

Attachment E

CMS Assessment of the State's HCBS Waiver: Findings Report Cover Letter Contents and Report Template

Draft Report Cover Letter Outline

- Express appreciation to all those who provided information
- Identify any positive/exceptional aspects of the program
- Summarize any findings that resulted in a determination that an assurance(s) has not been met and the action(s) required
- Summarize recommendations for improvement
- Offer to discuss the findings
- Request that the State provide a response to the findings and recommendations including a plan to improve performance with actions and target dates. If actions have already been taken, request the specific action and the date completed. If the State does not agree with the findings, conclusion or recommendations, request that they provide the specific reasons, including any relevant documentation
- Offer technical assistance

Any concerns related to an individual waiver participant(s) that the Regional Office feels should be communicated in writing should be handled through separate correspondence.

Final Report Cover Letter Outline

- Repeat appreciation to those who provided information
- Repeat positive/exceptional aspects of the program
- Summarize any findings that resulted in a determination that an assurance (s) has not been met and the action(s) required
- Acknowledge that the State has responded with acceptable plans and time frames, when that is the case
- Make any additional comments or recommendations for improvement
- Stipulate any requirements for interim reports related to the findings
- Acknowledge that the State's response is incorporated in or attached to the final report

Preparing Reports to the States

The CMS waiver assessment process establishes procedures by which CMS staff determines whether or not states meet the required waiver assurances, including those for health and welfare. It also establishes the process by which CMS works with states to provide technical assistance in designing and implementing quality management systems.

This **Findings Report Template** was developed to convey CMS's determination to consistently document the evidence provided by the State that supports CMS's conclusions for whether the State has substantially met the assurances. Based on the state's written information and ongoing discussions between CMS and State staff, CMS will ascertain whether the state identifies and resolves problem situations and makes overall improvements in the waiver program in a timely and effective manner.

1. Readers of CMS reports potentially include state officials, HCBS participants, as well as other CMS or government agency staff. For that reason, **the report must stand on its own and provide readers with the background information they need to understand the findings, conclusions, and recommendations.**
2. **As context for CMS evidence supporting conclusions and recommendations, briefly describe the *discovery* methods used by the state** to monitor its waiver services. This description will serve as a platform for the Regional Office's analysis of the effectiveness of the state's oversight and any recommendations CMS might have for improving the system.

When discussing the state's methods for discovery, in some instances the information source should be referenced. For example, the information may be part of the 372 report or submitted as a waiver amendment. Documenting the information source in the report emphasizes the "ongoing dialogue" approach with the state and moves away from the concept of monitoring as a one-time review.

3. **The evidence sections of the report should overwhelmingly focus on the outcomes of the state's discovery process.** A findings report is inadequate if it only describes structure/process and does not address evidence. The evidence demonstrates implementation, that is, it demonstrates the results of the state's activity and the changes (outcomes) that occurred as a result of executing the structure/process. In the report, place the emphasis on how the state used the evidence (uncovered through a discovery process) to improve the issue (and not exclusively on the process they used to discover the problem).

Evidence for a given assurance may be lacking in some waivers; the findings report should document this. When evidence is lacking, CMS should use the recommendations section of the report to convey its expectations about developing the appropriate evidence (which may also necessitate suggestions about the development of commensurate structures/processes).

4. **Highlight positive practices** to recognize the state's efforts and success. Include a discussion of how the states use the information to remediate issues as they are identified and improve the program as a whole.
5. **Include brief descriptions of any systems that the state has shared as being under development**, followed by appropriate recommendations as to the state's continued development of those systems. The Regional Office may also include any further recommendations that might improve the process or articulate where the plan may be ineffective.
6. **In making recommendations it is important for CMS to avoid being prescriptive.** Example: A state has a process for soliciting input from participants and/or families about their services and supports, but they only have a 5% return rate. CMS might recommend that the state consider alternative strategies for increasing participant feedback, and might provide information on the alternative approaches and their advantages/disadvantages, but should not prescribe a specific method.
7. **When a state does not meet an assurance the Regional Office should request timely follow-up reports illustrating how the state is remedying the issue.** It will be necessary for the Regional Office to regularly monitor the state's implementation of the remedy. Conversely, Regional Office recommendations for systems enhancements, which the state should consider but are not required to implement, will not have reporting requirements.
8. **Be careful with use of tenses (past, present, future) in the report.** In general, use the *present* tense when describing the design features of the state's waiver program. For example, use the *present* tense when describing a quality assurance monitoring process such as a consumer survey currently being used in the state. Use the *present* tense when including any recommendations for improvement in the state's program. Use the *past* tense when describing what "evidence" the state submitted to the Regional Office.



U.S. Department of Health and Human Services

**Centers for Medicare & Medicaid Services
Region _____**

DRAFT (or FINAL) REPORT

Home and Community-Based Services Waiver Assessment

Name of State and Waiver Program

Control #XXXX.90.R1

Date Report Issued:



Home and Community-Based Waiver Services

(Name of State and Waiver Program) Assessment Report

Control # _____

Introduction:

Pursuant to section 1915(c) of the Social Security Act, the Secretary of the Department of Health and Human Services has the authority to waive certain Medicaid statutory requirements to enable a State to provide a broad array of home and community-based services (HCBS) as an alternative to institutionalization. The Centers for Medicare and Medicaid Services (CMS) has been delegated the responsibility and authority to approve State HCBS waiver programs.

CMS must assess each home and community-based waiver program in order to determine that State assurances are met. This assessment also serves to inform CMS in its review of the State's request to renew the waiver.

Operating Agency: _____

State Waiver Contact: _____

Target Population: _____

Level of Care: _____

of Waiver Participants Approved for Year X of the Waiver: _____

of Waiver Participants reported on the most recent 372 Report (dated): _____

Effective Dates of Waiver: **From:** _____ **To:** _____

Approved Waiver Services:

_____	_____
_____	_____
_____	_____
_____	_____

CMS RO Contact: _____

Date Report Issued: _____

Background and Description of the Waiver: (Not to exceed one page)

Recommended content to include unique characteristics of the program (e.g., Waiver tied to institutional closure) and information for readers unfamiliar with the Waiver

I. State Conducts Level of Care Need Determinations Consistent with the Need for Institutionalization

The State must demonstrate that it implements the processes and instrument(s) specified in its approved waiver for evaluating/reevaluating an applicant's/waiver participant's level of care need consistent with care provided in a hospital, nursing facility or ICF/MR.

Authority: 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; SMM 4442.5; SMM 4442.6

The State substantially meets this assurance

(The State's system to assure appropriate level of care determinations is adequate and effective, and the State demonstrates ongoing, systemic oversight of the level of care determination process.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

Recommendations:

(Not all States that substantially meet this assurance will have full and comprehensive systems to assure an adequate and appropriate level of care process; improvements may be warranted.)

The State does not substantially meet this assurance

(The State demonstrates a pervasive failure to meet this assurance and has no internal plan of correction.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State does not substantially meet the assurance.)

Recommendations:

(Required – when the State does not substantially meet this assurance.)

II. Plans of Care Responsive to Waiver Participant Needs

The State must demonstrate that it has designed and implemented a system to assure that plans of care for waiver participants are adequate and services are delivered and are meeting their needs.

Authority: 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; SMM 4442.6; SMM 4442.7; Section 1915(c) Waiver Format, Item Number 13



The State substantially meets this assurance

(The State has an adequate and effective system to assure that all aspects of Plan of Care requirements are addressed; has an adequate and effective system for monitoring Plans of Care; has a system for assuring that participants are afforded choice between/among waiver services and providers; and demonstrates ongoing, systemic oversight of POCs.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

Recommendations:

(Not all States that substantially meet this assurance will have a full and comprehensive system to assure that all aspects of Plan of Care are addressed; improvements may be warranted.)



The State does not substantially meet this assurance

(The State demonstrates a pervasive failure to meet this assurance and has no internal plan of correction.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the state does not substantially meet this assurance.)

Recommendations:

(Required – when the State does not substantially meet this assurance.)

III. Qualified Providers Serve Waiver Participants

The State must demonstrate that it has designed and implemented an adequate system for assuring that all waiver services are provided by qualified providers.

Authority: 42 CFR 441.302; SMM 4442.4

The State substantially meets this assurance

(The State has an adequate and effective for qualifying and monitoring providers, and demonstrates ongoing, systemic oversight of providers.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

Recommendations:

(Not all States that substantially meet this assurance will have a full and comprehensive system to qualify and monitor providers; improvements may be warranted.)

The State does not substantially meet this assurance

(The State demonstrates a pervasive failure to meet this assurance and has no internal plan of correction.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State does not substantially meet this assurance.)

Recommendations:

(Required – when the State does not substantially meet this assurance.)

IV. Health and Welfare of Waiver Participants

The State must demonstrate that it assures the health and welfare of waiver participants including identification, remediation and prevention of abuse, neglect and exploitation.

Authority: 42 CFR 441.302; 42 CFR 441.303; 42 CFR 447.200; SMM 4442.4; SMM 4442.9

The State substantially meets this assurance

(The State's system to assure health and welfare is adequate and effective, and the State demonstrates ongoing, systemic oversight of health and welfare.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

Recommendations:

(Not all States that substantially meet this assurance will have full and comprehensive systems to assure health and welfare; improvements may be warranted.)

The State does not substantially meet this assurance

(The State demonstrates a pervasive failure to meet this assurance and has no internal plan of correction.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State does not substantially meet this assurance.)

Recommendations:

(Required – when the State does not substantially meet this assurance.)

V. State Medicaid Agency Retains Administrative Authority over the Waiver Program

The State must demonstrate that it retains administrative authority over the waiver program and that its administration of the waiver program is consistent with its approved waiver application.

Authority: 42 CFR 441.303; 42 CFR 431; SMM 4442.6; SMM 4442.7

The State substantially meets this assurance

(The State Medicaid agency has an adequate and effective system for administrative oversight of the waiver, and the administration of the waiver program is consistent with the approved waiver.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

Recommendations:

(Not all States that substantially meet this assurance will have a full and comprehensive approach to conducting oversight of the waiver; improvements may be warranted.)

The State does not substantially meet this assurance

(The State demonstrates a pervasive failure to meet this assurance and has no internal plan of correction.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State does not substantially meet the assurance)

Recommendations:

(Required – when the State does not substantially meet this assurance.)

VI. State Provides Financial Accountability for the Waiver

The State must demonstrate that it has designed and implemented an adequate system for assuring financial accountability of the waiver program.

Authority: 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.308; 42 CFR 447.200; 45 CFR 74; SMM 2500; SMM 4442.8; SMM 4442.10

The State substantially meets this assurance

(The State's system for assuring financial accountability is adequate and the State demonstrates ongoing, systemic oversight of waiver finances.)

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

Recommendations:

(Not all States that substantially meet this assurance will have full and comprehensive systems for assuring financial accountability; improvements may be warranted.)

The State does not substantially meet this assurance

(The State demonstrates a pervasive failure to meet this assurance and has no internal plan of correction.)

Evidence:

(Evidence that supports the finding that the State does not substantially meet this assurance.)

Recommendations:

(Required – when the State does not substantially meet this assurance.)