



End of the Public Health Emergency Regarding Children’s Home and Community Based Services (HCBS) Level of Care (LOC) Eligibility Determination Flexibility

January 26, 2023

Due to the COVID-19 Public Health Emergency (PHE), HHCMs and C-YES were allowed flexibilities to waive/suspend the *Annual Re-Assessment HCBS LOC Eligibility Determinations* and *Significant Life Event Re-Assessment HCBS LOC Eligibility Determinations*. These flexibilities are immediately ended.

Effective January 2023, Children’s Health Home Care Managers (HHCM) and Children and Youth Evaluation Services’ (C-YES) assessors **MUST** ensure that all currently enrolled and eligible members of the HCBS Children’s Waiver have a timely *Annual Re-Assessment HCBS LOC Eligibility Determination* and when necessary, *Significant Life Event Re-Assessment HCBS LOC Eligibility Determination*, within 2023.

HCBS LOC Eligibility Determination is an annual determination for eligibility to be enrolled and to remain enrolled within the Children’s Waiver. For some members, it is also their way of obtaining and keeping their Medicaid eligibility under the “Family of One” budgeting. The HCBS LOC Eligibility Determination is due **within 365 days precisely**, otherwise it is out of compliance with federal Waiver requirements for continued eligibility. HHCM and C-YES are allowed to begin the Annual Re-Assessment two (2) months prior to the due date to ensure timely re-assessment. HHCM and C-YES should examine the records of currently enrolled eligible members and verify their *Annual Re-Assessment HCBS LOC Eligibility Determination* due date for 2023, to ensure timely completion. If the member did not receive an *Annual Re-Assessment HCBS LOC Eligibility Determination* in 2022 or earlier (year 2020 or 2021) during the PHE, the due date for 2023 is 365 days from the last re-assessment date. Example: Previous *Annual Re-Assessment HCBS LOC Eligibility Determination* was March 23, 2021, the due date for 2023 would be March 22, 2023.

- If the member’s annual HCBS LOC Reassessment Eligibility Determination was due in January 2023, the care manager has until the end of February 2023 to complete the HCBS LOC Reassessment.

2023 Assessment Outcomes:

If the *Annual Re-Assessment HCBS LOC Eligibility Determination* is completed and the member is found to be **ineligible**, then the member should be discharged from the Children’s Waiver. The HHCM/C-YES should follow all disenrollment and Notice of Decision processes.

Unless one of the following applies:

1. If the member has “Family of One” budgeting, at this time the PHE Medicaid eligibility flexibilities have not ended, therefore the member is allowed to stay enrolled in the Children’s Waiver, the HHCM or C-YES must complete and submit the [COVID-19 Children’s Waiver HCBS/LOC Review Form](#) within 24 hours of receiving the ineligible determination.
 - The COVID-19 Children’s Waiver HCBS/LOC Review Form will be submitted to the lead Health Home **AND** to NYS DOH through the capacitymanagement@health.ny.gov Health Commerce System (HCS) Secure File Transfer (SFT) mailbox due to sharing personal health information (PHI) with the

subject: HCBS Ineligible Review. Please submit only one email with the COVID-19 Children's Waiver HCBS/LOC Review Form per child/youth.

2. If there is a concern of the member's potential risk of institutionalization (hospital/nursing home/residential) in absence of the waiver services, then the HHCM or C-YES must complete and submit the [COVID-19 Children's Waiver HCBS/LOC Review Form](#) within 24 hours of receiving the ineligible determination.
 - The COVID-19 Children's Waiver HCBS/LOC Review Form will be submitted to the lead Health Home for review and a determination of approval. If approved, the lead Health Home will submit the approved form within 24 hours of their receipt of the request to the NYS DOH through the capacitymanagement@health.ny.gov HCS Secure File Transfer mailbox due to PHI with the subject: HCBS Ineligible Review. Please submit only one email with the COVID-19 Children's Waiver HCBS/LOC Review Form per child/youth.
 - If denied by the Health Home, then the member should be disenrolled from the Children's Waiver and the HHCM/C-YES should follow all disenrollment and Notice of Decision processes.

Documentation of Previous Assessments NOT Completed:

During the allowable timeframe of the COVID-19 PHE from March 29, 2020, until the date of this guidance, the *Annual Re-Assessment HCBS LOC Eligibility Determinations* were allowed to be waived/suspended. During this time, justification documentation was required to be entered into the member's case record and sent to NYS DOH. It is essential for NYS DOH to account for **all** *Annual Re-Assessment HCBS LOC Eligibility Determinations* that were **not** completed during the PHE period for members that were allowed to remain in the Children's Waiver.

Therefore, NYS DOH request for all Health Home Care Management Agencies and C-YES to report all *Annual Re-Assessment HCBS LOC Eligibility Determinations* that were not completed during the PHE years of 2020, 2021, 2022, **to NYS DOH by February 10, 2023**, utilizing the attached "**PHE Account for non HCBS LOC Reassessments**" spreadsheet, regardless of if the member has a current *Annual Re-Assessment HCBS LOC Eligibility Determination*.

- If the member's annual HCBS LOC Reassessment Eligibility Determination was due in January 2023, the care manager has until the end of February 2023 to complete the HCBS LOC Reassessment.

Please read the directions on the "**PHE Account for non HCBS LOC Reassessments**" spreadsheet and complete one "**PHE Account for non HCBS LOC Reassessments**" spreadsheet per HH Care Management Agency or C-YES, and submit through the HCS Secure File Transfer (SFT) to capacitymanagement@health.ny.gov Shared Mailbox.

Any concerns or questions, should be directed first to your lead Health Home and if additional assistance is needed, please email the BH.Transition@health.ny.gov