

DATE: April 21, 2023

OPERATIONS MEMORANDUM #23-04-05

SUBJECT: Notices for Home and Community-Based Services (HCBS) Recipients Determined Nursing Facility Ineligible (NFI)

TO: Executive Directors

FROM: Tanoa Fagan
Director
Bureau of Operations

PURPOSE

To provide policy and procedures to County Assistance Offices (CAOs) about changes in issuing notices to HCBS recipients determined to be Nursing Facility Ineligible (NFI) by the Independent Assessment Entity (IAE).

BACKGROUND

Individuals who have been evaluated and determined to meet the level of care necessary to receive HCBS by the Office of Long-Term Living (OLTL) are evaluated at least every 12 months or sooner if the individual experiences a trigger event, by the IAE, currently Aging Well, to determine if they continue to meet the level of care necessary to receive HCBS. If OLTL determines the individual is no longer Nursing Facility Clinically Eligible (NFCE), the individual must be re-evaluated for Medical Assistance (MA) as a NFI individual by the caseworker using current policies and procedures.

DISCUSSION

Effective May 1, 2023, OLTL will begin sending functional ineligibility notices for individuals no longer medically eligible or who no longer meet specific functional criteria for an OLTL waiver program. When a caseworker receives an HCBS Eligibility/Ineligibility/Change form (PA 1768) indicating the recipient no longer meets the level of care or functional criteria for HCBS and includes a comment that states "OLTL will send the functional eligibility notice", the caseworker will not send an HCBS closure notice. The CAO must end date the waiver code on the waiver screen, close the HCBS budget in the Electronic Client Information System (eCIS) and evaluate the individual for other MA using current policy. The CAO will issue a notice of the MA eligibility decision, but they will not issue a HCBS ineligibility notice because OLTL or its designated

subcontractor, currently Aging Well, has issued the appropriate HCBS discontinuance notice ([See Attachment 1](#)).

PROCEDURES

When the caseworker receives a PA 1768 indicating the HCBS recipient is now NFI due to the annual renewal process conducted by OLTL, the caseworker will:

- End date the waiver code effective the current process date plus 15 days on the Waiver screen in eCIS.
- Select “No” for “LTL verification received?” on the Long-Term Living screen.
- Review the waiver budget close date on the Budget Authorization screen.

NOTE: The waiver code end date on the Waiver screen must match the waiver budget close date on the Budget Authorization screen.

- Suppress the waiver closure notice (986 V) in eCIS.
- Review for other MA in the same transaction after closing the waiver.

NOTE: If this cannot be done in the same transaction due to time or system constraints, the worker will assure there is no lapse in coverage if the individual is eligible for other MA.

- Narrate actions taken including that HCBS was closed due to receipt of a PA 1768 indicating the recipient no longer meets the level of care or functional criteria for HCBS, the HCBS closure notice was suppressed, that an email was sent to the OLTL resource account, and whether the individual is still MA eligible.
- Scan the PA 1768 to the record.
- On the day of processing, the CAO **must** send an email with the following information to RA-PWOLTLNFI TERM@pa.gov:
 - Subject line: HCBS Closed NFI Redetermination
 - Individual’s full name
 - Individual’s residential address
 - County/record number
 - County of record name
 - MA Identification (ID)
 - Waiver end date
 - Representative’s name(s)
 - Representative’s mailing address(es)

This information will be used by Aging Well to complete the OLTL generated notice.

When the processing date is more than 15 days from the end of the month and the individual is moving from an HCBS category to straight MA, a gap will be created from the budget close date until the last day of the month. In these cases, the caseworker will process a period of Non-Continuous Eligibility (NCE) for the non-HCBS MA budget and issue a system notice to fill in the MA gap.

EXAMPLE: On March 14, 2023, the caseworker end dates the waiver code on the waiver screen and closes the waiver budget effective March 29, 2023. The caseworker will suppress the waiver closure notice. The MA gap will be March 30, 2023 through March 31, 2023. The caseworker processes an NCE for March 30, 2023 through March 31, 2023 and issues the system generated notice for straight MA.

When the processing date to close HCBS is less than 15 days from the end of the month and the individual will move from an HCBS category to straight MA, the caseworker must suppress the 986V notice that presents on the Client Notice screen. The caseworker must then Application Process for regular MA, determine eligibility, and issue a system notice.

EXAMPLE: On March 23, 2023, the caseworker processes the HCBS end date and budget closure effective April 6, 2023. To ensure no break in MA coverage, the caseworker will process an MA non-application for the individual with a begin date effective April 7, 2023.

When the individual is ineligible for straight MA, the caseworker must suppress the 986V notice that presents on the Client Notice screen. The caseworker will issue a manual MA discontinue notice using the text found in the CORR module based on the reason the individual is no longer eligible for straight MA (income, resources, etc.).

EXAMPLE: On March 22, 2023, the caseworker processes the HCBS end date and budget closure effective April 5, 2023. While closing HCBS and MA benefits, the caseworker suppresses the 986V notice and issues a manual notice that states that the individual is no longer eligible for MA effective April 6, 2023.

Appeals

- If the individual appeals the OLTL generated notice within 15 days from the process date, OLTL will send a new PA 1768 notifying the caseworker of the timely appeal.
 - Once received, if MA is still open and only the HCBS is closed the caseworker will reopen in the previous HCBS category with no lapse in coverage.

- If MA and HCBS is still open, and the HCBS has a future close date, the CAO will remove the future close date, which will result in no lapse of coverage.
- When the appeal is adjudicated, the caseworker will be notified of the decision via another PA 1768 and also emailed a copy of the adjudication to the CAO resource account. The email will include a copy of the Bureau of Hearings and Appeals (BHAs) adjudication to be scanned and/or a message identifying the recipient (MA ID and name) and the outcome of the appeal. Additionally, if the CAO has follow-up questions regarding the adjudication, they should reply to the individual or agency who sent the original email.
- If the individual appeals the CAO's notice within 15 days from the process date to change or discontinue other MA coverage, the caseworker will open both MA and HCBS in the same category with no lapse in coverage.
 - The CAO will notify OLTL by emailing the OLTL resource account RA-PWOLTLAUAPPEALS@pa.gov. Once the CAO receives notice of the scheduled hearing date and time, another email must be sent to the resource account to inform OLTL to attend the hearing. The CAO will include the following information in the email:
 - Subject line: HCBS Appeal Received
 - Individual's full name
 - County/record number
 - MA ID
 - Waiver reinstatement date
 - County Code and name of county
 - Placement county (if individual is receiving services in a different county than the residential county)
 - Scheduled hearing date and time
- NOTE:** If the CAO receives an OLTL appeal request for an OLTL determination, they are to forward the appeal to OLTL using the resource account above within 24 hours of receipt. If OLTL receives an Office of Income Maintenance fair hearing request for a CAO action, they are to forward the fair hearing request to the CAO that took the action within 24 hours of receipt.
- If the individual appeals the CAO's notice more than 15 days from the process date but within the 30-day appeal time frame, then the CAO will not re-open benefits, but the CAO will still forward the appeal to BHA for scheduling and notify OLTL via email.

- Once the appeal is adjudicated:
 - If BHA finds that the individual is NFCE, the IAE will send the adjudication and a new PA 1768 indicating in the comments section “BHA has determined the appellant is NFCE.” The service begin date on page two of the PA 1768 will be the date that BHA determines the NFCE decision is effective. The CAO will reopen Community HealthChoices HCBS back to the NFCE date.
 - If BHA decides that the individual is NFI, the IAE will send a copy of BHA’s decision to the CAO. However, a PA 1768 will not be sent, and the last notice issued for HCBS and MA remains in effect.

NEXT STEPS

1. Review this Operations Memorandum with appropriate staff.
2. Contact your Area Manager if you have any questions.

ATTACHMENT

Attachment 1: [OLTL HCBS Eligibility Determination Notice](#)