Renewal and Redesign of Tennessee's Long-Term Services and Supports Delivery System for Individuals with Intellectual and Developmental Disabilities:

A Concept Paper for Stakeholder Review and Input

Renewal and Redesign of Tennessee's Long-Term Services and Supports Delivery System for Individuals with Intellectual and Developmental Disabilities:

Executive Summary

This paper summarizes proposed changes to the State of Tennessee's Section 1915(c) Home and Community Based Services (HCBS) waiver programs.

The paper also describes a proposed new program that will provide HCBS to individuals with intellectual and other kinds of developmental disabilities. The new program will help to ensure more cost-effective delivery of HCBS so that more people will be able to receive needed services and supports.

These proposed changes are based on extensive input received from stakeholders through in-person meetings with advocacy and provider groups, statewide community meetings with consumers receiving or waiting for services, their family members, providers and advocates, an online survey, and other written comments.

Key elements of this concept paper include:

- TennCare and DIDD intend to renew the existing Arlington and Statewide Home and Community Based Services (HCBS) waivers with only essential amendments in order to ensure continuation of services and providers for current waiver participants and the stability of the long-term services and supports (LTSS) system.

- In addition, **Tennessee proposes to become the first state in the country to develop and implement an HCBS program that is specifically geared toward promoting and supporting integrated, competitive employment and independent living as the first and preferred option for all individuals with intellectual and developmental disabilities: *Employment and Community First CHOICES*.**

- Under this proposal, *Employment and Community First CHOICES* will be operated as a managed long-term services and supports (MLTSS) program. Tennessee is one of a number of states (nearly 20 as of 2013 with more in process in 2014) that are moving to MLTSS programs as a way to improve coordination of physical and behavioral health and LTSS needs, improve member health outcomes and quality of life, and align financial incentives in order to prioritize key program goals (such as employment and independent living) and expand access to and use of HCBS (rather than institutional care), while managing state resources within a predictable and sustainable budget.

- Under this proposal, the existing Statewide, Arlington, and Self-Determination waivers will continue to operate outside the managed care program, although people in those waivers are already enrolled in managed care for their physical and behavioral health services.

In addition to continuing to operate the State's existing 1915(c) waivers that will be renewed and will continue to serve nearly 7,800 people current enrolled in these programs, TennCare will work closely with DIDD to address questions and concerns and to define the role that DIDD will play in the proposed new MLTSS program.

TennCare and DIDD will work closely with our stakeholders to preserve the core values of our delivery system, ensure a person-centered approach, and define a comprehensive quality assurance and quality improvement strategy for the proposed new MLTSS program that builds on the existing Protection from Harm and waiver Quality Assurance systems—both of which have been nationally recognized as best practice models.

TennCare and DIDD will accept comments on renewal of the Arlington and Statewide waivers and the proposed new program for individuals with intellectual and developmental disabilities through Monday, June 30, 2014. As part of the process, TennCare and DIDD will jointly host regional meetings in order to present the Concept Paper to stakeholders, and to gather additional input. Invitations and details about these meetings may be found at http://tn.gov/didd/newsroom/announcements.shtml. Comments may also be submitted online at http://www.tn.gov/tenncare/ltssrsvp2.shtml.

TennCare and DIDD will carefully consider all input gathered in developing proposed renewal applications for the Statewide and Arlington Waivers, and in developing an amendment to the Self-Determination Waiver and TennCare 1115 demonstration. These draft renewal applications/amendments will also be posted for public comment prior to their submission to CMS.

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I. Introduction

The State of Tennessee currently administers three Section 1915(c) Home and Community Based Services (HCBS) waiver programs:

- The Arlington Waiver (Control # TN.0357);
- The Statewide Waiver (Control # TN.0128); and
- The Self-Determination Waiver (Control # TN.0427).

With limited exception (i.e., children under age six with a developmental disability who do not yet have a formal diagnosis of intellectual disability), the target population served in each of these waivers is individuals with an intellectual disability who qualify for the level of services provided in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).[1]

Once a waiver is approved by the federal Centers for Medicare and Medicaid Services (CMS), the waiver must be renewed every five years. The Arlington and Statewide Waivers will expire on December 31, 2014 unless they are renewed. The state intends to renew these waivers in order to ensure continuity of services for current waiver participants.

In addition, TennCare (the State Medicaid Agency) and the Department of Intellectual and Developmental Disabilities (DIDD—contracted by TennCare to operate these waivers) have worked together to explore new program designs that would allow HCBS and other Medicaid services to be provided more cost-effectively so that more people who need HCBS can receive them. This includes people with intellectual disabilities on the waiting list and people with other developmental disabilities.

In order to provide opportunities for input regarding the renewal of the Arlington and Statewide Waivers and potential new program designs for people with intellectual and developmental disabilities, TennCare and DIDD jointly hosted various stakeholder processes. These processes commenced in December 2013 with meetings including

[1] The Statewide waiver includes in the defined target population children five (5) years of age or younger who "[h]ave a developmental disability, which is defined as a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in mental retardation (i.e., intellectual disability)..." Except for children who may not yet have a formal psychological evaluation and diagnosis of intellectual disability, individuals with a developmental disability who do not also have an intellectual disability do not qualify for enrollment in the State's existing 1915(c) waivers.

advocacy groups representing individuals with intellectual and developmental disabilities and their families, as well as HCBS provider groups serving individuals with intellectual disabilities. Beginning in January 2014, self-report data was gathered from consumers, family members, and providers via a series of statewide Community Meetings. An online survey afforded consumers and family members who were unable to participate in Community Meetings with an alternative mechanism to provide input. Finally, additional written comments and other follow-up recommendations were received by TennCare after the conclusion of the Community Meetings and online survey processes.

The recommendations received from stakeholders (detailed in a separate *Stakeholder Input Summary*[2]) highlight important opportunities to ensure that programs and policies are aligned with the needs and preferences of individuals who need services and their families, and that they are cost-effective, allowing more of the people on the waiting list as well as individuals with developmental disabilities to be served.

This concept paper sets forth proposed changes to the service delivery system for individuals with intellectual and developmental disabilities based on the input received. These changes are specifically intended to:

- Continue to offer high quality services that support choice, self-determination and independence in the most integrated setting appropriate, with a strong focus on integrated, competitive employment and independent community living;
- Deliver services more cost-effectively and in accordance with the individual's assessed needs;
- Realign incentives and reallocate new and existing ID service funds to serve more people (including people with intellectual and other developmental disabilities; and
- Improve coordination across physical and behavioral health and LTSS.

Waiver renewal applications and proposed amendments to existing 1915(c) waivers and the TennCare demonstration will be drafted in order to obtain approval by CMS of those elements requiring federal authority, and posted for public comment prior to their submission.

II. Background

By many standards, the HCBS delivery system for individuals with intellectual disabilities in Tennessee is thriving. After more than 25 years, 88.5% of people with intellectual disabilities receiving long-term services and supports (LTSS) in Tennessee are in HCBS settings.

In 2010, the State closed one of three remaining large public institutions (the Arlington Developmental Center in West Tennessee), which at its height of operations served some 643 residents. The second of the three large public institutions (Clover Bottom

[2] The Stakeholder Input Summary is posted on the TennCare website at http://tn.gov/tenncare/forms/ID_DDStakeholderInputSummary.pdf.

Developmental Center in Middle Tennessee, which at its height served 1,563 residents) is set to close in 2015 once construction of smaller 4-bed homes is completed for transition of the remaining 38 residents (as of March 2014), all of whom have significant medical and/or behavioral needs and have elected to continue to receive services in these smaller 4-bed ICFs/IID.[3] The remaining large State institution in East Tennessee (Greene Valley) has been significantly downsized (from its all-time high occupancy of 1,091), with only 122 residents remaining in the facility as of March 2014. [4]

With only 267 individuals with intellectual disabilities remaining in publicly owned ICFs/IID across the State (101 of them in newly established 4-bed homes), and a statutory cap on private ICF/IID beds of 668 plus up to another 160 beds for transition of residents out of large public institutions[5], Tennessee has made significant strides in reducing the use of institutional placements. Under the State's Money Follows the Person Demonstration, the longest institutional stay resident transitioned to his own home in the community lived at two of the large state institutions for a total of more than 60 years.

Further, a concerted effort has also been made to ensure that people with intellectual disabilities and other related conditions are not inappropriately placed in Nursing Facilities (NFs), and that individuals in NFs are assisted in transitioning to the community whenever possible. As of 2011, only a few hundred people with intellectual disabilities or related conditions reside in NFs in Tennessee[6], and there is opportunity and support readily available to each of them to transition to community living, if they are willing.

In contrast, the number and percentage of people with intellectual disabilities receiving HCBS has grown tremendously. As of March 2014, some 7,774 individuals are served in HCBS settings across Tennessee's Section 1915(c) HCBS waivers.

The largest of the three waivers, commonly referred to as the Statewide Waiver (CMS Control #0128) was established in September 1987 in order to offer home and community-based alternatives to services in an ICF/IID. It serves 6,356 people as of March 2014.

The second waiver, commonly referred to as the Arlington Waiver (CMS Control #0357) was established in July 2000, as a result of federal lawsuit regarding a large state

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[3] Two of the 4-bed ICFs/IID in Middle TN will be publicly owned, but privately operated. The remaining homes will be owned and operated by the State.

[4] In addition, the Harold Jordan Center, located on the grounds of the Clover Bottom Developmental Center, served 6 residents as of March 2014. The Harold Jordan Center includes a 12-bed certified ICF/IID unit targeted primarily to serving individuals with dual diagnoses (i.e., ID and mental health needs) who have higher risk behaviors that place themselves or others at risk, as well as a secure unit that does not meet ICF/IID requirements and is state-funded.

[5] Certificates of Need have been requested and approved for 76 of the 160 beds established for and limited to persons transitioning out of State Developmental Centers, leaving 84 beds remaining in the pool. A detailed report is available at http://www.tennessee.gov/hsda/news/ICF_MR%20_BedPool_06_10.pdf.

[6] There were 362 individuals living in NFs in Tennessee, according to *Residential Services for Persons with Intellectual and Developmental Disabilities: Status and Trends Through Fiscal Year 2011,* University of Minnesota's Research & Training Center on Community Living, Institute on Community Integration (UCEDD), The report is available at *http*://rtc.umn.edu/risp/docs/risp2011.pdf.

institution in West Tennessee—the Arlington Developmental Center. The Arlington Waiver is limited only to members of the former certified Arlington class, and serves 296 participants as of March 2014.[7]

The third waiver, commonly referred to as the Self-Determination Waiver (CMS Control #0427), established in January 2005, serves 1,122 persons as of March 2014. This Independence Plus waiver includes consumer direction options, using a budget authority model. As of March 31, 2014, 430 of the total participants in the Self-Determination Waiver (more than 38 percent) have elected to direct at least some of their HCBS.

In addition to offering consumer directed options, the Self-Determination Waiver is unique from the other two waivers in several respects. First, it offers no 24-hour residential services. Participants in this waiver either live independently with intermittent supports, with their families, or an unrelated person.[8] By contrast, the overwhelming majority of participants in the Statewide and Arlington waivers (74.4%% and 96.3%, respectively) receive residential services. The waivers also differ vastly in terms of cost. The Self-Determination Waiver has an individual cost cap of $30,000 per participant per program year. [9] The average per person expenditures in the Self-Determination for the most recent CMS 372 reporting period was $17,248. In the Statewide and Arlington Waivers, there is no total limit on the amount of services each participant can receive. Rather, there is an aggregate cost cap based on the comparable cost of institutional care, and the average cost of services for the most recent CMS 372 reporting period was significantly higher at $82,220 and $142,031, respectively. These costs are significantly higher (nearly 2-3½ times, respectively) than the $42,485 average cost of providing services during the same time period in similar waivers across the country.

The State has made significant investments in HCBS, with more than $624 million (just over 74%) of total Fiscal Year 2013 LTSS expenditures for individuals with intellectual disabilities spent in community settings.

In addition to services, the State has made investments in infrastructure—to help assure quality of care and quality of life for individuals with intellectual disabilities, and compliance with federal regulations applicable to these services. Tennessee was the first State in the country to develop a quality improvement strategy that comports with quality requirements established by CMS in 2007,[10] and after a painstaking process was advised

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[7] Some members of the former certified Arlington class are enrolled in the Statewide waiver.

[8] Semi-Independent Living was added as a covered service in the Self-Determination Waiver as of January 2013. This service is designed for people who require intermittent support beyond what is available through personal assistance services in order to remain in the community, yet do not require direct support staff to live on-site.

[9] One-time emergency funding of up to $6,000 in additional services can be authorized to address circumstances such as a significant change in medical, physical or behavioral health needs, loss of caregiver, etc.

[10] Following a report by the U.S. Government Accountability Office in 2004, CMS initiated a new evidentiary approach to its quality oversight of section 1915(c) waiver programs, focused on ensuring states' compliance with waiver assurances set forth in federal regulation. Revisions to the new quality requirements were released in 2007, along with an online version of the 1915(c) waiver application. Three critical steps of the quality review cycle are embedded throughout the application: 1) discovery – activities to measure and

during its last evidentiary review that, *"Tennessee...[is] a model of best practices for other States."* Further, Tennessee has a well-developed Protection from Harm system designed to protect and prevent harm to persons receiving services and to ensure immediate and appropriate response when such instances do occur. This includes a robust incident reporting and management system, investigations of alleged instances of abuse, neglect, exploitation and other types of reportable incidents, and mandatory reporting and checks of the State's Abuse Registry, undergirded by an unwavering commitment to support, respect and value the dignity and worth of each person receiving supports as the first step in ensuring their safety and well-being.

For individuals with intellectual disabilities enrolled in these programs, there is a comprehensive array of HCBS benefits available to meet their needs as defined through person-centered planning processes and delivered through a network of some 350 community-based providers. Therein lies the most significant challenge. For nearly every person with intellectual disabilities enrolled in the State's HCBS waiver programs, there is another person with intellectual disabilities on a waiting list to receive them.[11] And currently, people with developmental disabilities (other than intellectual disabilities) do not qualify for these programs.[12] Further, because the current waiting list management approach is geared toward serving people only once their needs have reached the crisis level, young adults transitioning out of the school system often lack the minimal supports needed to be successful in achieving their employment goals.

As the Intellectual Disabilities waiting list for Tennessee HCBS waiver services grows, and the State endeavors to provide community services and supports to individuals with developmental disabilities, Tennessee must develop more cost-effective and financially sustainable strategies for delivering HCBS waiver services, while at the same time preserving the core values that have helped to make the system what it is today. There are also important opportunities to better align benefits and reimbursement with quality and outcomes that are most valued by people who need services and supports and by their families. Fortunately, there are opportunities to achieve these goals, given current per-person spending on HCBS waivers is extremely high in comparison to other states, including states with similar costs of living.

As the state embarks upon developing a strategy to address the fiscal and capacity-related challenges, there is also an opportunity to prioritize particular policy goals and ensure individual and programmatic outcomes are congruent with emerging national disability

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identify instances of non-compliance; 2) remediation – 100% remediation of all instances of non-compliance; and 3) system improvement - efforts to examine and address underlying quality concerns and promote quality improvement across the HCBS deliver system on an ongoing basis. Technical assistance was provided to Tennessee in developing the new strategy by the National Quality Enterprise, Truven Health.

[11] There are 6,990 people on the DIDD Waiting List as of March 2014, including 73 individuals deemed to meet "Crisis" criteria, 757 "Urgent," 4,825 "Active," and 1,335 "Deferred." Since that time, all persons in the Crisis category have either been enrolled in a waiver or are in process of being enrolled in a waiver.

[12] The CHOICES Managed Long-Term Services and Supports Program currently serves seniors age 65 and older and adults age 21 and older with physical disabilities. Individuals with an intellectual or developmental disability who also qualify in one of these target populations may enroll in CHOICES.

policy, the latest interpretations and actions by the Civil Rights Division of the U.S. Department of Justice, states' obligations under Title II of the Americans with Disabilities Act and the *Olmstead* Supreme Court decision, and the new regulations issued by CMS on January 16, 2014 which address the characteristics of settings where it is permissible to utilize HCBS waiver funding across the range of authorized services.

First and foremost, the State is committed to helping more people with intellectual and developmental disabilities participate in integrated, competitive employment. Tennessee was the first state to adopt an Employment First Policy in 2002, and the state has recently renewed its focus on *Employment First* through the Governor's Executive Order establishing the Tennessee *Employment First* Initiative.[13] In addition, there are opportunities to "reinvent" other kinds of Day Services, moving away from facility-based settings and toward integrated services and supports with measurable and valued outcomes that help prepare individuals with intellectual and developmental disabilities for integrated employment and community living.

To that end, **Tennessee proposes to become the first state in the country to develop and implement an HCBS program that is specifically geared toward promoting and supporting integrated, competitive employment and independent living as the first and preferred option for all individuals with intellectual and developmental disabilities: *Employment and Community First CHOICES.***

In addition to tiered benefit packages targeted to assist adults with integrated employment and independent living based on the level of care the individual needs, the proposed program will include a package of essential family supports—primarily targeted to families with children.

III. Basic Design Elements of the Proposal

A. Renewal of Arlington and Statewide Waivers with Essential Amendments and an Individual Cost Neutrality Cap in the Statewide Waiver

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[13] *Employment First* is a concept to facilitate the full inclusion of people with the most significant disabilities in the workplace and community. Under the *Employment First* approach, community-based, integrated employment is the first option for employment services for youth and adults with significant disabilities. Integrated employment refers to jobs held by people with disabilities in typical workplace settings where the majority of persons employed are not persons with disabilities, they earn at least minimum wage and they are paid directly by the employer. To advance *Employment First*, ODEP created the *Employment First* State Leadership Mentor Program. Tennessee is one of 4 state recipients that received this grant to help align policies, regulations and funding priorities to encourage integrated employment as the primary outcome for individuals with significant disabilities. Through the initiative, ODEP is providing support and informational resources for selected states that desire systems change reflecting the Employment First approach but have struggled to fully implement it as the primary service delivery system for people with disabilities. Tennessee's Executive order is available at http://www.tn.gov/sos/pub/execorders/exec-orders-haslam28.pdf.

1. Essential Amendments

Ensuring continuity of services and providers and the stability of the existing delivery system is an important priority. Accordingly, Tennessee will submit 1915(c) renewal applications to continue operation of the existing Arlington and Statewide waivers with essential amendments—primarily to address matters of compliance pertaining to the new HCBS settings and person-centered planning rules[14] and the Department of Labor (DoL) rule regarding wage and overtime pay,[15] comport with revised CMS guidance regarding quality improvement strategies for Section 1915(c) waivers, and provide additional flexibility with respect to certain service definitions as recommended by stakeholder groups. Planned modifications include allowing people receiving different kinds of Medicaid-reimbursed HCBS—primarily residential services—to live together in the same homes, allowing a single Personal Assistant or Nurse to provide services to more than one individual at the same time so long as the individuals' needs can be safely met, and clarification regarding the provision of non-nursing assistance by a licensed nurse when nursing services are authorized for skilled nursing needs.

In addition, the State plans to begin using the Supports Intensity Scale (SIS) plus a supplemental tool (intended primarily to account for more intensive medical and/or behavior support needs), to determine the appropriate level of reimbursement for certain services. At the same time, the State plans to de-link rates of reimbursement from staffing ratios to allow greater flexibility to provide supports based on the individualized needs of each waiver participant, as recommended by Stakeholders and reflected in the *Stakeholder Input Summary*.

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[14] On January 10, 2014, CMS issued the Medicaid HCBS settings final rule (CMS-2249-P2). The rule establishes requirements for the qualities of settings that are eligible for reimbursement of HCBS provided under Medicaid authorities, including section 1915(c) waivers. The rule is intended to maximize opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting. The rule also includes requirements pertaining to the person-centered planning process which are intended to assist individuals in achieving personally defined outcomes in the most integrated community setting, ensure delivery of services in a manner that reflects personal preferences and choices, and contribute to the assurance of health and welfare. Specific requirements and additional information are available at: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html. States submitting a 1915(c) waiver renewal or waiver amendment within the first year of the effective date of the rule (March 17, 2014) must develop a transition plan to ensure that the waiver meets the settings requirements.

[15] The Department of Labor's final rule amending the Fair Labor Standards Act extends minimum wage and overtime protection to workers who provide support to individuals disabilities and the elderly in their homes and communities. The rule redefines "companionship services" (formerly exempt from wage and overtime pay) to mean primarily the "provision of fellowship and protection," with actual assistance limited to 20 percent of the total hours worker per person per workweek. The rule is effective January 1, 2015.

2. Implementation of an Individual Cost Neutrality Cap in the Statewide Waiver

The DIDD budget approved by the General Assembly in the Fiscal Year 2015 Appropriations Act included the implementation of a cost cap in the Statewide Waiver. Accordingly, TennCare will include in the renewal of the Statewide Waiver, a request to implement an Individual Cost Neutrality Cap for individuals enrolled in the Statewide Waiver. This means that instead of an aggregate cost cap (where the total HCBS expenditures for all participants cannot exceed the comparable total cost of institutional services in an ICF/IID), for each individual waiver participant, the total cost of that person's HCBS expenditures cannot exceed the average cost of private ICF/IID services, as determined by the Tennessee Office of the Comptroller.

In order to avoid potential disruption in currently authorized services for Statewide waiver participants, only individuals (other than members of the former certified Arlington or current Clover Bottom classes) currently enrolled in the Statewide Waiver whose currently authorized services are less than or equal to the individual cost neutrality cap will remain enrolled in the Statewide Waiver and subject to the new individual cost neutrality cap. Any person whose currently authorized services exceed the individual cost neutrality cap will transition to the Arlington Waiver. Further, all members of the former certified Arlington and current Clover Bottom classes will transition to the Arlington Waiver, which will be renamed to the Comprehensive Aggregate Cap (CAC) Waiver Because only those individuals whose current level of authorized services can be provided within the individual cost neutrality cap will remain enrolled in the Statewide Waiver, there will be no adverse action when the individual cost neutrality cap is implemented, although written notice of such transition shall be provided to each participant and his/her legally authorized representative, as applicable, at least 30 days in advance. Thirty days advance notice will also be provided to former Arlington and current Clover Bottom class members and individuals above the cost cap that are transitioned to the CAC Waiver, although here as well there will be no adverse impact on services because they will be seamlessly transitioned into the CAC Waiver, with all of the same benefits available. In addition, the State will work with stakeholder groups to develop a comprehensive education plan to inform participants of these changes and to answer any questions they may have.

The benefit structure in the CAC waiver will be modified slightly to comport with the benefits available in the Statewide Waiver, eliminating the coverage of vision services and certain dental procedure codes related to preventive care. (Restorative dental services currently available in the Statewide Waiver will continue to be covered.)

Waiver renewal applications will reflect revised cost neutrality projections based on the changes identified above.

3. Close Enrollment into the Arlington (i.e., Comprehensive Aggregate Cap Waiver) on January 1, 2015

Effective January 1, 2015, the Arlington (i.e., CAC) Waiver will be closed to all new enrollment, except for former Arlington and current Clover Bottom class members and persons enrolled in the Statewide Waiver whose authorized services on December 31, 2014 exceed the individual cost neutrality cap that will transition to the CAC Waiver upon its renewal; and institutionalized former members of the certified class in Arlington or current members of the certified class in Clover Bottom who may subsequently elect to transition to HCBS.

The number of unduplicated participants in the Arlington Waiver will be reduced based on the number of actively enrolled individuals as of the date the transitions are completed, and a specified number of slots that will be "reserved"—specifically for transition of institutionalized former Arlington or current Clover Bottom class members, as noted above. Further, slots that are vacated after the renewal application is approved and transitions are completed will be "returned," (i.e., deducted from the approved number of unduplicated participants and not refilled) at the conclusion of each program year.

B. Essential Amendments in the Self-Determination Waiver

Tennessee will also submit a Section 1915(c) amendment for the Self-Determination Waiver in order to make similar "essential amendments."

C. Employment and Community First CHOICES

1. Eligibility and Benefits: Target populations/Benefit Groups

Employment and Community First CHOICES will include three target populations, each with their own defined benefit package. (See Table 1 following page 17.)

Essential Family Supports will target families with a child under age 21 who has an intellectual or developmental disability and either meets NF level of care, or except for the availability of HCBS is "at risk" of institutional placement. In addition to the benefits provided in CHOICES, children enrolled in Essential Family Supports will have access to the full array of benefits provided pursuant to EPSDT.[16] Essential Family Supports benefits are thus, those things beyond the scope of EPSDT that will help families face the unique challenges of supporting a child with intellectual or developmental disabilities, as reflected in the stakeholder input received. Essential Family Supports will supplement but not supplant the availability of natural supports and will help individuals with an intellectual or developmental disability and their families plan and prepare for transition to employment and integrated, independent living in adulthood.

[16] The Medicaid Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. Under the Social Security Act Section 1905(r)(5), states are required to provide any medically necessary health care services listed at section 1905 (a) of the Social Security Act to correct and ameliorate physical and mental conditions even if the service is not included under the state's Medicaid plan.

Essential Supports for Employment and Independent Living will target adults of all ages who have an intellectual or developmental disability and do not meet NF level of care, but except for the availability of HCBS are "at risk" of institutional placement. Adjustments will be made in the level of care determination process to ensure that it accurately identifies the level of assistance required by individuals with intellectual and developmental disabilities, and to ensure that the appropriate level of services and supports are available. Essential Supports for Employment and Independent Living include those services and supports that will are most critical to helping adults plan and achieve employment and independent living goals, and participate fully in community life. Particular focus will be on assisting young adults transitioning from school into integrated, competitive employment, including Project SEARCH graduates.[17]

Comprehensive Supports for Employment and Community Living will target adults of all ages who have an intellectual or developmental disability and meet NF level of care, but also require specialized services and supports related to their disability. Comprehensive Supports for Employment and Community Living include those services and supports that allow individuals with more significant needs related to an intellectual or developmental disability to receive a more intensive level of services and supports in order to plan and achieve employment and integrated community living goals, and to become as independent as possible.

2. Initially targeted to new HCBS participants

Employment and Community First CHOICES will initially be targeted to serving individuals with intellectual or developmental disabilities not currently receiving HCBS.

3. Available for transition of existing HCBS participants once established

Once the program is established, individuals with an intellectual disability in an existing Section 1915(c) waiver will be permitted to elect to transition to the appropriate benefit group. These individuals who have been determined to meet ICF/IID level of care will not be required to also demonstrate that they meet NF level of care. Rather, their benefit group will be based on their level of need as determined through administration of the SIS and supplementary tool by an objective entity.

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[17] Project SEARCH is a high school transition initiative for the Tennessee Council on Developmental Disabilities. The school-to-work initiative targets students with intellectual & developmental disabilities in their last year of high school. . The program provides real-life work experience combined with training in employability and independent living skills to help youths with significant disabilities make successful transitions from school to productive adult life. Between 90 and 100% of the participants complete the program and are offered a job. The availability of wrap-around employment services may be critical to their continued employment success.

4. Delivery Model

Employment and Community First CHOICES will be an integrated Medicaid Managed LTSS program, including Consumer Direction and Health Home Agency[18] with Choice options. Medicaid eligible individuals with an intellectual or developmental disability are already enrolled in managed care for their physical and behavioral health services. Under the proposed redesign of Tennessee's LTSS delivery system for individuals with intellectual and developmental disabilities, LTSS (as defined in Table 1 following page 17) would be added to the array of benefits coordinated by a member's MCO **for individuals who are enrolled in the *Employment and Community First CHOICES* program once it is established.**The Arlington (i.e., CAC), Statewide, and Self-Determination Waivers will continue to be operated outside the managed care program by DIDD. Only people coming into services will be enrolled into the new MLTSS program. Once *Employment and Community First CHOICES* is established, individuals in the waivers will have the opportunity to voluntarily elect to transition into the MLTSS program. .

Employment and Community First CHOICES will be a seamless delivery system with managed care contractors responsible for all of the covered primary, acute, behavioral, and LTSS for members who need them. TennCare MCOs who will administer the program were recently selected through a competitive procurement process: United Healthcare Community Plan, Amerigroup and Blue Care. TennCare and DIDD will work together with stakeholders to address questions and concerns and to define the role that DIDD will play in the new MLTSS program, in addition to continuing to operate the existing 1915(c) waivers. Individuals participating in *Employment and Community First CHOICES* will be able to select from three different models of service delivery: Consumer Direction, Health Home Agency with Choice, and basic MLTSS.

The Consumer Direction model will be a modified budget authority model. The Consumer Direction budget will be established based on a comprehensive assessment of the individual's needs for assistance with activities of daily living, safety monitoring and supervision, age-appropriate instrumental activities of daily living, as well as community integration support, individual transportation services, and respite care for family caregivers, as applicable. Once determined, the member (or his/her representative) will be able to manage those services available through Consumer Direction that are specifically designed to meet those assessed needs, so long as individual benefit limits (as applicable) and the member's total Consumer Direction budget is not exceeded.

The Health Home Agency with Choice model allows an individual with an intellectual or developmental disability that has more significant needs (i.e., qualifies for Comprehensive Supports for Employment and Community Living) to elect to work with a qualified

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[18] *Health Home* (not to be confused with *Home Health*) is an optional Medicaid State Plan benefit established under Section 2703 of the Affordable Care Act of 2010 to coordinate care for people with Medicaid who have chronic conditions using a "whole-person" philosophy. Health Home providers integrate and coordinate all primary, acute, behavioral health, and long-term services and supports to treat the whole person. Health Home Services include comprehensive care management, care coordination, health promotion, comprehensive transitional care/follow-up, patient and family support, and referral to community and social support services. Health Home service providers must report quality measures to the State.

provider of residential or PA services that he or she selects, to direct his/her services and supports budget.

In the Health Home Agency with Choice model, the individual will have the opportunity to help select and supervise his or her PA or residential workers, who will be employed by the Health Home Agency. The Health Home Agency will support the individual in deciding how s/he will direct his/her services and supports budget, based on the needs identified in the Support Plan. The individual's MLTSS Support Coordinator will be involved in the planning process and will monitor the ongoing provision of HCBS to ensure that the individual's needs are met.

In addition, the Agency must meet all of the qualifications in order to function as the individual's Health Home. The Health Home Agency must develop a person-centered support plan for each individual that coordinates and integrates all clinical and non-clinical services and supports required to address the person's health-related needs. The agency will work with the MCO Support Coordinator to facilitate access to and coordination of the full array of primary and acute physical health services, behavioral health care, and long-term community-based services and supports. Services performed by the Health Home Agency will include comprehensive chronic disease and care management; care coordination and health promotion, comprehensive transitional care from inpatient to other settings, including appropriate follow-up; referral to community and social support services, and the use of the MCO's health information technology (HIT) to link services, facilitate communication between and among providers, the individual, and caregivers, and provide feedback. In addition, they must establish a continuous quality improvement program, and collect and report data to the MCO and to TennCare that support the evaluation of health homes.

TennCare and DIDD will work together with stakeholders as the program is developed to ensure that the new MTLSS program includes person-centered needs assessment and services and supports planning and implementation; participant protections including a critical incident management system with safeguards to prevent abuse, neglect and exploitation and fair hearing protections including the continuation of services during an appeal; and a comprehensive quality assurance and quality improvement strategy that builds on the existing Protection from Harm and Quality Assurance systems, as appropriate.

5. Close Enrollment into the Self-Determination and Statewide Waivers once the new *Employment and Community First CHOICES* program is Operational

Effective upon implementation of the new *Employment and Community First CHOICES* program, the Self-Determination and Statewide Waivers will be closed to all new enrollment, and all new enrollment of individuals with intellectual and developmental disabilities will be directed to the new program. The number of unduplicated participants in the Statewide Waiver will be reduced to the number of actively enrolled individuals as of

the date the *Employment and Community First CHOICES* program is implemented. Further, Statewide Waiver slots that are vacated after the *Employment and Community First CHOICES* program is implemented will be "returned," (i.e., deducted from the approved number of unduplicated participants and not refilled), at the conclusion of each program year.

6. Specialized Services for Individuals with Intellectual Disabilities or Related Conditions in NFs

Pursuant to federal Pre Admission Screening and Resident Review (PASRR) regulations,[19] the State has processes in place to ensure that individuals with an intellectual disability or a related condition (ID/RC) are not inappropriately placed in NFs.

The purpose of PASRR is to identify the services and supports that a person with ID/RC who is seeking NF admission needs, to determine the most appropriate setting in which to provide those services, and to then to provide or arrange for those services in the appropriate setting.

With respect to people with ID/RC who have medical needs that are appropriate for NF admission, one of the challenges states have faced in implementing federal PASRR regulations has been access to Federal Financial Participation (i.e., federal matching funds) to pay for the specialized services the person needs while s/he is in the NF.[20]

Accordingly, TennCare will request under its 1115 demonstration waiver, expenditure authority to pay for specialized services beyond the scope of the NF benefit for individuals with ID/RC for whom NF placement has been determined appropriate. Qualified providers of those specialized services will be community-based providers serving the population in the community.

To be clear, the goal will always be to serve people in the community whenever appropriate. The addition of this expenditure authority will only ensure that in those instances where NF services are appropriate, federal funding is available to ensure that specialized service needs are readily available to meet the individual's needs for the time that NF care is appropriate and chosen by the individual.

Moreover, the provision of specialized services in the NF when NF care is determined to be appropriate will help to establish relationships between the resident and community

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[19] Preadmission Screening and Resident Review (PASRR) is a federal requirement to help ensure that individuals with mental illness or intellectual disabilities are not inappropriately placed in nursing homes for long term care. PASRR requires that all applicants to Medicaid-certified Nursing Facilities be given a preliminary assessment to determine whether they *might* have MI or ID. This is called a "Level I screen." Those individuals who test positive at Level I are then evaluated in depth, called "Level II" evaluation. The results of this evaluation result in a determination of need for NF services, determination of appropriate setting, and a set of recommendations for services to inform the individual's plan of care in that setting.

[20] Pursuant to 42 CFR §483.124, "FFP is not available for specialized services furnished to NF residents *as NF services* [emphasis added]."

providers. These relationships will help to facilitate exploration of community-based service delivery options, develop trust, and ensure continuity of providers and services when the person is willing and ready to transition to the community.

IV. Next Steps

TennCare and DIDD will accept comments on the proposed redesign of the service delivery system for individuals with intellectual and developmental disabilities for a period of 30 days following the Concept Paper's release–through Monday, June 30, 2014. As part of the process, TennCare and DIDD will jointly host regional meetings in order to present the Concept Paper to stakeholders, and to gather additional input. Invitations and details about these meetings may be found at http://tn.gov/didd/newsroom/announcements.shtml. Comments may also be submitted online at http://www.tn.gov/tenncare/ltssrsvp2.shtml.

TennCare and DIDD will carefully consider all input gathered in developing proposed renewal applications for the Statewide and Arlington Waivers, and in developing an amendment to the Self-Determination Waiver and TennCare 1115 demonstration. These draft renewal applications/amendments will also be posted for public comment prior to their submission to CMS.

Table 1: Employment and Community First CHOICES

Benefit group	Essential Family Supports	Essential Supports for Employment and Independent Living	Comprehensive Supports for Employment and Community Living
Target population	Families with children <21 regardless of LON; can enroll individuals of all ages living with families	Adults that have transitioned out of school (age 18/22 and older) with lesser LON who are "At-Risk of NF Placement," including Project SEARCH grads	Adults with higher levels of need who meet NF LOC and need specialized services/supports for ID/DD
Level of Care (LOC)	At-Risk of NF placement or NF LOC	At-Risk of NF placement	NF or ICF/IID LOC, as applicable
Expenditure cap*	$15k not counting cost of minor home modifications	$30k	$45-60k (exception up to applicable ave cost of NF + specialized services for DD; ave cost of private ICF/IID for ID)
Benefits	• Respite • Supportive Home Care (SHC/PA) • Family Caregiver Stipend in lieu of SHC/PA • Daily Living Skills Training • Community Integration Support Services • Individual Transportation Services • In-home behavior support services (incl counseling and therapeutic services) and Crisis Prevention/Intervention/ Stabilization • Minor home modifications (CHOICES limits) • Peer-to-peer support/navigation • Conservatorship counseling and assistance • Family caregiver education and training	• Employment supports (e.g., job discovery/development, career planning/advancement, time limited pre-vocational training; customized employment, supported employment, co-worker supports, coaching and follow along) • Benefits counseling • PA • Service Enriched Housing • Community Living Supports (Semi-Independent Living) • Community Living Supports – Family Model • Daily Living Skills Training • Community Integration Support Services • Individual Transportation Services • Communication Aids • Assistive technology • PERS • Minor home modifications	• Employment supports (e.g., job discovery/development, career planning/advancement, time limited pre-vocational training; customized employment, supported employment, co-worker supports, coaching and follow along) • Benefits counseling • PA • Service Enriched Housing • Community Living Supports (Semi-Independent/Supported Living) • Community Living Supports – Family Model • Daily Living Skills Training • Community Integration Support Services • Individual Transportation Services • Communication Aids • Assistive technology • PERS • Minor home modifications

Table 1: Employment and Community First CHOICES

		• Member education and training • Behavior Supports (incl counseling and therapeutic services) and Crisis Prevention/Intervention/Stabilization • Therapies (OT, PT, ST)—focused primarily on plan development and training	• Member education and training • Behavior Supports (incl counseling and therapeutic services) and Crisis Prevention/Intervention/Stabilization • Therapies (OT, PT, ST)—focused primarily on plan development and training
Delivery model options	MLTSS or MLTSS using consumer direction	MLTSS or MLTSS using consumer direction	MLTSS, MLTSS using consumer direction, MLTSS using health home agency w/ choice model

*$15k/$30k/$45k caps recommended by SPPC; $15k/$30k;$45k recommended by DD Council; $15k/$30k/$60k/$100k/no cap recommended by the Arc TN and DLAC; $12k-$15k capped support services or employment waiver recommended by the Arc TN; $12k-$18k capped employment waiver recommended by TNCO