

# Implementation Guide: Medicaid State Plan Eligibility Individuals Receiving State Plan Home and Community- Based Services Who Are Otherwise Eligible for HCBS Waivers

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# Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers

## **POLICY CITATION**

**Statute:** 1902(a)(10)(A)(ii)(XXII) and 1915(i)

**Regulations:** 42 C.F.R. §435.219 and §436.219

## **BACKGROUND**

### **Overview**

This reviewable unit (RU) describes one of two optional eligibility groups for individuals who are eligible for the home and community-based services (HCBS) benefit described in section 1915(i) of the Social Security Act (the Act). This group is specific to individuals with income at or below 300 percent of the supplemental security income (SSI) federal benefit rate (FBR) who are also eligible for HCBS services provided under a waiver. This RU provides the criteria under which individuals may be covered under this group, as well as the income and resource standards used.

### ***The State Plan HCBS Benefit***

The Deficit Reduction Act of 2005 established section 1915(i) of the Act to allow states to provide HCBS as an optional benefit under their Medicaid state plans. This option allows states to receive federal financial participation for services that were previously eligible for federal funds only under waiver or demonstration projects, such as a 1915(c) waiver. The 1915(i) benefit is available to all Medicaid beneficiaries whose income does not exceed 150 percent of the federal poverty level (FPL) and who meet needs-based criteria established by the state. In addition, states may extend benefits to somewhat higher income individuals (up to 300 percent of the SSI FBR) who are also eligible for HCBS waiver services.

Under a section 1915(c) waiver, states can offer HCBS to targeted groups of Medicaid beneficiaries who would otherwise require long-term services and supports in an institutional setting. Section 1915(i) services, unlike those under a waiver, are not restricted to individuals who would otherwise require the level of care provided in a hospital, nursing facility or ICF/IID. In addition, there is no cost neutrality requirement to provide 1915(i) services and states are not required to perform comparative cost estimates relative to institutional care.

When establishing a 1915(i) benefit (hereafter referred to as a state plan HCBS benefit), states develop needs-based criteria for the benefit, which are less restrictive than the level of care requirements for institutional care. States may target the benefit to a specific population or populations based on diagnosis, disability, Medicaid eligibility group, and/or age.

To receive state plan HCBS, an individual must meet the needs-based criteria and targeting requirements specific to the benefit, and the individual must be eligible under either a mandatory or optional state plan eligibility group.

### ***State Plan HCBS Eligibility Groups***

The Affordable Care Act expanded access to state plan HCBS by creating two new optional eligibility groups specific to individuals who need these services. The first eligibility group – Individuals Receiving State Plan Home and Community-Based Services – covers individuals who are not otherwise eligible for Medicaid and who have income at or below 150 percent of the FPL. Information specific to this group can be found in the implementation guide that accompanies the RU for that group. The second group – Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers is described in this implementation guide. This eligibility group covers individuals whose income does not exceed 300 percent of the SSI FBR and who also meet the eligibility requirements for HCBS provided under a waiver. Such waivers often have a waiting list, but there are no waiting lists for 1915(i) benefits.

### **Characteristics**

Section 1902(a)(10)(A)(ii)(XXII) of the Act allows states to extend eligibility specifically to individuals who will receive a state plan HCBS benefit. The Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers group (referred to here as the state plan HCBS 300 percent group) covers individuals who are eligible for home and community-based services under paragraph (6) of section 1915(i) of the Act. Paragraph (6) extends coverage to, “individuals who are eligible for home and community-based services under a waiver approved for the State under subsection (c), (d), or (e) or under section 1115 to provide such services, but only for those individuals whose income does not exceed 300 percent of the supplemental security income benefit rate...”

This group includes individuals who:

- Have income not exceeding 300 percent of the SSI FBR;
- Would be eligible for home and community-based services under an existing section 1915(c), (d) or (e) waiver or section 1115 waiver approved for the state;
- Meet the needs-based criteria and the targeting requirements of a state plan HCBS benefit; and
- Will receive one or more state plan HCBS benefits under section 1915(i) of the Act.

To be eligible for the state plan HCBS 300 percent group, an individual does not have to be receiving services under an existing waiver. However, the state must determine that the individual meets the eligibility requirements for an approved waiver.

Many individuals eligible for HCBS waiver services are covered under the Individuals Receiving Home and Community-Based Waiver Services under Institutional Rules eligibility group (42 C.F.R. §435.217). However, HCBS waivers often have a waiting list, and an individual is not eligible for that group until they can actually be enrolled in the waiver and begin receiving services. This is where the state plan HCBS 300 percent group may become most important. States may use this eligibility group to cover individuals who are not eligible for Medicaid because they are on the waiting list for a 1915(c) waiver. Such individuals can receive state plan HCBS (in addition to other services covered under the state Medicaid plan) while they wait for a space in the waiver.

### **Individuals Covered**

When covering the state plan HCBS 300 percent group, states may choose to extend eligibility to all individuals who meet the characteristics of this group, as described in regulation, or a state may limit eligibility to specific populations of individuals as allowed by statute. Any limitations established for the eligibility group are separate from the needs-based criteria and targeting requirements specific to the state plan HCBS benefit.

Section 1902(a)(10)(A)(ii) of the Act describes most optional Medicaid eligibility groups, including the state plan HCBS 300 percent group; and section 1905(a) of the Act describes the specific populations that may be covered in an eligibility group, including subsection (xvii) - individuals who are eligible for HCBS under paragraph (6) of section 1915(i). Together, sections 1902(a)(10)(A)(ii) and 1905(a) of the Act allow states to target an optional eligibility group to a specific population.

In choosing to cover all eligible individuals, states are electing to cover the population at section 1905(a)(xvii), which is described in Medicaid eligibility regulations at 42 C.F.R. §435.219(b) and §436.219(b). Alternatively, states may elect to cover other specified populations of individuals, for example, individuals who are age 65 or older, as described at section 1905(a)(iii) and individuals under age 21, as described at 1905(a)(i). If a state chooses individuals under age 21 (or under age 20, 19 or 18) as a population for coverage under this group, the state may choose to cover all individuals under the specified age who meet the eligibility requirements of this optional group, or the state may choose to cover one or more reasonable classifications of such individuals.

### **Financial Methodologies**

As described at 42 C.F.R. §435.219(b), income eligibility for the state plan HCBS 300 percent group is limited to individuals whose income does not exceed 300 percent of the SSI FBR. However, this eligibility group does not include a specific income standard or a resource standard. Financial eligibility is tied to the income and resource standards used in the 1915 waiver or 1115 demonstration for which the individual is eligible.

## REVIEWABLE UNIT DEPENDENCIES

Many RUs in MACPro are dependent upon other RUs. Each time a primary RU is changed, there could be an effect on other, secondary RUs which are dependent on the primary. For example, in the **Mandatory Eligibility Groups** RU, there is a question as to whether the state covers the Adult Group. If **Yes** is selected, and if a box is checked to include the Adult Group in the submission package, then the **Adult Group** RU will be included by the system in the package and the user can navigate to it to complete it. If **No** is selected, the **Adult Group** RU will not be included in the package. In this example, the **Mandatory Eligibility Groups** RU is the **Primary RU** and the **Adult Group** RU is the **Secondary RU**. The **Adult Group** RU is considered to be dependent on selections made in the **Mandatory Eligibility Groups** RU.

Whenever a change in a primary RU may affect a secondary RU, you either need to revise the secondary RU (if it is already in the package) or add the secondary RU to the package so that it can be updated in the same submission package as the primary RU.

The following table explains the dependent relationships for the **Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers** RU:

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Optional Eligibility Groups	Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers	Unless the <b>Optional Eligibility Groups</b> RU (primary), with the <b>Individuals Receiving Home and Community-Based Waiver Services under Institutional Rules</b> eligibility group selected in the <i>Covered in State Plan</i> column, has either been approved in MACPro or is included, completed and validated in the submission package, the <b>Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers</b> RU (secondary) cannot be displayed.	<p>If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package with the <b>Individuals Receiving State Plan Home and Community-Based Services Who Are Otherwise Eligible for HCBS Waivers</b> eligibility group selected as included in the state plan:</p> <ul style="list-style-type: none"> <li>• Add the primary RU to the package, complete it and validate it, with the <b>Individuals Receiving Home and Community-Based Waiver Services under Institutional Rules</b> eligibility group selected as included in the state plan.</li> <li>• Alternatively, remove the secondary RU from the package</li> </ul>

## INSTRUCTIONS

Check the assurance that individuals who are eligible under other eligibility groups receive section 1915(i) home and community-based services.

### A. Characteristics

There are statements (A.1. through A.3.) describing the characteristics of this eligibility group.

### B. Individuals Covered

At B.1., select *Yes* or *No* to indicate if the state covers all individuals who meet the characteristics in section A.

- If *No* is selected at B.1., at B.2., select one or more of the eight options to describe the individuals who are covered in this RU.
  - If B.2.d. *All children under a specified age limit* is selected, choose one of the four options to indicate the age of the children covered.
  - If B.2.f. *Reasonable classifications of children* is selected, enter reasonable classifications by selecting the *Add Classifications* button. See the **Reasonable Classifications of Children – Under Age 21, 20, 19 or 18** implementation guide for the instructions on how to complete the screen.
    - Once this screen has been saved, select the *Edit Classifications* button to add or remove a classification.
    - Once the reasonable classifications are finalized, continue to the next section.
  - If B.2.h. *Other individuals who qualify for home and community-based services under 1915(i)* is selected, provide additional information as follows:
    - Enter the name of the population in the text box provided.  
*Screen Validation: The name must be unique.*
    - Enter a description of the population in the text box provided.
    - To add additional populations, select the *Add Population* link and repeat the above steps.
    - To delete a population, click the *Delete* link below the population's name and description.

### C. Financial Methodologies

There is a statement regarding the income and resource methodologies used to determine eligibility for this group.

### D. Income Standard Used

There is a statement regarding the application of the income standard for the relevant 1915 waiver or 1115 demonstration for this eligibility group.

### E. Resource Standard Used

There is a statement regarding the application of the resource standard for the relevant 1915 waiver or 1115 demonstration for this eligibility group.

**F. Additional Information (Optional)**

Except in limited circumstances, this field remains blank. Please consult with CMS before adding any additional information concerning this RU.

**REVIEW CRITERIA**

Confirm whether or not the state has an approved 1915(i) benefit in the coverage section of the state plan or has submitted a SPA to add the benefit. The 1915(i) benefit does not have to be approved in the state plan prior to approval of the eligibility group.