

# Medi-Cal Updates and Strategies for Families

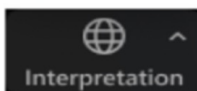
**Presented by: Anna Leach-Proffer, Managing Attorney, and Elizabeth Zirker Senior Counsel, Disability Rights California Healthcare/HCBS Practice Group and Daisy Dominguez, Parent Advocate**

## To Access Interpretation via Your Computer

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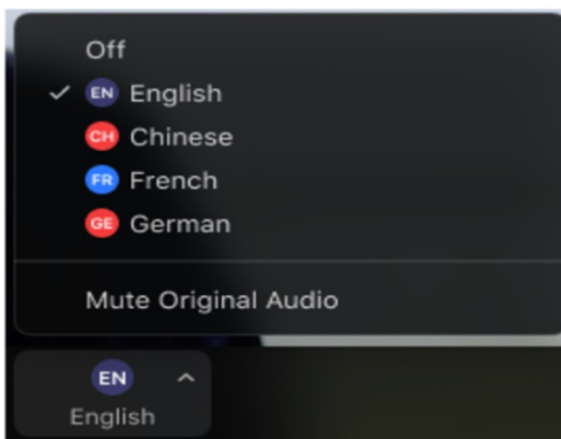
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# Disclaimer

- The following presentation is meant for education only and does not constitute legal advice or counsel. Your situation may be unique and require careful attention.
- Keep in mind that the information in these slides could become out of date, as the laws and local practices relating to these matters are constantly developing

# Today's Topics

- How does a child become eligible for Medi-Cal and why is Medi-Cal eligibility Important?
  - What is EPSDT?
  - What are Medicaid Waivers and other related Medicaid programs?
    - How can they help children with Special Health Care needs and disabilities?
    - Medi-Cal Appeals

# Medi-Cal Eligibility

- Medi-Cal is California's Medicaid program.
- How can my child become eligible for Medi-Cal?
- Why enroll in Medi-Cal?
- What is EPSDT and why is it important?

# Medi-Cal Eligibility

- What are the paths to Medi-Cal Eligibility?
  - Modified Adjusted Gross Income-MAGI
    - Medicaid Expansion, family income up to 266% of the Federal Poverty Level (FPL)
      - [FPL-chart.pdf \(coveredca.com\)](#)
    - Non-MAGI Medi-Cal (138% FPL)
    - SSI-Linked Medi-Cal
    - Institutional deeming through a Medi-Cal Waiver

# Medi-Cal Eligibility – Institutional Deeming

- What is institutional deeming and when is it available?
- Children are evaluated as if they are institutionalized, so institutional deeming rules apply to them.
- This means that the parents' income and resources are not “deemed” to them, and they can receive full scope Medi-Cal based on their own income



# EPSDT

- What is EPSDT?
  - Early & Periodic Screening, Diagnosis, & Treatment
  - Mandatory Medi-Cal service for children and youth up to age 21.
- Why is it important?

# How does EPSDT work?

- Screens are at periodic intervals and when a problem may arise
- Diagnosis may be a follow up to a regular screen, or based on a family's request when they notice an issue
- Treatment includes any service that can be covered by Medi-Cal when necessary to correct or ameliorate a child's illness or condition

# “Correct or ameliorate” —Children should get what they need

- EPSDT entitles enrolled infants, children and adolescents to any treatment or procedure that fits within any of the categories of Medicaid-covered services listed in Section 1905(a) of the Act if that treatment or service is necessary to “correct or ameliorate” defects and physical and mental illnesses or conditions.

# Medicaid State Plan v. Waiver

- A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid program
- Optional v. mandatory services:
  - Mandatory services (hospitals, nursing facilities)
  - Optional services (physical therapy, IHSS)
  - Together these form Medi-Cal State Plan

# Medicaid State Plan v. Waiver

- A Medicaid waiver is a written approval from the federal government (reviewed and determined by the Centers for Medicare & Medicaid Services) that allows states to differ from the rules of the standard federal program.
- In other words, the state is allowed to “waive” some of the requirements of the federal program. This means that they can test and develop how to deliver services in their state-based program in a way that differs from federal guidelines

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# Types of Medicaid Waivers Include:

- Section 1915(c) Home and Community-Based Services Waiver Programs
- Section 1115 Waivers Research and Demonstration Projects
- Section 1915(b) Waiver Programs
- Combined Section 1915(b)/(c) Waivers
- Combined Section 1332 and 1115 waivers

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# Section 1915(c) – Home and Community-Based Services Waivers

Home and Community Based Services (HCBS or 1915(c)) Waivers provide an alternative to institutional care for people who qualify for placement in a Medicaid-funded facility. Authorized under Section 1915 of the Social Security Act (42 U.S.C. § 1396n(c))

Can waive three Medicaid requirements:

Comparability (42 U.S.C. § 1396a(a)(10)(B))

Statewideness (42 U.S.C. § 1396a(a)(1))

Income and resources for the medically needy (42 U.S.C. § 1396a(a)(10)(C)(i)(III))

# Section 1915(c) – Home and Community-Based Services Waivers (*continued*)

What does this mean?

- Waitlists/Caps
- Geographic Limitations
- Institutional Deeming (Spousal Impoverishment protections/waiver of Parent-Child Deeming)

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# Section 1915(c) – Home and Community-Based Services Waivers

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<u>WAIVER NAME</u>	<u>TARGET POPULATION</u>	<u>SERVICE AREA</u>
<u>AIDS Medi-Cal Waiver Program</u>	Individuals with HIV/AIDS	Statewide
<u>Assisted Living Waiver (ALW)</u>	Aged, Disabled, 21 & Over	15 Counties; Waiting list
<u>Home and Community-Based Alternatives (HCBA) Waiver</u>	Aged, Disabled, All Ages	Statewide; Waiting list
<u>Home and Community-Based Services Waiver for the Developmentally Disabled (HCBS-DD) Waiver</u>	Individuals with Intellectual or Developmental Disabilities, All Ages	Statewide
<u>Multipurpose Senior Services Program (MSSP)</u>	Aged, 65 and older	46 Counties; Waiting list
<u>Self-Determination Program</u>	Has a developmental disability and receives services from a Regional Center	Statewide; 2500 statewide 2018-2021

# *Which Waiver?*

- **You cannot be on two waivers at once**
- **While the waivers have some similarities, they offer different services**
- <https://www.dhcs.ca.gov/services/ltc/Documents/HCBS-DD-vs-HCBA-Waiver-Comparison-Flier.pdf>

# *HCBS Waiver for Individuals with Developmental Disabilities*

- No waitlist
- Administered by Department of Developmental Services (DDS) through Regional Centers
- Speak to your child's Service Coordinator to apply
- Not required to be on the Waiver in order to receive Regional Center Services

# ***Self Determination Waiver for Individuals with Developmental Disabilities***

This program offers individuals the freedom to self-direct all services that they qualify to receive. Under this Program, participants have employer authority and budget authority.

- <https://www.dds.ca.gov/initiatives/sdp/frequently-asked-questions/>

# Home and Community-Based Alternatives (HCBA) Waiver

- Capacity:
  - 10774 slots
  - Serves children and adults who meet nursing facility level care or higher
  - Current Waitlist: 4,762
  - <https://www.disabilityrightsca.org/publications/the-home-and-community-based-alternatives-hcb-alternatives-waiver>

# Home and Community-Based Alternatives (HCBA) Waiver *(continued)*

In earlier versions of the Waiver, applicants and participants were given a budget for home care services based on their “level of care.”

Now, services must be authorized based on the individual’s need and as approved by his/her doctor in a Plan of Treatment.

# Home and Community-Based Alternatives Waiver (HCBA) Services

- Facility respite, family/caregiver training
- Medical equipment operating expense
- Personal Emergency Response System (PERS) -installation and testing
- **Private duty nursing including home health and shared services**
- Transitional case management for medically fragile and technology dependent individuals of any age

# Home and Community-Based Alternatives Waiver (HCBA) Services *(continued)*

- Case management/coordination
- Habilitation
- Home respite
- Waiver Personal Care Services (WPCS)
- Community transition
- Continuous nursing and supportive services
- Environmental accessibility adaptations



# HCBA Waiver and Waiver Personal Care Services (WPCS)

- WPCS are personal care services which can be combined with In-Home Supportive Services (IHSS). In order to receive WPCS, you must be on the HCBA Waiver. You must also already receive IHSS. Your WPCS will be determined after your IHSS hours are determined. WPCS is not meant to replace IHSS, but it is also more flexible than IHSS.
- To be a parent provider, must show extraordinary care need:  
<https://www.dhcs.ca.gov/services/ltc/Documents/HCBA-PL-24-003-WPCS-Parent-and-Spouse-Providers.pdf>
- IHSS overtime rules apply to WPCS as well. See: <https://www.disabilityrightsca.org/publications/new-rules-for-ihss-overtime-and-related-changes>.

# Home and Community-Based Alternatives (HCBA) Waiver – How to Apply?

- Submit Waiver Application to the Waiver Agency
- In Alpine; Imperial; Inyo; Marin; Mendocino; Mono; Napa counties submit to DHCS
- [https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-\(HCB\)-Alternatives-Waiver.aspx](https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-(HCB)-Alternatives-Waiver.aspx)

# Home and Community-Based Alternatives (HCBA) Waiver – Waiting List

- a) Individuals transitioning to the Waiver from similar HCBS waivers. because their skilled care needs and Level of Care (LOC) can no longer be met, and the beneficiary requires access to HCBA Waiver services
- b) Individuals under 21 years of age, prioritized as follows:
  - i) Individuals imminently aging out of EPSDT, or who aged out of EPSDT within the previous 6 months, who have or had been receiving Private Duty Nursing (PDN) at the time they aged out of EPSDT.
  - ii) Individuals that require Institutional-Deeming to access Medi-Cal.
  - iii) Individuals under 21 years of age who do not meet criteria listed above in i) or ii).

# Home and Community-Based Alternatives (HCBA) Waiver – Waiting List

c) Individuals who have been residing in a skilled nursing or acute care facility for at least 60 days at the time the HCBA Waiver application is submitted to a WA, or DHCS in areas where there is no WA.

d) Individuals residing in the community at the time of submission of the HCBA Waiver application and/or who do not meet the Reserve Capacity criteria above in a), b), or c). Waiver applicants who do not meet Reserve Capacity eligibility criteria are processed and enrolled on a first-come, first-served basis.

<https://www.dhcs.ca.gov/services/ltc/Documents/HCBA-PL-23-002-Release-of-Waiver-Slots.pdf>

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# Other Relevant Non-Waiver Programs

- In-Home Supportive Services (IHSS)
- California Children's Services (CCS)

# In-Home Supportive Services

- Statewide Medi-Cal program for adults and children with disabilities to remain safely in their own homes
- Provides basic services to individuals who cannot safely perform the tasks themselves or need prompting
- An alternative to out-of-home placement
- Administered by each County under the direction of the California Department of Social Services (CDSS)

# California Children's Services

- Not technically a Medi-Cal program, but more than 75% of children in CCS also have Medi-Cal.
- The CCS program provides diagnostic and treatment services, medical case management, and physical and occupational therapy services to children under age 21 with CCS-eligible medical conditions.
  - Examples of CCS-eligible conditions include, but are not limited to, chronic medical conditions such as cystic fibrosis, hemophilia, cerebral palsy, heart disease, cancer, traumatic injuries, and infectious diseases producing major sequelae.
- CCS provides specialized case management and access to CCS-panneled specialists.
- CCS also provides medical therapy services that are delivered at public schools.

# Medi-Cal Appeals

- Anytime a Medi-Cal service is denied, terminated or reduced, a Notice of Action (NOA) must be sent.
- The NOA explains the reason for the negative action and the process for appealing the action.



# How to Appeal the Notice of Action?

## How to Request a Hearing (Appeal)

1. All Medi-Cal and CCS hearings are administered by the California Department of Social Services (CDSS) State Hearings Division [Hearing Requests \(ca.gov\)](https://www.cdss.ca.gov/Programs/OPHS/OPHS-Related/StateHearings/Pages/HearingRequests.aspx)
2. Submit a Hearing Request Online
  - Create an ACMS account or select [Submit Appeal without an Account](https://acms.dss.ca.gov/acms/login.request.do) at <https://acms.dss.ca.gov/acms/login.request.do>
3. Mail a written letter to:  
California Department of Social Services  
State Hearings Division  
P.O. Box 944243, Mail Station 9-17-442  
Sacramento, California 94244-2430
4. Call State Hearings Division at 1-800-743-8525
5. May request a telephone hearing, video hearing, or in-person hearing.

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# Medi-Cal Appeals

- IHSS Appeals – within 90 days of the NOA
- Medi-Cal Appeals
  - Fee-for-Service - within 90 days of the NOA
  - Medi-Cal Managed Care – 60 days to file appeal with plan and then 120 days to file for a hearing. I
    - [Medi-Cal Managed Care: Appeals and Grievances | Disability Rights California](#)
  - Waiver Services- within 90 days of the NOA
- CCS Appeals – Medi-Cal hearing within 90 days, First level appeal with county within 30 days.
  - [Classic CCS Program Appeals and State Hearing Process NL 04-0424 \(ca.gov\)](#)
  - NHeLP publication <https://healthlaw.org/resource/know-your-appeal-rights-for-the-california-childrens-services-program/>

# Aid Paid Pending/Continuation of Benefits

- **If there is a termination or reduction in Medi-Cal services, you have the right to have the services continue at the current level pending the outcome of the hearing.**
- **You must make the request prior to the effective date of the change (or within 10 days of the notice if you are not notified at least 10 days before the change).**
- **Make the request when filing the appeal.**

# How do I Prepare for the Hearing?

- **After Requesting a Hearing**
  - Confirmation Notice that request was processed
  - Hearing Notice with date, time, and location of hearing
  - Contact Appeals Specialist (County, Managed Care Plan or DHCS depending on the type of appeal)
    - Try to resolve dispute without going to hearing

# How do I Prepare for the Hearing? Cont.

- **Preparing for a Hearing**
  - Review your records
  - Get letters of support from relevant professionals
  - **County Statement of Position**
    - Available at least 2 business days before hearing (mailed or in ACMS)
  - **Draft your own Claimant Position Statement (optional)**
    - Present your case
  - **Postponements Available**
  - **Upload Documents in advance to ACMS system**

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# What to Expect During the Hearing?

- Hearings are relatively informal
- Each side will have the opportunity to present evidence and testimony to support their position
- Present evidence about your needs for the services that were denied
  - i.e., Testimony by witnesses, doctors' letters, medical records
- Evidence must show:
  - That the services requested are medically necessary.
    - In the case of a CCS appeal, the services must be related to the CCS-eligible condition
- Witnesses
  - You are permitted to bring witnesses to provide testimony

# What to Expect After the Hearing?

- Hearing Decision is mailed to you and if you registered for ACMS, it will also be available for viewing and download from ACMS.
- Request for Rehearing
  - Within 30 days after receiving the hearing decision
- Petition for Writ of Administrative Mandamus (CCP § 1094.5)
  - Request that a Superior Court review and reverse the final order
  - Must be filed within 1 year of the date of decision

# Parent Perspective

- **Daisy Dominguez**



# RESOURCES

- **DRC Online Resources**
- [Medi-Cal | Disability Rights California](#)
- **DRC Intake line**  
<https://www.disabilityrightsca.org/get-help>
- **HCBA Waiver**
- [https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-\(HCB\)-Alternatives-Waiver.aspx](https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-(HCB)-Alternatives-Waiver.aspx)
- **CCS**
- <https://www.dhcs.ca.gov/services/ccs>
- **DDS**
- <https://www.dds.ca.gov/services/>
- **DHCS**
- [DHCS Homepage \(ca.gov\)](#)

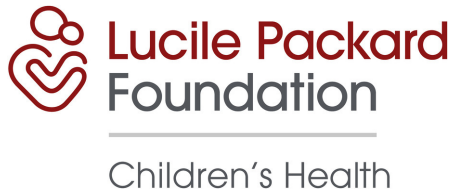
# QUESTIONS?



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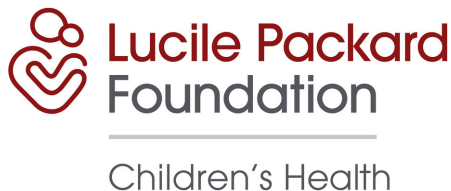
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# Gracias por unirte a nosotros!

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Cuando finalice esta sesión, verá la página web del lobby del evento y podrá hacer clic para unirse a nosotros en la sesión de clausura de la 1:30 pm