settings.

OHSS may be appropriate when:

- Service is necessary to safeguard against injury, hazard, or accident.
- A beneficiary has an evaluation that includes medical necessity that determines the need for OHSS and will allow an individual to remain at home safely after all other available preventive interventions/appropriate assistive technology, environmental modifications and specialty supplies and equipment (i.e., Lifeline, Personal Emergency Response System [PERS], electronic devices, etc.) have been undertaken to ensure the least intrusive and cost-effective intervention is implemented.
- A beneficiary requires supervision to prevent or mitigate mental health or disability related behaviors that may impact the beneficiary's overall health and welfare during the night.
- A beneficiary is non-self-directing (i.e., struggles to initiate and problem solve issues that may intermittently come up during the night or when they are typically asleep), confused or whose physical functioning overnight is such that they are unable to respond appropriately in a non-medical emergency (i.e., fire, weather-related events, utility failure, etc.).
- A beneficiary has a mental health condition that causes inconsistency in, or an inability to regulate, sleep patterns.
- A beneficiary has a documented history of a behavior or action that supports the need to have a provider on-site for supported assistance with incidental care activities that may be needed during the night that cannot be pre-planned or scheduled.

- A beneficiary requires overnight supervision in order to maintain living arrangements in the most integrated setting appropriate for their needs.

The following exceptions apply for OHSS:

- OHSS does not include friendly visiting or other social activities.
- OHSS is not available when the need is caused by a medical condition and the form of supervision required is medical in nature (i.e., nursing facility level of care, wound care, sleep apnea, overnight suctioning, end-stage hospice care, etc.) or in anticipation of a medical emergency (i.e., uncontrolled seizures, serious impairment to bodily functions, etc.).
- OHSS is not intended to supplant other medical or crisis emergency services to address acute injury or illness that poses an immediate risk to a person's life.
- OHSS is not available to prevent, address, treat, or control significantly challenging anti-social or severely aggressive individualized behavior.
- OHSS is not available for an individual whom is anxious about being alone at night without a mental health or disability related behavior(s) that indicates a medical need for overnight supports.
- OHSS is not intended to compensate or supplant services for the relief of the primary caregiver or legal guardian living in the same home or to replace a parent's obligations and parental rights of minor children living in a family home
- OHSS is not an alternative to inpatient psychiatric treatment or other appropriate levels of care to meet the beneficiary's needs and is not available to prevent potential suicide or other self-harm behaviors.

### **Coordination of Services and Care**

The service normally involves the co-provision of several services through a provider in order to achieve the purpose of the service. OHSS services typically fall into this category of "round-the-clock" by the nature and institutional level of care required for HCBS Waiver participants. OHSS is intended to supplement other HCBS (i.e., Community Living Supports [CLS], respite, etc.) that are provided to the beneficiary as part of a comprehensive array of specialized waiver or developmental disabilities services (i.e., supports coordination, peer-delivered, etc.).

If a beneficiary is receiving CLS or respite supports and also demonstrates the need for OHSS, the IPOS must document coordination of services to ensure the scope, nature of supervision and/or provider differ from the other community support services to prevent issues of duplicative services. OHSS is complementary of the other habilitative services but typically does not comprise the entirety of the supports a beneficiary may need to obtain or maintain their independence in their community. OHSS services are enhanced services that are in addition to or concurrent with other waiver services, as outlined in the IPOS, and allow for the provision of supervision to ensure the health and safety of an individual overnight.

## Provider Services

Providers have the responsibility for the health, welfare, and safety of the beneficiary overnight and must have the ability to intervene on behalf of the beneficiary. This assistance may take the form of observation and minor redirection of the beneficiary to perform tasks that will enable the beneficiary to maintain their overnight health and sleep safety.

Providers may perform minor redirection and/or prompting that are incidental to the care and supervision of the beneficiary over the course of the night such as:

- The ability to intervene on behalf of the beneficiary supervision of overnight activities and the responsibility for the health, welfare, and safety of the beneficiary.
- Provide the level of supervision needed to ensure a beneficiary's safety along with the actions required if a beneficiary's health or welfare are at risk.
- Safeguard the individualized supports needed overnight appropriate to the beneficiary's needs.
- Common issues, which include fire and evacuation ability, ability to respond independently to health needs during the night, and safety awareness.

## Provider Qualifications

Provider Qualifications			
Provider Type	License	Certification	Other Standard
Direct Support Professional/ Aide	None	None	Individual with specialized training; is able to perform basic first-aid procedures; trained in the beneficiary's IPOS, as applicable; is at least 18 years of age; able to prevent transmission of communicable disease; is able to communicate expressively and receptively in order to follow IPOS requirements and beneficiary-specific emergency procedures, and to report on activities performed; and is in good standing with the law.

A copy of the CWP/HSW/SEDW renewal applications can be viewed at [www.michigan.gov/mdhhs](http://www.michigan.gov/mdhhs) >> Keeping Michigan Healthy >> Behavioral Health & Developmental Disability.