

DATE: September 3, 2015 -REVISED- March 1, 2016

OPERATIONS MEMORANDUM #15-09-01

SUBJECT: Denial process and notice changes for individuals applying for Home and Community Based Services (HCBS) in an Office of Long Term Living (OLTL) Waiver

TO: Executive Directors

FROM: Inez Titus
Director
Bureau of Operations

PURPOSE

To provide policy and procedures to County Assistance Offices (CAO) in reference to changes in functional denials for individuals applying for HCBS services in an OLTL waiver.

BACKGROUND

A settlement was reached between the Department of Human Services (DHS) and the Disability Rights Network (DRN) on July 20, 2012, to implement new procedures regarding approvals, denials, and transfers of OLTL waivers. ~~In addition to process changes outlined in OPS 121203,~~ There will be new responsibilities for CAOs, OLTL, and the Pennsylvania Independent Enrollment Broker (PA IEB), currently Maximus, as a result of this settlement. ~~The process outlined in OPS121203 (now obsolete) allowed an 85 day timeline for functional eligibility to be returned to the CAO by the PA IEB. Effective March 1, 2016, this timeframe has been reduced to 60 days.~~

DISCUSSION

Currently, the CAO receives an application for HCBS with a Pending Home and Community Based Services Eligibility/Ineligibility/Change form (PA 1768.1), or a Home and Community Based Services Eligibility/Ineligibility/Change form (PA 1768), requests all documentation for financial eligibility from the applicant, and pends the application for the functional determination from the PA IEB. The application is then disposed of accordingly, based on the information received.

Effective July 1, 2015, OLTL will transmit final decision notices for functional denials only. The attached "Office of Long Term Living Home and Community Based Services Eligibility Determination" form will be sent to the applicant and may be sent to the CAO if OLTL determines the applicant does not meet specific functional criteria for the program. If the applicant wants to apply for Medical Assistance (MA) the PA IEB will forward the application and the OLTL HCBS eligibility determination form or PA 1768 which includes the comment "OLTL to generate notice" to the CAO for review of other MA. Receipt of either form verifies that OLTL determined the individual functionally ineligible and that OLTL is responsible to send the OLTL HCBS eligibility determination form to all involved parties. The CAO then follows current procedures and policy.

The PA IEB will assume the Aging Waiver (38) process effective April 1, 2016. Enrollments already in process before April 1, 2016 will remain the responsibility of the Area Agency on Aging (AAA). Aging Waiver applications initiated prior to April 1, 2016 must be completed by the AAA prior to June 30, 2016. Applications still pending on June 30, 2016 will revert to Maximus for completion. These changes, which affect all OLTL Home and Community Based Programs, will be completed by the PA IEB, Maximus.

The following OLTL waivers are affected:

- Aging Waiver (38) Effective April 1, 2016
- Attendant Care Waiver (40)
- COMMCARE Waiver (59)
- Independence Waiver (42)
- OBRA Waiver (79)
- ~~0192 AIDS Waiver (80)~~

PROCEDURES

PA IEB/OLTL Responsibilities:

1. IEB will forward to the CAO the PA 600L and one of the following:
 - the PA 1768 verifying OLTL's functional eligibility decision; or
 - either the PA 1768 indicating functional ineligibility and including the comment "OLTL to generate notice" or a copy of the OLTL HCBS eligibility determination with appeal rights to verify functional ineligibility

- the PA 1768.1 including the comment “OLTL will generate notice if HCBS enrollment documentation is not received”. This notice will be issued on day 30 of the application process if the Level of Care Determination (LCD) or Physician’s Certification (PC) has not been received. The process and timeframes for financial eligibility completed by the CAO will not change.
2. OLTL will send the OLTL HCBS eligibility determination with appeal rights to the individual, individual’s representative and the PA IEB when OLTL determines the individual functionally ineligible.
 - A copy may be sent to the CAO as a follow-up to a PA 1768.1, in place of a PA 1768, if items indicated on a PA 1768.1 were not provided or completed.

CAO Responsibilities:

1. If an application for HCBS is received with the appropriate PA 1768 indicating OLTL’s decision of functional eligibility for services, follow current policy and procedures.
2. The CAO will issue a PA162 citing eligibility for the appropriate HCBS program.
3. If an application for HCBS is received with either a PA 1768 including the comment “OLTL to generate notice” or a copy of the OLTL HCBS eligibility determination form, scan the document(s) to the record. Review for MA eligibility if the individual is not a current MA recipient. **If the applicant is a current recipient of MA, reject the application due to already receiving MA, and issue a notice.**
4. If an application for HCBS is received with a PA 1768.1 including the comment “**OLTL will generate notice if HCBS enrollment documentation is not received**”, begin the financial review using current policy. Once a completed PA 1768 verifying functional ineligibility or OLTL HCBS eligibility determination form is received in the CAO, scan it to the record and review for MA eligibility if the individual is not a current MA recipient. If a completed PA 1768 verifying functional eligibility is received then scan it to the record and follow current policy and procedures.
5. **If a PA 1768 is not received in the CAO by day 60, review for other MA if the applicant is not a current MA recipient, and reject the application if the applicant is a recipient due to already receiving other MA.**

6. If the PA 1768 is received in the CAO indicating functional eligibility within 60 days from the original application date, and the application has been rejected, the CAO must follow current reconsideration guidelines and determine eligibility for HCBS.

NOTE: This will apply to all pending applications and determinations which have a notice sent on or after 7/1/15, regardless of receipt or eligibility date.

NEXT STEPS

1. Review this Operations Memorandum with appropriate staff.
2. Contact your Area Manager if you have any questions.
3. This OPS Memo obsoletes OPS121203

Attachments:

[Office of Long Term Living Home and Community Based Services Eligibility Determination Form](#)