

## 1915c Children's Waiver Home and Community Based Services (HCBS) Staffing Allowances Clarification

October 19, 2023

**To:** Children's Waiver HCBS Providers, Health Home Care Management Agencies, and Children and Youth Evaluation Services (C-YES)

**Re:** Children's HCBS Allowable Staffing Arrangements

To ensure a Children's Waiver enrollee's autonomy, preserve Freedom of Choice requirements and reduce the potential for conflicts of interest, staff providing Children's HCBS cannot be immediate family members, individuals that are legally or financially responsible for the HCBS-enrolled youth/child, or an individual residing in the same residence as the HCBS-enrolled child/youth.

All staff providing HCBS must meet staff qualification requirements as outlined in the HCBS manual.

HCBS enrollees cannot receive HCBS from any of the following individuals:

- An immediate family member, which is defined as:
  - Parent (biological, adoptive, or in-law)/stepparent/foster parent
  - Grandparent or any variation (e.g., great grandparent, step-grandparent)
  - Child or sibling (biological, adoptive, or in-law)/stepsibling
  - Current or former spouse
- Any individual residing in/living in the home of the HCBS enrollee.
- An individual who is legally or financially responsible for the HCBS-enrolled child/youth which includes:
  - A Parent or Legal Guardian
  - Legally Responsible Individual (LRI)/ Legally Authorized Representative (An LRI is any person who has a duty under state law to care for another person and includes: (a) the parent (biological, adoptive, foster, or step) or guardian of a minor child or (b) a spouse of a waiver enrollee)
  - Individual who is financially responsible for the HCBS enrollee

Conflicts of interest are not limited to the list of individuals above and may exist in relationships beyond those included in this list. If a relationship with an individual, such as a distant relative or friend could affect the enrollee/family's freedom of choice or present a conflict of interest, then that individual should not provide HCBS to the enrollee. It is the responsibility of the Designated HCBS Provider to determine if a potential conflict of interest is present in a potential staffing relationship (due to family, social, personal, or other reasons) and make staffing decisions accordingly.