



Department
of Health

Office of
Mental Health

Office of Addiction
Services and Supports

Office of Children
and Family Services

Office for People With
Developmental Disabilities

Children's Waiver Reporting: Critical/Reportable Incidents and Complaints & Grievances

For Home and Community Based Services (HCBS) Providers
& Health Home Care Managers (HHCM)

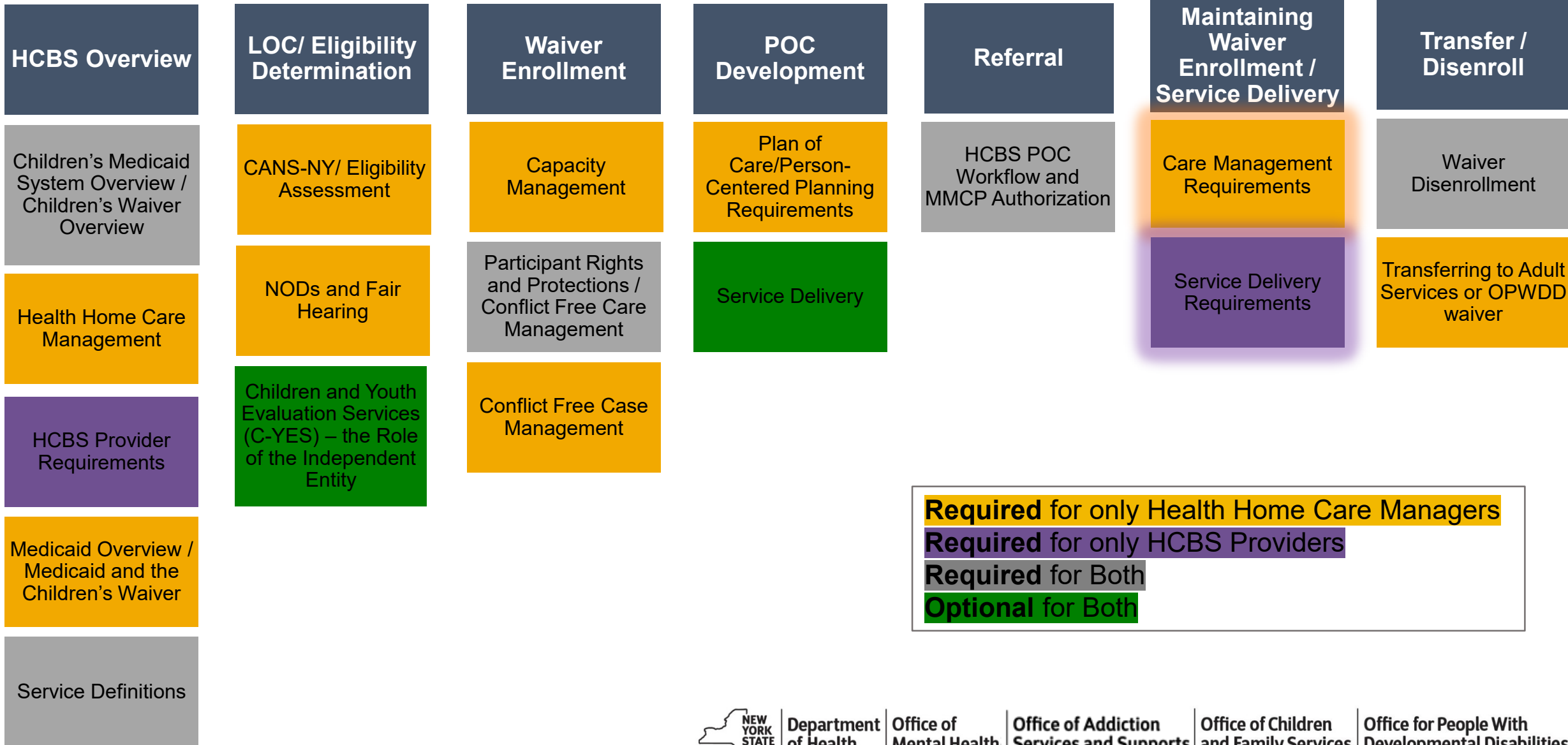
March 10, 2021

Agenda

- ✓ Policy Implementation Overview
- ✓ Critical Incident Overview
 - Care Manager Responsibilities & Reporting
 - HCBS Provider Responsibilities & Reporting
- ✓ Grievances and Complaints Overview
 - Care Manager Responsibilities & Reporting
 - HCBS Provider Responsibilities & Reporting
- ✓ Incident Reporting and Management System (IRAMS)
- ✓ Appendix



HCBS Children’s Waiver Training Overview



Critical Incidents Policy History

Critical Incident:

- Reporting critical incidents has been a policy requirement for both Health Homes Serving Children and Adults since 2017.
 - This process is a paper process that requires reporting for each incident and quarterly aggregate data reporting.
- Critical Incident reporting is required within the Children's Waiver for those children/youth enrolled in Home and Community Based Services.
 - In 2019, the Health Home policy was updated to include children/youth enrolled in HCBS and requiring C-YES to report.
 - Effective April 1, 2021, HCBS providers will be required to report as outlined in the HCBS provider policy

[Health Home Monitoring: Reportable Incidents Policies and Procedures #HH0005](#) – Revised October 2019
[Home and Community Based Services \(HCBS\) Provider Reportable Incidents Policies and Procedures #CW0004](#) – Effective April 1, 2021



Complaint and Grievance Policy History

Complaints and Grievances:

- In the original critical incident reporting policy for Health Homes, complaints and grievance were also included, but then removed in the updated policy
 - A number of Health Homes continue to monitor complaints and grievances of members being served
 - Effective April 1, 2021, HCBS providers, Health Homes Serving Children (**only**), and C-YES will need to report complaints and grievances as outlined in the Children's Waiver and issued policies

[Complaint and Grievance Policy for Health Homes Serving Children #HH0013](#) – Effective April 1, 2021

[Complaint and Grievance Policy for Home Community Based Services \(HCBS\) Providers #CW0008](#) – Effective April 1, 2021



Critical Incident Overview

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Incident Reporting Overview

- A **reportable incident** is an event involving a member, which has, or may have, an adverse effect on the life, health, or welfare of the member.
- A list of reportable incidents for **all** Health Homes, C-YES, and HCBS Providers are:
 - Allegation of abuse, including
 - Physical abuse
 - Psychological abuse
 - Sexual abuse/sexual contact
 - Neglect
 - Misappropriation of member funds
 - Suicide attempt
 - Death
 - Crime Level 1
 - Missing person
 - Violation of Protected Health Information (PHI)



Incident Reporting Overview – *cont.*

The Children's Waiver requires continued monitoring of children/youth enrolled to ensure the health and welfare of the member.

- Incident reporting for children/youth receiving HCBS services through the Children's Waiver, additional Critical Incident reporting is required:
 - The use of restrictive interventions, including
 - Restraints
 - Seclusion, and
 - Exploitation
- Additional reporting is required for C-YES, HCBS providers, and Health Home Serving Children (only)



HHSC & C-YES

For children/youth enrolled in Health Homes Serving Children (HHSC):

- The HHCM will follow incident reporting protocols as outlined in Health Home Monitoring: Reportable Incidents Policies and Procedures #HH0005, located at https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/docs/hh0005_reportable_incidents_rev_10_2019.pdf

For children/youth receiving care management through Children and Youth Evaluation Services (C-YES):

- C-YES will follow incident reporting protocols set by the State contract until the Incident Reporting and Management System (IRAMS) is implemented.

If the critical/reportable incident implicates the child/youth's care manager (i.e. HHCM or C-YES), the HCBS providers will notify the lead Health Home and will report the incident to the Department via the managed care complaints contact information (1-800-206-8125 or managedcarecomplaint@health.ny.gov), regardless if the participant is enrolled in a Medicaid Managed Care Plan (MMCP).



Mandated Reporting

- The **Protection of People with Special Needs Act** requires persons who are Mandated Reporters under that Act to report abuse, neglect and significant incidents involving vulnerable persons to the Vulnerable Persons' Central Register (VPCR) operated by the NYS Justice Center for the Protection of People with Special Needs. For additional information and requirements, please see: <https://www.nysmandatedreporter.org/NYSJusticeCenter.aspx>
- N.Y. Social Services Law 413 – **Persons and Officials Required to Report Cases of Suspected Child Abuse or Maltreatment** require Mandated Reporters to report suspected child abuse or maltreatment to the New York State Office of Children and Family Services maintains the Statewide Central Register of Child Abuse and Maltreatment (SCR, also known as the “hotline”) for reports made pursuant to the Social Services Law. <https://ocfs.ny.gov/main/cps/default.asp>

If an HCBS participant is also receiving services in a program under the jurisdiction of another State agency (e.g. Office of Mental Health (OMH); Office of Addiction Supports and Services (OASAS); Office for People with Developmental Disabilities (OPWDD); or Office of Children and Family Services (OCFS)) which has stated incident, abuse, neglect, or maltreatment reporting requirements, the provider also has the obligation to report in accordance with such regulations above.



Health Home Incident Reporting

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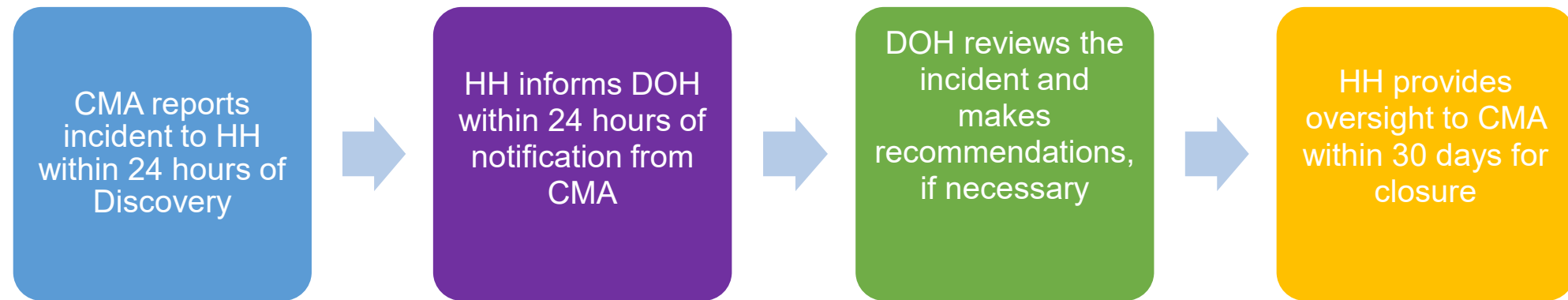
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Reporting Timeline

- The Health Home Care Management Agency (CMA) must inform the Lead Health Home of a reportable incident within 24 hours (or next business day) of notification or discovery (becoming aware of the incident),
- The Health Home (HH) must inform the Department within 24 hours (or next business day) from the CMA's report,
- The Department will review the incident reported by the HH and make recommendations, if necessary,
- The Health Home will provide oversight and direction to the CMA to conclude the reportable incident within thirty days (30 days) of receiving the incident report.



Care Management Reporting Responsibilities

The CMA must inform the Lead Health Home of a reportable incident within 24 hours of notification or discovery

- Reporting:
 - The known facts and circumstances of the incident,
 - The member's enrollment date,
 - Last contact date and type with the member by the HHCM prior to notification of the incident, and
 - Current location of the member, if known
- Understandably, within 24 hours of discovery, the HHCM may not know all the information about the incident, however, the CMA will have an opportunity to update the incident reporting with the Health Home
- HHCM are not investigators of the critical incident, however, it is imperative to review if the HH program requirements, standards, and policies were followed to ensure appropriate care coordination was provided to address the member's needs and health and safety
- Health Home CMAs need to review critical incidents to determine if policies and or procedures need updated and or need for additional staff training to improve CMA service delivery



Lead Health Home Reporting Responsibilities

The Health Home must inform the Department within 24 hours of notification from the CMA,

- Reporting:
 - Outlining if other information was requested from the CMA
 - Initial Findings of CMA's report
- At a minimum, the HH must immediately review the facts and circumstances of the current incident with the CMA, along with all pertinent information and incident reports.
- The HH will provide oversight and direction to the CMA to ensure member safety and well-being as well as program integrity, overall programmatic expectations, and compliance with Health Home Standards.
 - This oversight will occur within thirty days (30 days) of receiving the incident report.
- The Department will review the incident reported by the HH and make recommendations, if necessary, to ensure that the Health Home's reportable incident policy is appropriate and in compliance with established HH Standards.
- Health Home need to review all critical incidents to determine trends and findings to improve the HH program and CMA service delivery



Critical/Reportable Incident Oversight

Health Homes need to ensure quality assurance processes are place for HHs and CMAs:

- Identify, document, report and review individual incidents on a timely basis;
- Evaluate individual incidents against HH and Care Management Agencies (CMA) policies and procedures to confirm quality care coordination activities were provided;
- Review individual incidents to identify appropriate preventive or corrective action;
- Identify incident patterns and trends through the compilation and analysis of incident data;
- Review incident patterns and trends to identify appropriate preventive or corrective action; and
- Implement preventive and corrective action plans.

Refer to the **Health Home Monitoring: Reportable Incidents Policies and Procedures**, located at https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/docs/hh0005_reportable_incidents_rev_10_2019.pdf



HCBS Provider Incident Reporting

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HCBS Providers Reporting Responsibilities

The HCBS Provider must report Critical Incidents within 24 hours of notification or discovery

- Reporting:
 - The known facts and circumstances of the incident,
 - The member's enrollment date,
 - Last contact date and type with the member by the HCBS provider prior to notification of the incident, and
 - Current location of the member, if known
- Prior to the new *Incident Reporting and Management System*, HCBS providers must track and log critical incidents with HCBS members and be able to have those reports reviewed upon request of the Department.
- Understandably, within 24 hours of discovery, the HCBS provider may not know all the information about the incident, however, the HCBS provider will have 30 days in which to complete the Reportable Incident information.
- HCBS Providers need to review critical incidents to ensure the Children's HCBS Waiver requirements, standards, and policies were followed to ensure appropriate service delivery was provided to address the member's needs and health and safety



HCBS Provider Responsibilities

- HCBS providers must have a system in place to effectively manage reportable incidents for their members and report incidents to the NYS Department of Health (the Department) via the Incident Reporting and Management System.
 - HCBS providers must have policies and procedures in place that clearly define what is reportable in accordance with this policy and the responsibility for managing reportable incidents, including assurance that appropriate and timely intervention(s) occur and corrective action is implemented as appropriate.
 - HCBS providers must also maintain a quality improvement process to track, analyze, and mitigate incidents.
- ❖ Additionally, the HCBS provider must notify the HHCM, C-YES family support coordinator (if applicable), and the Medicaid Managed Care Plan (if applicable) to ensure the coordination of services, appropriate changes to the Plan of Care if needed, and notification of any changes to the HCBS service plan.

Refer to the **HCBS Provider Reportable Incidents Policies and Procedures**, located at https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/cw0004_hcbs_provider_reportable_incident_policy.pdf



Grievances and Complaints

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What is a Grievance/Complaint?

A **grievance** is a wrong or hardship suffered (real or perceived), which is the grounds of a complaint

A **complaint** is the formal expression of dissatisfaction expressed verbally or in writing by or on behalf of a member, other than an appeal

Grievances/complaints may include, but are not limited to:

- Any violation of rights,
- Availability of service or ability to receive service, Quality of care received and/or whether services are meeting the member's needs,
- Afforded choice of providers,
- Whether crisis or support plans are effective,
- Program eligibility and/or qualifications,
- Whether health and welfare are being maintained, and/or
- Dissatisfaction with services or providers of services.



Who Can File a Grievance and/or Complaint?

- Parents, guardians, legally authorized representatives, and/or members themselves can file a grievance or complaint at any time
- Grievances and complaints can be filed and reported to the child/youth's MMCP and/or HH/C-YES; reports of these grievance and complaints are then provided to the State
- Members may request a Medicaid Fair Hearing if felt that the grievance/complaint was not resolved
- The submission of a grievance/complaint will **not** adversely impact a member's participation in and/or eligibility for HHSC/HCBS
- The grievances/complaint process is **not** a prerequisite *or* substitute for a Medicaid Fair Hearing



Participants Rights: Filing a Complaint

- If participants have a complaint about any of their services or providers, they may contact:
 - HCBS provider
 - Lead Health Home
 - C-YES
 - Medicaid Managed Care Plan (MMCP)
 - The NYS Department of Health Managed Care Complaint Line at **1-800-206-8125** or Online managedcarecomplaint@health.ny.gov
- The care manager, HCBS Provider, or MMCP will inform participants how to file a complaint.
 - Participants can file a complaint verbally or in writing
 - Participants still have the right to a Fair Hearing even if filing a complaint



Participants Rights to be Informed

Health Home care managers and C-YES must review the grievance and compliant process with the member at enrollment and annually thereafter.

- This is accomplished by providing the member/family with the [Participants Rights and Responsibility](#) factsheet, which outlines grievances and complaints rights

HCBS Providers must inform the member during the engagement process how and where to file a complaint or grievance and annually thereafter

- HCBS waiver providers are required to notify the member's care manager (HHCM or C-YES) and the Medicaid Managed Care Plan (MMCP), if applicable, of any complaint or grievance filed directly to the HCBS waiver provider to ensure coordination of services and review of potential impact upon the Plan of Care

The HHCM/C-YES/MMCP should work together with the HCBS provider to resolve the complaint or grievance of the participant. When a complaint or grievance cannot be resolved, the Department must be notified.



Roles and Responsibilities in Responding to Grievances/Complaints

HCBS Providers

- Have internal systems in place to process grievances/complaints
- Contact and update the member within 72 hours of receiving the complaint; take steps toward resolution within 45 calendar days
- Notify the member's HH or C-YES to determine if the POC may need updated
- Can collaborate with CMA, HH/C-YES and/or MMCP to resolve the grievance/complaint
- Retain all documentation related to the grievance/complaint
- Notification/documentation to the NYS DOH

Health Homes / C-YES

- Review the grievance and complaints process at enrollment and annually thereafter
- Establish policies and procedures to handle grievances/complaints;
- Contact and update the member within 72 hours of receiving the complaint; take steps toward resolution within 45 calendar days
- Retain all documentation related to the grievance/complaint
- Notification/documentation to the NYS DOH

MMCPs

- Establish and follow a process to record and report grievances/ complaints to the State
- Provide assistance to members in helping to resolve grievances/ complaints
- Retain all documentation related to the grievance/complaint
- Provide quarterly reporting to the State on the number and category of complaints received

NYS

- Maintains Complaint Line and mailbox to use when reporting grievances/ complaints
- Coordinate with HHCM/ C-YES / HCBS Provider on steps toward resolution
- Provide technical assistance when indicated
- Reporting to CMS

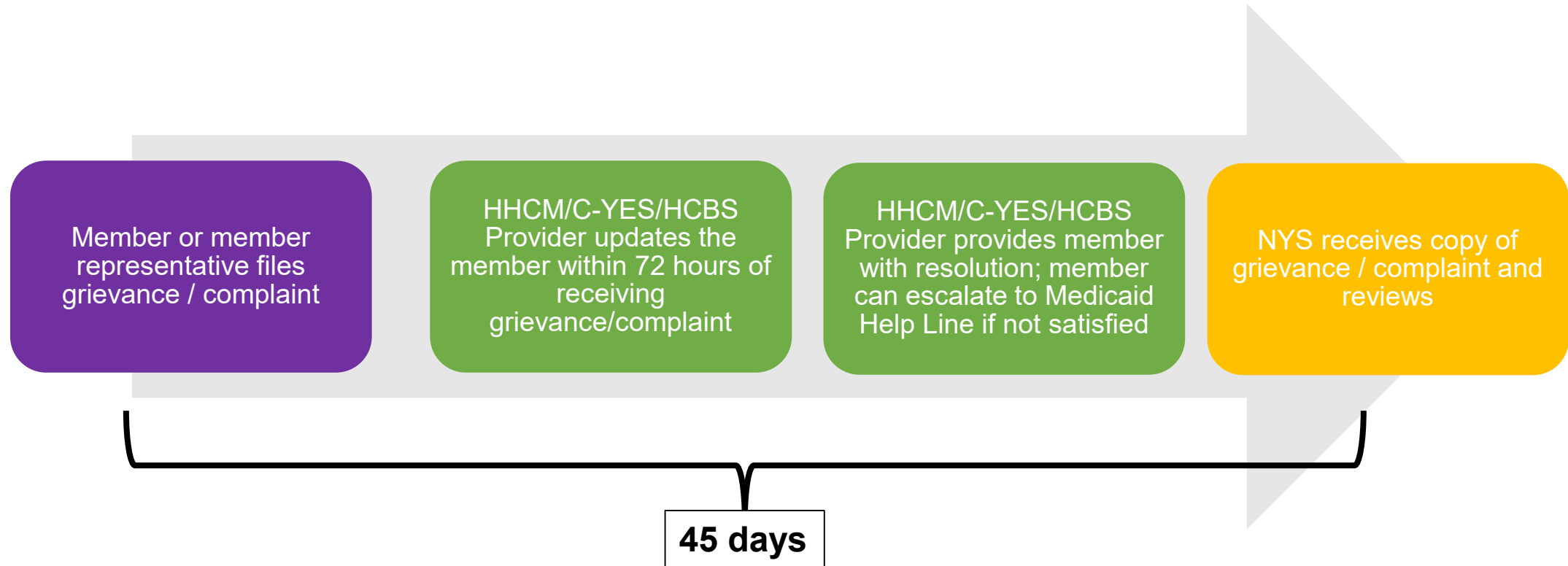


Grievances/Complaints Timelines

- The HHCM, HCBS Providers, and C-YES must inform the child/youth/family of timeframes for addressing verbal or written grievance or complaints.
 - This process must include contacting and updating the member within **72 hours** of receiving the grievance or complaint
 - All steps within the grievance or complaint process cannot exceed **45 calendar days** from the receipt of the grievance or complaint
- At any point in the grievance and complaint process the child/family or the HCBS provider may contact the Department or the MMCP for assistance in addressing and resolving a grievance/complaint.
- The Department requires that HH CMAs, HHs, C-YES, and HCBS providers develop and implement a policy for responding to complaints and grievances that may be raised by the member, parent(s), guardian, or legally authorized representative.



Timeline for Responding to Grievances/Complaints



For more information on the grievances/complaints process, see the **Health Home policy**:

https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/docs/hh0013_hhs_c_complaint_and_grievance_policy.pdf

Or HCBS Provider policy:

https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/cw0008_hcbs_provider_complaints_and_grievances_policy.pdf



IRAMS

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Incident Reporting & Management System (IRAMS)

- As a requirement within the Children's Waiver; tracking and reporting of all Critical Incidents, Complaints, and Grievances must occur
- The HH, C-YES, and MMCP already have policies and processes in place
- The NEW **Incident Reporting and Management System (IRAMS)** will take the place of paper processes for HHs and C-YES and HCBS providers will be added
- More information and training will be issued regarding the system
- Access through the Health Commerce System (HCS) will be used
- HCBS providers will need to identify 1-3 staff to have access to the system – not all staff should have access
 - Access will be given by the HCS Coordinator for each agency (HH, CMA, C-YES, HCBS provider)
 - The State will be asking for information for each user





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Appendix

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Resources and Questions

- HHCMs and HH CMAs should first talk with their Lead Health Home regarding questions and issues they may have
- Questions, comments or feedback on Health Homes Serving Children to: hhsc@health.ny.gov or contact the Health Home Program at the Department of Health at 518.473.5569
- Specific Questions/Comments regarding Transition services
BH.Transition@health.ny.gov
- Questions specific to the HCBS Settings Final Rule can be sent to
ChildrensWaiverHCBSFinalRule@health.ny.gov
- Subscribe to the HH Listserv
http://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/listserv.htm

Children's Waiver Website:

https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/1115_waiver_amend.htm



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NYS DOH Website

Find guidance, policies, forms, webinars, and more on the NYS DOH 1915c Children’s Waiver webpage located at, https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/1115_waiver_amend.htm

Department of Health Individuals/Families Providers/Professionals Health Facilities Search

Children’s Behavioral Health You are Here: [Home Page](#) > [Behavioral Health](#) > 1915(c) Children’s Waiver and 1115 Waiver Amendments

1915(c) Children’s Waiver and 1115 Waiver Amendments

As part of the Children’s Medicaid System Redesign, the 1915(c) Children’s Waiver and 1115 Demonstration Waiver work together to offer an array of services to provide the communities in the least restrictive settings. The goals of the Children’s Waiver are to keep children/youth on their developmental trajectory, identify needs early and intervene to maintain accountability for improved outcomes and delivery of quality care, and make more services available to children/youth from birth to age 21.

This site provides information related to the Children’s Waiver – including guidance and resources for providers, care managers, managed care organizations, families, and BH.Transition@health.ny.gov

IMPORTANT: Please visit our main Health Home page for COVID-19 Updates and Policy Guidance

CANS-NY Information and Resources can be found on the Health Home Serving Children page

- Home
- Children’s Medicaid System Transformation—Webinars/Trainings/Timelines
- Children and Family Treatment and Support Services
- 1915(c) Children’s Waiver and 1115 Waiver
- Provider Designation
- Managed Care Organization (MCO) Qualification Process
- Billing Guidance
- Information for Consumers/Medicaid Recipients
- Children’s Medicaid Redesign Team (MRT)
- 29-I Health Facility (VFCA Transition)
- Children’s Health Homes
- Links/Learn More

Overview of 1915c Children’s Waiver and 1115 Waiver	Family and Consumer Information	Children’s HCBS Waiver Provider Guidance, Policies, & Training	Children’s HCBS Manuals and Rates
Capacity Management	Eligibility	Plan of Care	Care Management Guidance, Policies, & Training
Child and Youth Evaluation Services (C-YES)	EMods, VMods, AT, & Non-Medical Transportation	OPWDD Resources	Archive

Adult Behavioral Health

- Home
- MRT BH Subcommittees Archive
- Behavioral Health Home and Community Based Services (BH HCBS)
- Health Homes for Individuals in HARPs and HARP Eligibles in HIV



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Resources: Policies

Children's Waiver Participants Rights Policy

https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/cw0009_participants_rights_and_choice_policy.pdf

Health Home Grievances and Complaints Policy

https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/docs/hh0013_hhsc_complaint_and_grievance_policy.pdf

HCBS Provider Complaints and Grievances Policy

https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/cw0008_hcbs_provider_complaints_and_grievances_policy.pdf

Health Home Reportable Incidents Policy

https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/policy/docs/hh0005_reportable_incidents_rev_10_2019.pdf

HCBS Provider Reportable Incidents Policy

https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/cw0004_hcbs_provider_reportable_incident_policy.pdf



Department of Health Complaints

- Enrollees and providers may file a complaint regarding managed care plans to DOH
 - 1-800-206-8125
 - managedcarecomplaint@health.ny.gov
- When filing:
 - Identify plan and enrollee
 - Provide all documents from/to plan
 - Medical record not necessary
- Issues not within DOH jurisdiction may be referred
- DOH is unable to arbitrate or resolve contractual disputes in the absence of a specific governing law
- File Prompt Pay complaints with Department of Financial Services:
<https://www.dfs.ny.gov/insurance/provlhow.htm>





Referral Form Instructions

- The Children and Youth Evaluation Service (C-YES) accepts referrals from individuals and providers including a parent, wider family member, doctor, therapist, school guidance counselor, CBOs and others:
- Individuals and families should call C-YES so that we can send you a Referral Form and a pre-paid return envelope in the mail right away! You can mail back the form in the envelope at no cost to you. Call C-YES at 1-833-333-CYES (1-833-333-2937). TTY: 1-888-329-1541
- Providers and Organizations with secure email protocols can download the Referral Form below. Return the form to: CYESREFERRAL@MAXIMUS.COM. Be sure to include the child/youth's name and contact information.
- [C-YES Referral Form](#)

