

Section 21 0159 Waiver Renewal

Stakeholder input for the waiver renewal began on July 24, 2014 with a kick-off meeting.

- Meetings were held with Stakeholders on September 16 and 17, 2014 with Speaking Up For Us (SUFU).
- September 24, 2014- Independence Association.
- October 15, 2014- Coastal Opportunities.
- November 17, 2014- Uplift, Inc.
- December 8, 2014- The Family Coalition.
- December 11 and 12, 2014- Case Managers.
- January 16, 2015- The Shared Living provider group.
- There are also Continuity of Care group meetings that happen every other Monday.
- Stakeholder input was received during an informal comment period August through September 2014. Comments were summarized and changes made.
- There are weekly stakeholder calls that started in October 2014 and continue currently.
- On February 3, 2015, Tribal Consultation was done, as well as a meeting with the MaineCare Advisory Committee on the same day.
- A meeting was held with SUFU on February 4, 2015.
- The waiver renewal was also a topic in the Quality Improvement Council (a function of the substance abuse and mental health block grant, participant committee) on February 6, 2015.
- The waiver renewal document was posted on February 5, 2015 and comments were accepted until February 20, 2015.
- A provider listserv and a public notice in five (5) newspapers with the highest circulation in the state was done on February 5, 2015 announced the waiver renewal.

This document is a summary of the comments received and changes made to the waiver renewal, during the period of Feb 5-20, 2015.

List of Commenters

1. Jamie Thomas
2. Dianne Beamish
3. Keith Curit
4. Denise Beaulieu, Program manager, Support Solutions
5. Meg Dexter, Senior Program Director, Charlotte White Center
6. Lynette Young, Executive Director, Danforth Habilitation Association
7. MaryLou Dyer, Managing Director, Maine Association for Community Support Providers
8. Catherine Robertson, Executive Director, Independence Advocates of Maine
9. Dianne Cote, Executive Director, Personal Onsite Development
10. Gail Fanjoy, CEO, KFI
11. Jennifer Jello, President, AWP
12. Anthony Zambrano, Executive Director, Downeast Horizons
13. Pamela Colson Power, CDMS, Amicus
14. Ann-Marie Mayberry, Executive Director, GMS
15. Todd Goodwin, Chief Executive Officer, Community Partners, Inc.
16. Heidi Mansir, Executive Director, Uplift Inc.
17. Pete Plummer, COO, Woodfords Family Services
18. Bridget McCabe, Associate Director, Residential Resources
19. Staci Converse, DRC
20. Cathy Chase, Program manager, TCMHS

21. Jan Bisbee, Program Developer, MERT Enterprises, Inc.
22. Valerie Smith, Executive Director, Maine Developmental Services Oversight and Advisory Board
23. Chuck Humphrey
24. Kim Humphrey

Supporting Individual Success (SIS)

1. The commenter requested that the change be reconsidered and that participants be provided staffing at the levels that they really need. The commenter also stated that residential homes are less expensive than institutional settings and that this change will cost more money. (1)

Response-The State recognizes that this is a big change however, doesn't believe that this will cost more money or make participants move to institutions. The State is continuing its efforts to emphasize community based services. There are systems in place for individuals where additional supports are requested to determine need. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

2. The commenter stated that she is concerned about the proposed change as she does not believe her son's SIS Level is accurate and requests a new assessment. The commenter stated that the level of care proposed for her son will not provide him the necessary levels of health and safety for himself and others in the community. (2)

Response-There is a review process that the participant, guardian or case manager can initiate if they have concerns about the accuracy of the SIS Level. These review processes are outlined in the proposed SIS policy and procedure manual. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

3. The commenter who receives Section 21 HCBS services stated concern that his hours would be cut and that he would not be able to access the community with the changes that are proposed. (3)

Response-The State has reached out directly to the participant to assist him with his concerns. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

4. The commenter stated that most of the SIS assessments are not accurate for her clients and that this will affect the number of support hours they will receive making for unsafe situations for clients and staff, as well as decreased opportunities for community inclusion. (4)

Response-The SIS is a nationally recognized, valid, and reliable assessment tool for assessing individual support needs that was developed by the American Association on Intellectual and Developmental Disabilities (AAIDD). The SIS was validated and normed by AAIDD over a five year period and directly assesses the needs of individuals with Intellectual Disabilities and Autism Spectrum Disorder in their daily lives. The service packages provide choice and flexibility of service that include community inclusion. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

5. The commenter stated that the system as proposed does not take into account participants who cannot leave the residential setting because the community setting staffing ratio does not meet their needs. The commenter said that providers are limited in accepting participants with high support needs as they use the resources allocated for others thus dismissing the participants with the most needs. (24)

Response-There is nothing that limits the Home Support from assisting the participant with access to the community. The Community Support rates provide from 1:1 to 1:5 are offered in community settings.

The participant can choose at any point in time to mix and match these ratios to meet their needs. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

6. The commenters attested to the assurance in Appendix C that no room and board money is paid by waiver participants for any participants. (5, 7, 9, 12)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

7. The commenter stated that the State should ensure a clear understanding of actual room and board costs and identify funding to offset these costs. The commenter stated that if room and board is excluded from waiver costs, other resources should be available. (15)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

8. The commenter stated that February 5 through February 20 was not enough time to offer comments on the waiver renewal. (6, 7, 9, 10, 11, 12, 16, 19, 24) The commenter asked the State to consider more time to understand and digest the changes and provide more avenues for additional and ongoing feedback. (24)

Response-There was a 16-day comment period; the Administrative Procedures Act requires a minimum of ten days to comment. The State had discussed offering a 30-day comment period however, due to timing issues could only offer the time period it did and still be in compliance with federal regulations. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

9. The commenter stated that she was unaware of any outreach done by the State to stakeholders, participants and families. (19)

Response-Representatives from the State met with the MaineCare Advisory Committee and the Maine Indian Tribes on February 3, notifying them of the imminent posting of the waiver renewal and the comment period. Of note, the Maine Association of Community Support Providers and the Disability Rights Center (DRC) representatives were present as well as participants and other advocates. An offer was made at that meeting to meet with any other group that was interested. A targeted email to participants of Speaking Up For Us (SUFU) was sent to the executive director with a request to forward it to all participants. Representatives from the State met with the executive director of SUFU to discuss the HCBS Transition plan, the waiver renewal, and how to engage and inform participants of the changes. As a result, SUFU is going to create consumer informational videos. Additionally, representatives from the State met with the QIC (the participant committee for the mental health and substance abuse block grant). A legal notice was placed in the five (5) largest circulated newspapers and distributed statewide. A provider notification was done notifying the waiver renewal, the comment period and the website to view the renewal and submit comments. There is a listserv that goes out at least once a week, and a monthly newsletter. A Family SIS mailing was sent out the second week in February to all participants and guardians, including those individuals on the waitlist. There is a weekly one hour open phone call for stakeholders every Friday to answer questions and receive comments. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

10. The commenter stated appreciation that the reauthorization process now includes public input and the work that goes into preparing an application for renewal. (7, 9, 16)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

11. The commenter stated that there have been many overwhelming changes recently and faces these new changes with apprehension but agreement on making the changes to strengthen individual participation. (19)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

12. The commenter stated concern about the roll out of the new system. The commenter stated that she heard that the new rates for Home Support will be implemented once all participants have completed the PCP process with the SIS but that Community Support will be implemented immediately and that the Support Waiver (0467/AKA Section 29) will not be changed. The commenter requested a detailed written plan for the transition to be shared with the stakeholder group. (7, 9, 12, 15, 16, 17) The commenter stated concern with the huge administrative burden that the transition plan assessment phase will require and that because the transition plan is vague, it is hard to accurately describe the real burden. (7, 9, 12, 14, 16, 18) The commenter stated concern that the transition to the new rates, and the details about how and when the system is going to be implemented, phase in, or transition to the new rates and service packages hasn't been communicated to stakeholders. (10, 14)

Response- As decisions are made the State is planning on sharing this information. More information will be available when the proposed State rule is released. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

13. The commenter stated the opinion that the proposed rate system/SIS models marginalizes the role of service providers, which is concerning as it's the provider that has knowledge that a reduction could lead to unsafe situations with a potentially dangerous outcome. The commenter stated that the provider would be remiss not to supply information when a participant cannot be safely supported. The commenter suggested formalizing the process for providers to communicate in a way that involves participants, guardians, and other team participants. (11)

Response-These changes ensure conflict-free choice for the participant. The guardian and participant, based on the identified criteria, direct the choice of the respondents. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

14. Additional needed information- This section of the waiver renewal application hold overflow from G.2.a.1.the commenter stated that they are unaware of any approved restraint techniques and would welcome the information. The commenter stated that, currently, providers utilize restraints systems that are not approved. (19)

Response-State of Licensing and Regulatory Services maintains the list and approves interventions as needed. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

15. The commenter wrote about his son, a young man dependent on 2:1 support who would be unsafe and unhealthy without care 24 hours a day, the commenter urged the State not to decrease his son's supports that currently allow him to be in a great spot and thriving currently. The commenter inquired what would happen if his son lost his current supports and then the programming fails. (23)

Response- If there are concerns that a participant's level-based budget is does not meet the needs as identified by the person or their guardian, then a request for review and approval could be made for additional services. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

Appendix A-Contracted Entities-

16. The commenter inquired what the future role of APS healthcare was as they were no longer listed in the application as a contractor. (22)

Response-The State has put references to APS back into the waiver renewal and APS will continue to manage the authorization system and will provide a role during the transitional period of the SIS implementation. The State thanks the commenters for their input and made no other changes to the waiver renewal based on these comments.

17. The commenter noted that the contract with GHS include performance indicators that if not met, reduces the contractors payment. The commenter recommended that the State consider this for all contractors. (22)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

18. The commenter stated surprise that the State was collecting and analyzing data and trends and wanted to know what office was performing these tasks. The commenter also inquired what data was being used in the identification of trends and additionally how often the State reviews the continuous and ongoing data aggregation and analysis to identify trends. The commenter further inquired if the data aggregation and analysis is continuous and ongoing and every six months, does this mean that the analysis only occurs every six months. The commenter inquired what the State does in response to identified trends. (22)

Response-The Office of Aging and Disability staff collect ongoing data for the purposes of compliance with CMS rule/regulation. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

19. Appendix B Participant Access and eligibility-The commenter stated support to see the increase in capacity yet stated concern that the unduplicated count and the maximum number of participants remains flat for the 5 years of the waiver and requested the rationale behind the decision to keep the numbers level. (7, 9, 12, 14, 16, 17)

Response-These number are based on the State's budget and the opportunity to ask for more funded openings is dependent on legislative appropriation. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

20. The commenter inquired what the figure for institutional costs are as the State no longer operates an ICF-IID, is the figure the average for Maine operated facilities, a national average or an average of states with similar demographics. (22)

Response-The institutional costs are based on the average for Maine operated facilities. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

20. The commenter noted that CMS only allows for one cost limit for an ICF/IID and suggested that CMS explore if greater equity could be achieved by allowing two cost limits, one for those living in or near a population center and another for those living in more remote areas. (22)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

21. Appendix B Reserved Capacity-The commenter inquired why the number decreases in years 2-5, to help persons in adult protective situations. The commenter inquired why there were no numbers in years 1-3 for allowing children in transition. The commenter noted that the reserved capacity for children in

residential placement, the reserved capacity is based on out of state placements. The commenter stated that there are a number of children in residential placements that will be eligible for the waiver. (19)

Response-This was a typographical error and has been corrected.

22. The commenter stated belief that the number reserved for participants moving out of an institution is too low and that more participants would like to move into the community as this is the same number as six years ago. The commenter stated that there are nine names on a waiting list and this means that participants in institutions will wait at least two years for a funded opening. (19)

Response-This number represents the minimum number of participants that are offered services: however, when more funding is available, the State can consider additional participants. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

23. The commenter recommended changing the number of participants who would like to move into the community from an institution to match the number listed in the renewal application. The commenter also suggested that a process be developed to assess individuals currently in institutions for community placement. The commenter also suggested developing a process to inform individuals and their guardians of the right to choose community placement. The commenter stated that some individuals in a nursing facility and their guardians are unaware of their rights to community placement. (22)

Response-This number represents the minimum number of participants that are offered services, however, when more funding is available, the State can consider additional participants. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

24. The commenter urged the State to review its waitlist protocol as there are problems with people who appear to have an emergent need for services but are not in the first priority. The commenter offered situational examples of someone being released from jail, homelessness, and participants whose aging parents can no longer care for them. (19)

Response-The State feels that the priorities serve those most in need but is open to future conversations. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

25. The commenter stated support for the changes and the increased choice for participants. (8)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

26. The commenter stated that background checks provide for two types of substantiations, Level I and Level II, the commenter stated that only Level I are revealed, and recommended Level II's also be revealed so that a provider is not employing persons with Level II substantiations. (15) The commenter stated that in Appendix C where it states that the State does not conduct abuse registry screenings is a mistake. Providers serving children may access the abuse registry. Maine does not have a statutory mechanism for adult providers to access the child abuse registry. The commenter stated that this is a travesty and that he would hope that the State would help ensure that staff would have a full and clean complement of background checks. (15)

Response-The State agrees that health and safety is important and is reviewing changes. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Service specific and staffing requirements comments

27. Direct Support Professional-The commenter stated that the allowance for staff to become certified within six months of hire has been removed and asked that it be added back in for all Direct Support Professionals (DSP) as the six months is important to the staff person to integrate and put into practice the lessons from the modules without any context of the material. Requiring the Direct Support Professional certification up front slows down the hiring process and requires a large investment of money before the agency and the staff know if the position is a good fit. (5, 15) The commenter requested more flexibility for in achieving compliance with the training requirement. (7, 9, 12, 14, 16, 18)

Response-Direct Support Professionals are allowed six months to become fully certified; there have been no changes to this requirement. Please refer to the State rule governing the policy. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

28. The commenter inquired about the appeal process is to challenge the SIS score. The grievance procedure does not mention the ability to grieve a SIS score. (7, 9, 12, 14, 16, 17)

Response-A participant can grieve any action of the State. The SIS score is not appealable but the service authorization is appealable. The assignment of a score and a corresponding level is not appealable as it doesn't reduce terminate or deny a service. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

29. The commenter inquired if the Direct Support Professional online training was accessible to screen readers or other accessibility tools. The commenter stated hope that such accommodations are available for those who need it. (22)

Response-The provider agency must provide any accommodations for staff. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

30. Medications-The commenter stated that there is no mention of certificate for medication administration for Direct Support staff in the renewal application and recommended that the language requiring certification to pass medications be added back in and six months from date of hire be given to obtain certification. (5) The commenter stated that the phrase medication oversight to the extent permitted under State Law is worrisome and that a Shared Living was successful because of the reduced requirements as medication in the past had been delivered by a specially designed course approved the State. The commenter requested that the course would still be approved to ensure a cost effective popular service. (7, 9, 12, 14, 16, 18)

Response-The State has reviewed appendix G.3. Medication training as approved by the State is noted in the Section 21 State rule. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

31. SIS Levels-The commenter stated that the staffing hours offered for Levels 2&3 and 4&5 are the same but there are great differences in the participants needs among the various levels. The commenter asked what the assumptions were to make the staffing the same when some participants received a different number based on their needs. The commenter stated that the staffing allotment is insufficient. (6)

Response- There are five SIS-based Levels but only three different rates for services with tiered rates. Level 1 receives Tier 1 rates, Levels 2 & 3 receives Tier 2 rates and Levels 4 & 5 receive Tier 3 rates. The Levels are designed to provide meaningful descriptions of the individuals assigned to each, but the State believes that the necessary staffing ratios for certain levels are similar so five different rate tiers are not necessary. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

32. The commenter stated that these changes will result in reduced service to participants. The commenter stated that Level 3 participants are the least likely to receive the support that they need according to the validation study report by HSRI. The commenter inquired if these participants who can only have 40 hours of Home Support-Quarter Hour and 24 hours of Community Support would be forced to move into a group home. The commenter stated that the State should be pushing for less restrictive settings to achieve greater independence. The commenter inquired about the justification for lowering the cap. (10)

Response-- Part of the decision making process for all services packages entailed a review of the current utilization. When there are concerns that a participant's Level-Based Budget does not meet the needs, then a request for review could be made for additional services. Those participants receiving quarter hour supports would have the flexibility to spend their base budget by moving additional hours from Community and Work Support hours as they choose. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

33. The commenter stated that policy needs to allow a participant to request a review of their SIS Levels because something was not right. The commenter stated that during the initial SIS evaluations, the role of the SIS evaluation was downplayed, participants believed the SIS was advisory (and have now be told otherwise) and would not affect funding. As a result, many guardians did not attend the SIS assessment and much information was not conveyed to the SIS assessor. The commenter stated concern with the SIS validation study. The commenter recommended allowing grievances for SIS Level assessments that participants feel are not right. (11, 13)

Response- There is a process to initiate a review based on concerns that a guardian was not appropriately consulted or involved in the SIS assessment process. As most initial SIS assessments were completed in 2012, these SIS assessments will be due for a renewal this year and will be completed as part of the phase in process. It is required that Guardians be contacted about the SIS assessment and provide input into the composition of the respondents. Guardians must be present unless they wish for the SIS Assessment to be completed in their absence. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

34. The commenter inquired about the role of the annual BMS-99 with the new SIS Levels that are only administered once every three years. The commenter inquired about potential discrepancies between the two tools. (11)

Response-The BMS 99 is used to establish medical eligibility while the SIS is used to determine support needs and establish resource allocation. Both are necessary and serve separate functions. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

35. The commenter stated that the new rate models are based on the assumption that participants are out of the home some of time during the week. The commenter stated that this assumption does not take into account participants who have no access to Community Supports due to a waiting list for the service or who have high medical or behavioral needs or who have been discharged from a program due to disruptive behavior. The commenter stated that there are participants who will have high support needs that will require support at home during the hours assumed to be out of the home. The commenter stated objection to the assumption that everyone has to go to a program in order to achieve meaningful community integration. The commenter stated that not all meaningful relationships are developed within the structure of a day program. (11)

Response-The State recognizes the concerns presented by this commenter. Nothing in this rule prohibits the Home Support provider from assisting the participant with accessing the community. Furthermore, the State requires that any time a participant is in a residence that a staff person is present. There are

additional services outside of the level-based budget that may be appropriate for the participant to access such as QESS and Skilled Nursing upon request and approval of the ERC. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

36. Assistive Technology-The commenter inquired how the limits were determined. (7, 9, 12, 16) The commenter stated support for this service and hopes that the limits are reasonable and will meet the needs of participants. (10) The commenter recommended a more flexible cap on the services. (19)

Response- In order to provide consistency among HCBS waivers, the decision was made to be consistent with Section 20. The State is open to review utilization of this new service and make adjustments in the future. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

37. Assistive Technology- The commenter stated that the additional credentials required, while appreciated, were an unrealistic burden to agency providers and complicates a service that would otherwise be a good service for participants. The commenter inquired if any assessments on the workforce were conducted on the availability of staff with these credentials. (11)

Response-The State considers that the current credentials are appropriate for this specialized service. With this newer service, the State supports expansion of the capacity to provide this service. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

38. Career Planning-The commenter inquired why there is a limit that no two six month periods may be provided concurrently and why is there an annual limit of 15.25 hours per year. (7, 9, 12, 14) The commenter stated support for this service and thinks that participants will benefit once provider capacity has filled out. (10)

Response- Career planning has an annual limit of 60 hours. The rule and application reflects that this service may not be delivered in two six month periods consecutively. The State supports expansion of the capacity within this service. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

39. Communication aids-The commenter inquired if this service includes a training period once the AAC device is obtained or is the training period addressed under Consultation. (22)

Response- If the device is obtained through Assistive Technology; it would include a training period for the AAC device and any applicable needs. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

40. Community Support- The commenter stated that the ratio of 1:5 is unrealistic and insufficient as the participants require more support than this ratio provides for. The commenter stated that \$3.91 a quarter hour is insufficient if the staff to participant ratio changes. (6) Community Support-The commenter stated that the staff to participant ratio is moving from 1:3- to 1:5. The commenter stated that this forces large groups into the community reducing true community integration. (19)The commenter stated that the differential in rates between facility-based and community-only services is concerning. The commenter stated understanding of the presumption of higher staffing ratio in a less-controlled environment. The commenter inquired if this was to encourage participants with higher support needs into a day activity. The commenter inquired if five high needs participants are safer in a small space at a center during peak activity. The commenter proposed that there be one rate for Community Support no matter where the activity occurs. The commenter stated that rate should be sufficient for Community Support programs to sustain themselves and provide quality programming. The commenter stated there is no need for the differentiation especially given the administrative burden of tracking activity and billing two separate rates. (11)

Response- The ratio of 1:5 is the maximum participant ratio to one staff person. This can be provided in any combination between 1:1 and 1:5 and allows for flexibility and choice of the participant. For Community Support, there are Facility-based rates and Community-based rates to allow flexibility for the participant in choosing both options. The Facility based rate is lower due to the assumption that staff to participant ratios will be higher in a facility based program. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

41. Community Support- The commenter stated that there was a typographical error on page 45 Community Support provider enrollment allowing Independent Direct Support Professionals to enroll in MIMHS. (11)

Response-Individual Direct Support Professionals have been removed from the waiver renewal from Community Support, Employment Specialist Services, Home Support-Per Diem, Work Support-Individual, and Work Support-Group. There was not a typographical error in this section of the waiver application; however, the State chose to remove these provider types. The State checked and there were no Independent providers enrolled and as such there will be no impact on participants. The State thanks the commenter for their input but has made no other changes to the waiver renewal based on these comments.

42. Community Support- The commenter stated that the majority of Community Support providers operate Monday through Friday and this will limit a participant's ability to receive support services on the weekend. (11)

Response-This is a provider's business decision, nothing prohibits Community Support being delivered on the weekend and the State encourages individualized supports to be delivered. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

43. Community Support- The commenter inquired what constitutes a Center-based versus a Community-based model. The commenter stated that the program she works with has participants in the community 80% of the time but that she knows of another provider who is considered community based but uses an agency facility a portion of the day. The commenter inquired if the rates will differ with the different setting or activity a participant receives during the day. The commenter stated that more parameters are need for a better definition of community based support consists of. (20)

Response-Community Supports can be provided within a group or individually. These services are outside the participant's home and in the community. Community Supports are fully integrated and supporting full access to the community. The service supports opportunities for competitive employment, engaging in community life, control of personal resources and receiving services in the community. Access to the community must be the same as individuals who are not receiving MaineCare Home and Community Based services. The State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

44. Consultation-The commenter inquired what the rationale for limits on Consultation are and that the limit of 16.50 hours per year renders an important tool useless. (7, 9, 12, 16, 17) The commenter stated that the limit is too low, especially for participants with a severely intrusive behavior plan who may see a psychologist once a month. That leaves only 4.5 hours per year to receive Consultation in the other disciplines. (19) The commenter recommended lifting the limits on Consultation. (24)

Response-Consultation is available 16.5 hours per discipline. Consultation is also available under the State Plan. The State thanks the commenters for their input and clarified in the waiver renewal that each type of Consultation has a limit of 16.5 hours but has made no other changes to the waiver renewal based on these comments.

45. Counseling-The commenter inquired about the rationale for limits on Counseling, and that the limit of 16.25 hours per year renders an important tool useless. (7, 9, 12, 16, 17)

Response-Counseling is also available under the State Plan. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

46. Crisis Intervention Services- The commenter request that Crisis Intervention be authorized for longer than two weeks by the State personnel based on the unique needs of an individual. (5, 7, 8, 12, 14, 16, 17, 24) The commenter requested why this was changed. (7, 9, 10, 12, 14, 16, 17)

Response-There has been no change in the waiver renewal service in the renewal application. Services can be authorized for longer than two weeks if needed. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

47. Employment Specialist Services-The commenter inquired why the minimum of one year of experience working with people with intellectual disabilities in a work setting is required. The commenter stated that this may limit the employment pool as direct care staff may have experience working in another setting such as residential or community support setting but not a work setting. The commenter recommended allowing other settings for experience as well as a work setting. (5, 7, 8, 9, 12, 16) The commenter recommended mentoring or on the job training instead of the year of experience in an employment setting. (7, 9, 12, 16)

Response-These are specialized services that require this experience; this is not a change in the waiver renewal. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

48. Employment Specialist Services-The commenter inquired if transportation is included in the rate paid for the service, how participants go to work if the Employment Specialist Services staff is not scheduled to be there at the beginning or end of the participant's work shift. The commenter inquired because they have heard that some participants have the service simply for the ride to work and back. The commenter stated that she hoped this was a misunderstanding and not actual practice. (22)

Response- In the rate for Employment Specialist Services, travel time and mileage are factored into the rate calculations. The cost of transportation related to the provision of Employment Specialist Services is a component of the rate paid for the service. The State appreciates the commenter's feedback about the use of Employment Specialist Services and will take these comments into consideration. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

49. Employment Specialist Services-The commenter inquired if there was an additional training component for staff to build expertise in supporting participants with sensory differences and non-traditional communication styles and strategies to support others in the job site to engage with the participant being supported. The commenter stated that she knew of a number of concerns raised by participants during the annual public feedback series in 2013 and 2014. (22)

Response- There is a training component built into the rate calculation of this ESS services. The use of this training time is not prescribed by the State and could be utilized to address the query by the commenter. The College of Direct Support offers additional modules available staff as needed. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

50. Home Support-Remote Support Services- The commenters inquired what is meant by "a thorough evaluation of all Assistive Technology will be completed prior to the finalization of the Personal Plan

with the assistance of the Case Manager and use of appropriate Assistive Technology consultants”, what is meant by a thorough evaluation. (5, 7, 9, 14, 16) The commenter requested guidelines for a thorough evaluation. (7, 9, 12)

Response-An Assistive Technology Assessment must be completed by an Assistive Technology consultant (ATP) and reviewed by the case manager and team prior to the person-centered planning meeting. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

51. Home Support-Remote Support -The commenter stated that in the service definition of Home Support-Remote Support. There is a descriptive paragraph of the types of Home Support that are available and inquired why this language is there. (5, 7, 9, 12, 16, 17) The commenter offered assistance with the service definition and suggested division of the 6th paragraph by the types of support and the sentence that begins...”There is no overlap...” should be its own paragraph. (7, 9, 12, 16, 17) The commenter further inquired about the language “with not more than 4 participants” in regards to limiting the size of group homes and that C-2 in facility specifications Assisted Housing Levels II and III define facility capacity as 3-6. The commenter stated that this language seems contradictory. The commenter inquired if 5 and 6 bed homes would be grandfathered. (7, 9, 12, 14, 16, 17, 18) The commenter stated that they were considering opening 5 bed homes. (17)

Response-The numbers associated with the Assisted Housing levels are what the Division of Licensing and Regulatory Services allows for a range of clients. The Waiver Renewal application states that this is “usually” provided in a facility with not more than four participants; however the State recognizes we have larger facilities. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

52. Home Support (per diem) -The commenter inquired the meaning of the phrase “Home Support (per diem) is for a participant who requires 24/7 care usually provided in a provider own facility with not more than 4 participants”, the comment inquired how the word usually is to be interpreted. The comment inquired if it was the State’s intent to no longer allow homes to have more than 4 individuals in a residential group setting. The commenter inquired what will happen to the existing homes that have more than 4 people in them now. (5) The commenter stated that the information in appendix C that states “there are three or four sites in Maine with a six bed capacity, all other sites are four beds or fewer”. The commenter stated that his agency has two licensed group homes with 5 beds and inquired if he should discharge one participant from each home. (15)

Response-The State does not expect that those with five bed homes discharge a participant to make it a four bed home. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

53. Home Support (per diem)-The commenter stated that the description of this service does not include the requirement to maintain 92.5% of authorized staffing hours in order to bill the full rate. Additionally, the commenter noted that providers have not been advised about the specific decrement methodology to be used if the 92.5% threshold has not been met. The commenter inquired how not meeting the 92.5% of authorized services provided will be administered. (15)

Response- No changes will be made to current process in place now that deals with not meeting service provision requirements. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

54. Home Support-Remote Support -The commenter recommended adding specific additional measures to ensure participants’ privacy, including explicit policy not allowing a guardian to consent to remote

support on behalf of the participant and assurances that the participant can turn off the remote support at any time. (19)

Response- The authorization of the Home Support-Remote Support is based on a Health and Safety assessment to ensure the appropriateness of the service. The State appreciates the commenter's recommendations and will consider them. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

55. Home Support-The commenter stated that the proposed rate reductions will have a significant and negative impact due to reduced staffing in homes. The commenter stated that one participant homes will no longer have the option of 24-hour Seven day a week support. The commenter stated that at times one participant homes are appropriate and necessary. The commenter stated that some participants may have to get a roommate or move. The commenter requested the ability to grandfather participants for who a one person placement is appropriate to avoid disruption unnecessarily. (11)

Response-The State maintains that the proposed rate structure for current one person placements provides for appropriate level of staffing. Participants and their identified guardians will have a process to request additional staff supports. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

56. Home Support-The commenter stated that participants who currently receive Home Supports Quarter Hour will have services drastically cut under the proposed renewal. The commenter stated that these individuals may have to move to a more restrictive setting. (11)

Response- Part of the decision making process for all services packages entailed a review in the current utilization. The State does not intend to force anyone into a group home and are supportive of less restrictive setting and greater independence for participants. If there are concerns that a participant's level-based budget is does not meet the needs as identified by the person or their guardian, then a request for review and approval could be made for additional services. People receiving Quarter Hour supports would have the flexibility to spend their base budget by moving hours from Community and Work Support hours as they choose. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

57. Home Support-The commenter stated that participants in multi-person group homes may experience a decrease in staffing resulting in missed appointments. The commenter stated that under the new rate model, some three (3) person houses have only 3 1:1 hours per week, due to participants with behavioral challenges. The commenter stated that participants would lose access to the community and isolate individuals. The commenter stated concern with adequate staffing resulting in dangerous situations that could have been prevented due to the staff participant ratios under the new rate structure. The commenter stated that the limits do not provide for a second staff person for participants with high behavioral support needs. (11)

Response-It is hard to respond without knowing the details of the individual situation. The State is happy to discuss individual situations with any provider or member. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

58. Non-Traditional Communication Assessment-The commenter asked for an explanation of the 40 units limits of this service. (7, 9, 12, 14, 16) The commenter recommended reconsidering the limit on this service. (24)

Response-Based on review of utilization, the State feels this limit is appropriate. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

59. Qualified Extra Support Service- The commenter stated that the service description states that this service will be only available to participants who need a level of support that exceeds 100% of combined staffing expectation in the rate for that residence. The commenter inquired if 100% of combined staffing will be all the hours for all the services within the service package, meaning is this total inclusive of Home Support, Community Supports and Work Support. (5, 7, 8, 9, 10, 12, 14, 16)

Response- The expectation would be that the 100% would be staffing of the residential or home support hours and not necessarily inclusive of the Community and Work Support Hours. However, the Extraordinary Review Committee will be looking at the utilization of the available level-based budget to determine if opportunities exist within work and community supports that are not being accessed prior to approving Qualified Extra Support Service or Skilled Nursing services. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

60. Qualified Extra Support Service-The commenter inquired if the requirement to complete a positive support intervention module could be completed by the Direct Support Professional curriculum that includes a positive support module both on line and in the live classes. The commenter inquired if this is an additional requirement or if it was the same one as the module that staff receive when they complete the Direct Support Professional training, why would staff need to complete this module again. (5, 7, 9, 12, 14) The commenter inquired why staff supporting people with high medical needs would need the specialized mental health training and why would people with high behavioral needs and few medical needs need staff with this training. (7, 8, 9, 10, 11, 12, 14) The commenter offered an example of a participant who is physically disabled, Intellectually Disabled, blind, in chronic pain and requires the use of a wheelchair. The participant is also intolerant to cold and there for unable to access the community for the 25 hours per week allotted for Work or Community Support but only has 64 hours per week authorized for Independent Living Supports under the new proposed system. The participant's family does provide overnight support. This will fall far short of the necessary hours of support needed to remain in the community. QESS could support the participant but the participant doesn't need behavioral support and so won't qualify for the service. (10) The commenter stated that participants with high medical needs don't require a staff person trained in behavioral health as that is not relevant. (16)

Response- Although the positive behavioral support module is part of the College of Direct Support Direct Support Professional training, it will not be sufficient to meet this requirement. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

61. Qualified Extra Support Service- The commenter stated support for the addition of this service but that there are too many costly training requirements (3 years' experience) that are a burden with this service and the requirements should be tailored to the specific needs of the individual being supported. (7, 9, 10, 11, 12, 13, 15, 16, 17, 21) The commenter inquired if there would be a reasonable transition period for compliance with these qualifications. The commenter stated that there is not funding for these additional staffing requirements. (10, 12, 14, 18) The commenter stated that the new proposed rates do not include training costs to the provider for training staff. The commenter stated that the training costs are exorbitant and do not include the staff wages to attend the trainings. The commenter inquired how the training qualifications were decided on. The commenter stated doubt as to whether or not providers would train a staff person with the qualifications until funds are approved. (11)

Response-The State appreciates the recommendation of a transition period to comply with training requirements of staff and will consider this. The State believes that for a specialized services such as Qualified Extra Support Service, that it is necessary to expect a higher level of experience and training. This service is not designed to just add additional staffing hours, but to provide support and training to current staff. Qualified Extra Support Service is not designed to be a service provided indefinitely and will be subject to regular review and a re-approval process not to exceed 12 months.

The State recognizes that this is an additional training requirement for agencies to take on and have incorporated training expenses into the rate models associated with this service. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

62. Qualified Extra Support Service- The commenter stated that her agency currently supports multiple participants with significant behavioral and medical support needs, provides the required training for Direct Support Professionals and 24 hour CRMA and additional training. The commenter stated that her agency utilizes an RN and consultants in specialized areas as identified per participant to train staff in specialty areas. The commenter stated that turnover of direct support staff, low wages, and high expectations already create limits on staff resources. The commenter stated that the qualification expectations are concerning and seem unduly oppressive and limiting. The commenter stated issues with the provider qualifications; Direct Support Professional with no identified time frame to attain, minimum of 3 years previous experience, which is a new requirement, Behavior Intervention Certification, which is a new requirement, with no identified time frame to attain, Positive Behavioral Support, which is already covered in Direct Support Professional curriculum, Medication Admin Certificate, currently 24 hour or 40 hour Certified Residential Medications Aide is not distinguished, Mental Health Rehabilitation Technician, again new requirement which doesn't address medical issues. (18)

Response- Qualified Extra Support Service is designed to address behavioral support needs whereas Skilled Nursing for persons with Intellectual Disabilities and Autism Spectrum Disorder is designed to address higher medical needs. The training requirements are put in place to expect a higher level of experience and training to those participants who have demonstrated an extraordinary support need. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

63. Qualified Extra Support Service-It is already difficult to recruit staff and our experience is we have been successful in training inexperienced staff to provide quality services without these additional expectations of training. We also need to be able to up-train staff to specific needs as they happen. In specifically mentioning Positive Behavioral Supports, Reportable Events, and Behavioral Regs, will these be in addition to these topics already included in Direct Support Professional modules. The commenter stated that the additional training will not be feasible until there is a participant that requires the service due to costs of the training and this may leave the participant not able to get the service because of not having trained staff. The commenter inquired if there would be a clause that would all a provider to provide and bill for the service while staff complete the training. The commenter stated that two staff would need to be trained if a participant needed the full 40 hours a week spread over seven days a week or for when staff needed to go to a training or time off. (5) The commenter inquired if there would be a transition time to allow staff to obtain the requirements needed to provide the service. (7, 8, 9, 10)

Response- These are additional training requirements and, as stated above, are believed to be a necessary part of a specialized service to meet higher support needs. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

64. Qualified Extra Support Service-The commenter inquired how the limit of two thousand eight hours per year, 40 hours per week was developed. The commenter stated that this limit is arbitrary. (7, 10, 12, 14) The commenter inquired how would outliers be handled, that is someone who needs more than 40 hours per week of support. (8) The commenter inquired what the formula was to arrive at this limit. (14, 16) The commenter stated that this service is unreasonable limited and will not support participants. The commenter recommended supporting the neediest. The commenter inquired how the outliers would be supported. (24) The commenter stated that this service will not be enough to support a participant that need a second staff during all waking hours as the limit is 40 hours per week (two thousand eighty hours per year). (11) The commenter stated confusion how this service would interact with multiple participants

in a home with different levels, the commenter inquired why there is a limit rather than eligibility for the service based on need. (18)

Response- This is a specialized service to help address higher support needs through additional support and training on a short-term approval basis. This is not a service meant to add permanent additional support hours to the staffing plan for a participant. This limit of two thousand eight hours per year, 40 hours per week, was determined by several factors. These factors include fiscal impact; potential support needs for those who would qualify for extraordinary support, the validation study data and data collected by Burns & Associates. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

65. Qualified Extra Support Service-The commenter stated that the paperwork requirement for this service is burdensome and ridiculous for participants with high need with little change over time. The commenter questioned if the SIS is readministered every three years, why the assessment for Qualified Extra Support Service required every six months. (11)

Response-The Qualified Extra Support Service request process will be the same requirement for all participants initially and will include documentation requirements to demonstrate a higher level of support need that cannot be adequately addressed through other means or supports. The Qualified Extra Support Service is approved by the ERC and approval and review periods are set by the Extraordinary Review Committee dependent upon the participant's circumstances and needs. The Extraordinary Review Committee can set a re-review of the approval between 3-12 months with the maximum approval being granted for one year before re-review. This service is not designed to be a permanent addition and therefore is subject to regular review and approval of demonstrated continued need. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

66. Qualified Extra Support Service-The commenter stated support for this service. (22)

Response- the State thanks the commenter for their input but has made no changes to the waiver renewal based on these comments.

67. Respite-The commenter stated including Respite in the waiver is a positive step and may delay more comprehensive and costly services. (7, 9, 10, 12, 16)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

68. Semi-Independent Supported Living-The commenter stated support for this service, however, feels that it is too limiting. The commenter suggested that remote monitoring be allowed to be used while this service is being provided as a 5 minute response time is unreasonable especially if staff are providing service to another participant at the same time. The commenter stated that her agency uses a combination of Home Support, personal Support services and remote monitoring to provide 24/7 oversight to the participants that they support. The commenter suggested fifteen to thirty minutes as a reasonable response time. (5) The commenter inquired what the rationale for a five minute response time is. (7, 9, 10, 12, 14, 15

, 16, 18) The commenter suggested altering the language to allow for flexibility at the provider level and accountability statements from providers how they will ensure timely responses to participants. (15)

Response-The waiver renewal has been changed to state that staff will be located on the grounds of the apartment building or other structure at all times. The State thanks the commenters for their input but has made no other changes to the waiver renewal based on these comments.

69. Semi-Independent Supported Living-The commenter inquired what “no other type of Residential Habilitation is available at the same time” means. (7, 9, 14, 16)

Response- This means that no other Home Support Service, Family-Centered Support or Shared Living can be offered in conjunction with Semi-Independent Supported Living. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

70.Semi-Independent Supported Living-The commenter expressed concern that with such little information available on this new proposed service, that there is concern that segregated apartment buildings and provider limits will be encouraged, although it appears to integrate participants into the community. (19)

Response- This service will be required to comply with HCBS setting guidelines and will not be allowed to be segregated apartment buildings. This service is proposed to be integrated into community setting for example three-five apartments in a larger community apartment building of twenty apartments. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

71. Skilled Nursing-The commenter stated that there are only 50 DDNA certified nurses in the State and inquired if there was a directory that can be accessed as to who has the certification. The commenter stated that most of these individuals are already employed and so questions the availability of qualified staff to provide the service. The commenter inquired if there was an analysis done as to where these DDNS individuals are located. The commenter stated that this service will not be accessible to participants. (5) The commenter inquired how many nurses in Maine have the DDNS certification. The commenter stated that providers have been running ads for months with no applicants. The commenter stated that this certification is costly both monetarily and time-wise. The commenter stated that this DDNS is not required for staff who work for an ICF-IID. The commenter stated a combination of mentoring, training and on the job practice could be substituted for the DDNA certification. (7, 9, 12, 14, 15, 16, 19)

Response- Much like Qualified Extra Support Service, Skilled nursing service is a specialized service with specialized training requirements that must be met. This service is designed to address extraordinary medical support needs for those participants on the HCBS waiver. This service is also designed not to be a permanent additional service but to provide skill building, training and mentoring in cases where this is applicable to current staff providing care for a participant. The State recognizes that this is an additional certification requirement, however many of the nursing staff already employed by agencies will meet the requirements to sit for the test and obtain certification as a DDNA nurse. There will be no change to this requirement in the waiver application.

72. Skilled Nursing-The commenter stated that the DDNA certification is unnecessary as it is the direct care staff that provide the service are trained specifically with the individual who then works with the medical professional to ensure the appropriate care for the participant. (18) The commenter stated that the nurse who employs would need another 2 years to become certified as a DDNA and therefore, they will have to contract with a DDNS certified nurse or not be able to provide the service. (5) The commenter stated that the DDNA certification is unrealistic and that years of experience should be considered. (6) The commenter inquired if there could be a timeframe built into the waiver to obtain the DDNA over time. (8)

Response- Currently nursing staff that are working with IDD & ASD populations are eligible to sit for the DDNA certification test after completion of 4,000 hours of active practice. Many of the current nursing staff employed by agencies will qualify immediately for application to become a DDNA nurse and will be able to sit for the test. The State has taken these comments under advisement and are considering

timeframes to complete such certifications. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

73. Skilled Nursing-The commenter stated that an annual cap on this service would be better as nursing is usually used after a discharge from the hospital as a short term intervention not as an ongoing weekly service. (6) The commenter stated that the weekly limit of \$265.00 is not adequate to provide services to the participants safely in the community. (7, 8, 9, 12, 14, 16, 19) The commenter stated concern with the Skilled Nursing limits and inquired if the limit should be determined by the participants need rather than capped. (18) The commenter encouraged flexibility in the cap for this service. (19)

Response-The State appreciates the comment and recognizes that there may be individuals who are better served by other nursing assistance such as Section 96 services. This Skilled Nursing service is designed to be supportive, provide training and oversight to assist staff currently providing care to a participant, and is not designed to replace all medical care. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

74. Skilled Nursing-The commenter stated that it appears that the State was depending on LPNs providing the majority of the services based on Appendix Js calculations. The commenter stated that only RNs can provide some of the services, there are fewer LPNs in Maine than there are RNs. The commenter requested the rationale behind this split. (16)

Response-Appendix j is estimated usage but the anticipated usage does not limit a member to only be able to use an LPN. If the numbers are drastically different, the State will amend the waiver. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

75. Skilled Nursing-The commenter stated they employ licensed practical nurses who are highly trained and provide service above and beyond the CRMAs employed by the agency. These LPNs also have their Direct Support Professional certification and are supervised by registered nurses.

Response- Thank you for this comment. The State recognized that several agencies already employ nursing staff that are highly experienced with Intellectual Disability and Autism Spectrum Disorder populations. The DDNA certification is available to all Registered Nurses and Licensed Practical Nurses (LPN) who have completed 4,000 hours of work within this population and who have successfully passed the exam to be certified as a DDNA nurse. The State believes that many of the currently employed Registered Nurses and LPNs will qualify to become DDNA nurses. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

76. Speech therapy-The commenter recommended expanding access to speech therapy. (24)

Response-the State is willing to enroll willing and qualified providers to provide services. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

77. Speech Therapy maintenance-The commenter inquired whether this service includes non-traditional communication maintenance support. (22)

Response-No, Non-Traditional Communication is a different service. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

78. Transportation-The commenter inquired if the cost of transportation is a flat rate across regions or are there differences in transportation allowances based on the geographic location. The commenter stated that transportation in Portland may be less expensive than places like Patten. (22)

Response-The cost is a flat rate across the State. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

79. Work Support-The commenter stated that mobile work crews and enclaves are not allowed in Maine and this is a good thing. (10)

Response-Currently this is allowed under Work Support group but this will change in the future. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

80. Work Support-The commenter recommended that the State remove the allowance of sub minimum wage and to promote only paid work at minimum wage or higher. (19)

Response-The State continues to strengthen language in support of individual community integrated employment at or above minimum wage. The State is currently an active participant in Employment First activities which will provide recommendations to the legislature in this area. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

81. Work Support-The commenter inquired that if the cost of transportation is included in the rate paid for the service, what do participants do when the service is provided intermittently, how do the participants go to work if the work support staff is not scheduled to be there at the beginning or end of the participant's work shift. (22)

Response-If the Work Support provider is providing the transportation to work, it is included in the rate. The State continues to work through questions about participants accessing transportation to and from work. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Limits

82. The commenter stated that the limits for the services that are in the waiver application are different than the information given to providers from the state on January 5, 2015 and asked for an explanation. (5, 15)

Response- There was an updated proposed Rate Model book released in February that outlined these changes. It can be located on the website at: <https://www.maine.gov/oads>. The waiver renewal application reflects the changes in limits based on the most recent documents. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

83. The commenter stated concern about the limits placed on services; Home Support, Community Support and Work Support, and all services. (7, 9, 14, 18) The commenters recommended raising the caps for Community Support and Work Support, and modify budgets to incentivize independent living and encourage flexibility to accommodate the diverse needs of participants who use these services. (19) The commenter stated grave concern with the new limits and the inability to receive 1:1 services such as her son who has extremely high needs. The commenter stated concern with making changes and endangering participants and heading down a course that will be hard to correct. (24)

Response-The service packages allow for an individual's decision based on their desire for Community and Work Support. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

84. The commenter stated concern with the limits, particularly with "Individuals living with an unpaid caregiver" who would only receive 109 hours of service and "Individuals living independently" who

would only receive 45-90 hours of service and stated that these limits are a profound reduction in services. The commenter stated that focus on low budgets will steer people away from these types of living arrangements and toward agency homes that foster dependence. The commenter stated that non-residential home support is the only service that separates services and housing, which is important as it allows various living arrangements who are not service providers. These individuals are a minority, the rest of which are generally required to give the provider all but \$50.00 for room and board which guarantees a life of poverty. The commenter stated that non-residential home support budgets are too low. The commenter stated concern that the cap is so low individuals will forgo community or work support to ensure their residential needs are met. The commenter requested that the limit be changed so that participants can receive 84 hours per week and community support, work support and respite as well. (19)

Response-The State supports the most integrated setting that the participant chooses to live in. There is a process for participants who need more services. The development of the service packages were based on current utilization. If utilization shows that more services are needed, the waiver will be reviewed and possibly amended. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix D

85. Case Manager Qualifications for service plan development-The commenter stated concern with the requirement of a BA or BS in social work or social welfare and this will be a great hardship due to the shortage of qualified workers. (7, 9, 10, 12, 14, 16, 21) The commenter stated that it is doubtful that the increased qualification will stop personnel turnover. (10) The commenter inquired why occasional overnight travel or unplanned overtime is included in the requirements of a case manager and why are these tasks relevant to the description of activities The commenter stated that the requirements seem limiting. The commenter inquired why these requirements are more restrictive than previously. (18)

Response-There has been no change in this qualification. The State feels these requirements are appropriate. The waiver application has been changed to allow for more college degree types to be allowed. The State thanks the commenters for their input.

86. The commenter stated concern that participant's services and needs will not be thoroughly addressed by case managers based on the training, tools, and resources being provided to case managers given the demands of the SIS process, new rate system, service options and definitions, and complexity of the budget options. (18)

Response- To date case managers have been invited to a statewide stakeholder meeting, as well as a training to review the case manager guide to SIS service packages, and a one day conference which reviewed the Supporting Individual Success Initiative including how the SIS assessment can inform the person-centered planning process. The State will continue to provide training to all case managers in the areas of concern described above. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

87. The commenter suggested that all case managers have training in person-centered planning before beginning case management duties. (22)

Response-The State believes it is imperative for case managers to secure training in this area prior to the coordination, facilitation, and approvals of person centered plans. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix D

88. Participant Service Plan-Informed Choice of Providers-The commenter stated that this section describes two processes for obtaining information about providers, the provider directory and the vendor call process. The commenter stated that the provider directory contains information that is out of date. The commenter stated it is impossible to have the listings changed or updated. The commenter stated that the provider directory should not be listed as an option for participants to be informed about providers. The commenter stated that a person should be listed as a contact to make updates to the directory. (11)

Response-The State is currently working to update its website which will include a streamlined provider directory. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

89. Quality Improvement Participant Service Plan-The commenter stated that are a number of good externally-developed tools to monitor the person centeredness of service plans and urged the State to consider choosing one of these tools. The commenter inquired who specifically would be doing this task and suggested that the State consider contracting with an external contractor with experience in person-centered planning to complete the monitoring. (22)

Response-The State thanks you for your comment and suggestion. The State has drafted a quality measurement plan that includes the utilization of current data systems to capture the requirements for this waiver. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

90. The commenter stated that most of the quality assessment, assurance and improvement seem to be on the case manager and inquired if this was a conflict of interest. (22)

Response- The case manager is an integral part of ensuring that the participants' needs are identified and met in a timely fashion including the quality of service provision as set forth in in this waiver. There are additional entities such as the planning teams, those providing authorization of services, as well as quality management teams and managers that also provide on-going assessment, assurance and improvement of service provision. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix E

91. The commenter advocated for participants to be able to self-direct in this waiver and urged the State to add this choice to the waiver. (19)

Response- The participant, with assistance of their guardian if applicable, makes decisions regarding their services within this waiver. The State continues to strengthen language within the person-centered planning process to ensure that type, scope and duration of service options are provided as well as choice of service provider. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix F

92. Opportunity to request fair hearing-The commenter stated that the language that says "In accordance with 42 CFR § 431.230 and when advanced notice is required by this Section, MaineCare services currently being provided will not be terminated, reduced, or suspended until an administrative hearing decision is rendered provided that the participant requests an administrative hearing before the date of action. This applies unless it is determined at the hearing that the sole issue is one of Federal or State law, and the State promptly informs the participant in writing that services are to be terminated, reduced or suspended while awaiting the hearing decision.", is unethical and that a participant should be able to appeal anything not just what is convenient to the State. (11)

Response-This policy is in compliance with State and Federal law. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

93. The commenter stated that there is outdated language in the grievance section. (19)

Response-The language and link has been updated to direct readers to Rule Describing Grievance and Appeals Procedures for Persons with Intellectual Disabilities and Autism at the following link <http://www.maine.gov/sos/cec/rules/10/chaps10.htm#197>. The State thanks the commenters for their input but has made no other changes to the waiver renewal based on these comments.

94. The commenter stated that is a reference to the word mentally retarded p161. (19)

Response-This information will be updated when 14-197, CH 12 is updated to reflect current language. The Chapter reference has been corrected from 6 to 12. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

95. The commenter stated that there are references to the office of advocacy in the waiver renewal and the Disability Rights Center now provides the services described in this section of the waiver renewal. (19, 22)

Response-This information will be updated when 14-197, CH 12 is updated to reflect current language. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

96. The commenter requested clarification on ten calendar days for a participant to receive a letter for the State as she had examples of participants receiving mail after the ten day window. (22)

Response- Thank you for the input. Unfortunately the State is unable to ensure that all individuals retrieve their mail with regularity. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

97. The commenter stated understanding that the State can delay a fair hearing and asked if this option was available to participants and their representatives. (22)

Response- Any party may request a change in date of a hearing, with good cause as outlined in Administrative Procedures Act. A participant or their guardian can contact the Administrative Hearings Unit and request a delay. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix G

98. The commenter stated that although there is a thirty day investigation response time, the State does not conform to this. The commenter recommended the State conform its practice to its assertion that investigations are completed within thirty days. (19)

Response-The requirement is that the final report is done within thirty days from the end of the investigation. The merger of the two offices to streamline administrative processing has merged two APS programs into one and the State is following 10-149. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

99. The commenter stated that although the waiver renewal application gives the State the opportunity to prohibit the use of restraints, the State has not chosen to do so. The commenter encouraged the State to prohibit the use of restraints. (19)

Response- The current Behavior Regulations (14-197) provides information regarding prohibited practices and the oversight and approval for the use of restraints. The State is currently working through the rulemaking process to update these regulations that may provide additional clarity regarding prohibited practices. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

100. The commenter stated that although the waiver renewal application gives the State the opportunity to prohibit the use of restrictive interventions, the State has not chosen to do so. The commenter encouraged the State to prohibit the use of restrictive interventions. (19)

Response- The current Behavior Regulations (14-197, CH 12) provides information regarding prohibited practices and the oversight and approval of restrictive interventions. The State is currently working through the rulemaking process to update these regulations that may provide additional clarity regarding prohibited practices. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

101. The commenter stated that G-2 should contain language reflecting current law specifying the role of the Developmental Services Advocate, including but not limited to, that the advocate is a non-voting participant of the three person committee. (19)

Response- This information will be updated when 14-197, CH 12 is updated to reflect current language. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

102. The commenter stated that the renewal application should be changed to reflect that seclusion is prohibited by Maine law. (19)

Response-The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

103. The commenter inquired if the Incident Data Specialists are people or is this name of the database which reportable events are entered into. The commenter inquired if EIS was the database that reportable events are entered into. (22)

Response-The Enterprise Information System (EIS) is the data system that reportable events are to be entered into. Incident Data Specialists are people designated to ensure thorough documentation of reportable events as well as entering reportable events from entities that do not have direct enter capability of such reports. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

104. The commenter inquired if the State was planning to use the National Core Indicators Consumer Survey for the full five years of the waiver renewal. The commenter stated that she has not seen evidence of the use of this survey. The commenter inquired how the QOL interview will be used to impact Quality Improvement. (22)

Response-The State will continue to utilize the National Core Indicators survey. A preliminary report will be ready by late spring of this year. Results of NCI will provide information that will inform the quality and quantity of current waiver services provided. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix H Quality Improvement Strategy

105. The commenter recommended developing QAQI standards and activities which measure the inclusion of participants in residential and day programs and not just employment. The commenter stated support for the inclusion of waiver participants but that employment is only a small portion of Maine's waiver participants. (10)

Response- Thank you for your suggestion. The State continues to work toward strengthening performance standards within all areas of service provision. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

106. The commenter inquired who participates on the Quality Improvement Council. The commenter stated surprise that this council still exists. The commenter inquired if the council has met since the restructuring of OADS. The commenter stated she cannot find any reference on the State's website. The commenter inquired if the State is planning to institute the council in the future. (22)

Response-Changes have been made in the waiver renewal to update the current process.

107. The commenter inquired about the location of the results of the data administered to families, participants, DDC and DRC via the website, what website is used. (22)

Response- The website used for this is found at: <https://www.maine.gov/oads> The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

Appendix I

108. The commenter stated that there was a typo in the waiver application and Logisticare is now the transportation broker not Coordinated Transportation Solutions, Inc. (11)

Response- Thank you for this comment and this has been corrected.

EIS

109. The commenter stated that there is limited space in the computer system interface to document needs and services. (18)

Response-The State recognizes technical issues within the computer system and databases used and continues to attempt to improve upon technology within our services. The State thanks the commenters for their input but has made no changes to the waiver renewal based on these comments.

110. Many commenters expressed gratitude on the ability to comment on the waiver renewal document and stated positive statements concerning the changes but did state concerns as well.

Response-The State appreciates all the comments and responses in regards to the waiver renewal document.

Changes to the waiver application are as follows-

Appendix A-APS has been put back in to the waiver renewal. (comment 16)

Appendix A-Muskie Institute has been added to the waiver renewal as a contractor.

Appendix A-The Office of Aging and Disability Services that operates the waiver is also known as Developmental Services and this reference has been added to the waiver renewal for clarification.

B-3.3. Children in Transition-The reserved capacity for years 1-3 were filled in with the number 4 and a typographical error was corrected. (comment 21)

B-3.f. –The word likely hood was a typographical error and corrected.

Career Planning-The word concurrently was changed to consecutively and was a typographical error.

Community Support-The provider type Individual was removed from Community Support, Employment Specialist Services Per Diem Home Support, Work Support-Individual, and Work Support-Group based on comment 41.

Consultation-The words per discipline were added to clarify that the limit of 66 units applies to each type of Consultation. (comment 44)

Crisis Intervention-The word Intellectual Disability Services was changed to Developmental Services to name the unit who does the work with in OADS and to include Autism Spectrum Disorder.

Home Accessibility Adaptations-The reference to Person Centered Plan has been changed to Personal Plan.

Non Traditional Communication Consultation- This service definition was reworded to be gender neutral and use the term Personal Plan. Additionally an old date in the example was removed.

Qualified Extra Support Service-Language was changed to state that the service will be under a regular review and the 12 month time frame is no longer specified.

Respite-A typographical error was corrected.

Semi-Independent Supported Living (SISL) The waiver renewal has been changed to state that staff will be located on the grounds of the apartment building or other structure at all times rather than requiring a 5 minute response time when a participant needs support. (comment 68)

Skilled Nursing-A typographical error was corrected.

Under provider qualifications for an RN, requirements were removed

-Experience working with Intellectual Disabilities or Developmental Disabilities

-at least 3 years working as a licensed RN

Under provider qualifications for an LPN, requirements were removed

-Experience working with Intellectual Disabilities or Developmental Disabilities

-At least 3 years as an LPN

C-2.a-Has had a sentence reworded to state “Adult protective services may perform a background check on the suspected offender on reportable events involving abuse, neglect and exploitation.”

C-2.c.The language “Five beds” has been added to the detail of this section. (comment 52)

C.2.c.ii- The term “Person Centered Planning Process” was changed to “Personal Planning Process”.

C.2.e. - The term “Person Centered Planning Process” was changed to “Personal Planning Process”.

C.4.a.-The word interviewed was changed to assessed.

D-1.a.Additional college degrees have been added to Case Manager Qualifications. (comment 85) the term “personal plan” was used, rather than “care plan”.

D-1.d-The sentence was changed to state “(g) The plan is updated at least annually. For any change in service, any member of the team can request to change the frequency of the routine plan review.” Rather than the word alter.

D-1.e-This section was changed to state personal plan rather than person centered plan. The sentence “This meeting is wholly focused on the crisis situations and a back-up plan, or any other alteration to the plan, will be developed.” was changed to read “This meeting is focused on the crisis situations and an interim plan, or any other alteration to the plan, will be developed.”

D-1.f-Has been changed to state the Office of Aging and Disability Services acronym, remove that only providers within a specified area are notified during the vendor call process, change that the notification will not be email but will be electronically , the word participant was used instead of individual.

D-1.g-The term “service plan” was removed and the term “personal plan” was used.

D-2-a.-The term “service plan” was removed and the term “personal plan” was used. The term regional QA/QI was removed and the term District Quality Manager was used.

D-QIS-a.ii.-The term “QI” was changed to “Quality Management”.

D-QIS-b.i.-The term “personal plan” was used instead of the term “the plan”.

F-3.b.-The reference to “Intellectual Disability Services” was changed to “Developmental Services”.

F-3.c.-The link to the grievance process has been updated. (comment 93)

G-1.b A typographical error was corrected to updated the correct chapter number to 12. (comment 94)

G-1.e.-A typographical error was corrected, “of an” was deleted and “compilation” was corrected.

G-3.b.ii-The term “residential setting” was replaced by the terms “Shared Living and Family Centered Support Providers” to clarify which providers require a medication administration course approved by the Stated.

G-3.c.ii. State policy- the paragraphs were reordered.

G-QIS-ii-The entire paragraph was rewritten to better reflect current practice.

H-1This section of the waiver was reviewed and rewritten. (comment 106)

H-1.b.ii-The word “state” was changed to “team”.

I-1.a.-“An” was changed to “a”.

I-3.b. The references to the Brokers names have been updated. (comment 108)

J-2.d. The rates for Home Support Level 5, for one participant has been changed from \$527.72 to \$573.69, Home Support Level 5, for two participants have been changed from \$333.20 to \$392.91, Home Support Level 5, for three participants have been changed from \$267.68 to \$359.14, Home Support Level

5, for four participants have been changed from \$359.15 to \$349.39. This was an error in the posting of the waiver application; the rates were changed but not loaded into the application.