Chapter 4 – Provider Requirements and Allowable Services

4.01 Ensuring Access

Provider Choice

All Children’s Long-Term Care (CLTS) Waiver Program participants must be given a choice of qualified service providers (42 CFR §431.51) and the Department of Health Services (DHS) is required to have a system for the continuous, open enrollment of providers.

County waiver agencies (CWAs) are required to inform a child or youth and their family of their right to choose willing and qualified providers at each review of the child’s or youth’s individual service plan (ISP), including but not limited to initial plan development, six-month plan review, and review during annual recertification. The information given to participants must include the full range of services available through the CLTS Waiver Program, a description of all qualified providers available for the services the child or youth is authorized to receive, and information about options and processes for the child or youth to dispute whether other entities or providers could deliver the services authorized for them.

A willing provider is an individual or entity that executes a Medicaid provider agreement and accepts payment at rates listed in the CLTS Waiver Program Rate Schedule (P-02184) as payment in full for the services delivered. A qualified provider meets the standards outlined in the service description.

Providers must have a signed and completed Medicaid provider agreement on file with DHS before they are authorized to deliver supports and services. This registration process is completed online through the CLTS Waiver Program Provider Registry and Directory. In addition to managing provider enrollment, the system generates a directory of providers which is available to the public.

The following Medicaid provider agreements are used during provider registration:
- County Waiver Agencies (F-02349)
- Service Provider Agencies (F-02363)
- Sole Proprietor or Individual Waiver Service Providers (F-02364)
- Fiscal Agents Managing Self-Directed Waiver Supports (F-02365)

Support and Service Coordination

The Centers for Medicare & Medicaid Services has approved a § 1915(b)(4) waiver application submitted by DHS to limit the participant’s choice of provider for this service to CWAs or their
subcontracted entities. This limitation ensures support and service coordination is delivered by qualified individuals; CWAs have the expertise and knowledge to successfully coordinate the multiple complex systems required to meet the needs of children and youth with disabilities and their families.

**Conflict of Interest**

A conflict of interest is present whenever a person or entity involved in operating any part of the CLTS Waiver Program has an interest in or the potential to benefit from a particular decision, outcome, or expenditure. A single individual, agency, or entity occupying several roles often signals conflict of interest may be present.

The only services the CWA may deliver to a child or youth participating in the CLTS Waiver Program, in addition to support and service coordination, are:
- Allowable foster care service.
- Purchased products and supplies from third-party entities and vendors (typically web-based vendors) for which the CWA receives no benefit from the vendor.
- Prepayment for waiver allowable services from subcontractors where the CWA makes the payment to the vendor.

To mitigate conflicts of interest when providing the services above, the CWA must administratively separate the function and individual responsible for developing the ISP from the direct service functions for allowable foster care services or products and supplies purchased from third-party entities and vendors.

The CWA must have a written policy or plan to address conflicts of interest. If resolving or mitigating the conflict is not feasible, the CWA must take action to minimize the effect(s) of the conflict. These efforts are subject to DHS review.

These requirements apply to CWAs and any subcontracted case management agencies.

**Provision of Limited English Proficiency (LEP) Assistance**

The CWA will design and implement an effective limited English proficiency plan to ensure meaningful access to persons with LEP at no cost to the persons with LEP, in compliance with Title VI of the Civil Rights Act of 1964, and Section 1557 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. § 18116, and rules established to implement Section 1557 (81 Fed. Reg. 31376 et seq. [May 18, 2016], amending 45 CFR Part 92 to implement Section 1557).

The LEP plan must identify individuals who need LEP language assistance, describe language assistance measures that may be provided, require training for staff to implement the plan, provide a mechanism for notice to persons with LEP who are in need of the services, provide accurate and timely language assistance to persons with LEP at no cost to themselves, and provide for monitoring and updating the LEP Plan.
Provision of Alternative Communication Services

The CWA must design and implement a plan to ensure effective communication with people who have vision, hearing, or speech disabilities, in compliance with Title II of the Americans with Disabilities Act and Section 1557 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. § 18116, and rules established to implement Section 1557 (81 Fed. Reg. 31376 et seq. [May 18, 2016],(amending 45 CFR Part 92 to implement Section 1557). The plan must include the provision of alternative aid and services when needed to communicate effectively with people who have communication disabilities to ensure that a person with a vision, hearing, or speech disability can communicate with, receive information from, and convey information to the CWA at no cost to the person with a disability.

If such assistance is needed, the CWA may provide service through assistive technology and communication aids. (Refer to service descriptions.)

4.02 Provider Screening Requirements

All CLTS Waiver Program providers are screened for the following:

- Compliance with the provider standards and qualifications outlined in the service descriptions in this manual for each service the provider will deliver, as documented on a child’s or youth’s ISP.
- Caregiver and criminal background checks, when applicable.

Caregiver and criminal background checks are an important part of assuring the health and safety of children and youth enrolled in the CLTS Waiver Program. Children with disabilities are more likely than children without disabilities to be socially isolated and experience abuse and/or neglect. Additionally, the nature of a child’s disability may decrease their ability to defend themselves from abuse or neglect, escape an abusive situation, and/or report abuse or neglect. Caregiver and criminal background checks help mitigate risk to health and safety for children and youth enrolled in the CLTS Waiver Program.

The requirement for the completion of caregiver and criminal background checks applies to all service providers, paid or unpaid, who provide services listed on the ISP and who meet the definition of a caregiver.

Caregivers are those persons who have regular, direct contact with waiver participants. “Regular” means contact that is scheduled, planned, expected, or otherwise periodic. “Direct” means face-to-face physical proximity to a participant that allows the opportunity to commit abuse or neglect or to misappropriate participant property.

For more information, refer to the Wisconsin Caregiver Program.
County Waiver Agency (CWA) Responsibility

CWAs must ensure all screening activities, as outlined above, have been completed for each CLTS provider included on a child’s or youth’s ISP.

Caregiver and criminal background checks are required to be completed in compliance with the appropriate CLTS Waiver Program provider agreement and acknowledgement of terms of participation for all persons working as caregivers, including those who are employed by contract agencies. When applicable, background checks must include:

- A Wisconsin caregiver background check.

For more information about how to complete a Wisconsin caregiver background check, refer to the Resources Section at the end of this chapter.

Background Check Results

CLTS Waiver Program service providers may not employ, contract with, or accept volunteer services from individuals convicted of child abuse, neglect, or maltreatment; a violation of the Vulnerable Adult Law (Wis. Stat. §§ 940.285 and 940.295); a felony involving physical harm to any child or youth enrolled in this program or a participant of any other health or human service program; an offense described as a serious crime in Wis. Stat. § 50.065(1)(e); or an offense that is deemed substantially related to the care or service to be provided. (Refer to Wis. Admin. Code § DHS 12.06 for guidance to determine if an offense is substantially related to the care or service to be provided.) CWAs must ensure that applicants for employment by the provider or persons currently employed by the provider do not have histories indicating violations of these laws.

When the caregiver is a minor, the adult criminal background check result will only reveal an offense for which the minor has been sent to adult court. The CWA must get the minor’s consent for disclosure of their juvenile record so that a review of the minor’s criminal record and background can be satisfactorily completed.

CWAs may not use waiver funds to pay for services provided by persons who have been denied a professional license, certification, or registration by the Department of Regulation and Licensing. In addition, services may not be provided by persons whose credentials have been suspended or revoked, or who have been denied the renewal of their professional license, registration, or certification.

Caregivers Employed by the Participant

Caregivers employed by a participant through a fiscal agent system or under a self-directed services plan must have background checks completed.

If the prospective caregiver’s background check reveals no record of conviction of a serious or substantially related crime, and the child or youth and their family is fully informed of any
negative finding, and the child or youth and their family continue to express a preference to employ the caregiver, the CWA must respect the choice of the child or youth and their family, unless there is compelling justification not to do so.

4.03 Medicaid Waivers: General Limitations

Payments to Parents, Relatives, and/or Legal Guardians of Minor Children

Payment to a parent or a primary caregiver in the child’s or youth’s household is not allowed.

Relatives and/or legal guardians may deliver specified waiver services if they are appropriately qualified (refer to provider standards and qualifications in the service descriptions) and meet the following criteria:

- The child’s or youth’s assessed needs warrant the proposed service to meet a specific outcome.
- The rate paid does not exceed the rate that would otherwise be paid to a provider of a similar service. (Refer to CLTS Waiver Program Service Rates Initiative.)
- The relatives and/or legal guardians must maintain time sheets for hours to be paid and submit them to the fiscal support entity once every two weeks or more frequently.

When the criteria above are met, a child’s or youth’s relative and/or legal guardian may provide any services except support and service coordination and housing counseling.

For more information about payments to parents, relatives, and legal guardians, refer to the Resources Section at the end of this chapter.

Coordination of Benefits

The following programs must be considered prior to using CLTS Waiver Program funding and, where applicable, be incorporated into a comprehensive service plan for children and families:

- Medicaid (e.g., ForwardHealth [HealthCheck and HealthCheck Other Services], Comprehensive Community Services [CCS], and other Medicaid-funded programs)
- Other county programs (e.g., developmental disabilities programs; social services; child welfare services; juvenile court, legal, and corrections-related services)
- School-based and educational service
- Prevocational or vocational programs through the Department of Workforce Development, Division of Vocational Rehabilitation

Refer to the Children’s Community Options Program (CCOP) Procedures Guide (P-01780) for information about coordinating the use of the CLTS Waiver Program and CCOP.
Requirement to Use Medicaid

All Medicaid benefits, including HealthCheck and HealthCheck Other Services, available to a child or youth must be accessed before waiver funding may be used.

HealthCheck is the Wisconsin Medicaid term for a comprehensive, preventative health checkup for children under the age of 21 through the federal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit. HealthCheck “Other Services” is the Wisconsin Medicaid term for the federal requirement for states to cover all medically necessary services a child may need to correct, improve, or maintain their physical and mental health coverable under the federal Medicaid program, whether or not the needed service is routinely covered by Wisconsin Medicaid. Qualified providers can access HealthCheck “Other Services” by submitting a prior authorization request.

Payments to Participants

Payments made directly to a child or youth enrolled in the CLTS Waiver Program or to another person on behalf of that child or youth are not allowed. All payments for delivered services must be made to the provider.

Payment for Services in Institutional Settings

The CLTS Waiver Program may not pay for services delivered in a hospital, nursing home, or intermediate care facility for individuals with intellectual disabilities, with the exception of institutional respite services. All institutional respite requires prior approval from DHS.

Billing Support and Service Coordination

Support and service coordination services must be billed to the CLTS Waiver Program and may not be billed to the child’s or youth’s Medicaid benefit.

4.04 Service Authorization

A service authorization is required before a provider may submit claims or receive payment for delivered services. The CWA (the support and service coordinator) and the child and their family work collaboratively to determine which supports, services, and environmental modifications will benefit the child, build on the child’s strengths, and maximize the child’s independence and community participation. When agreement is reached on the supports and services for the child or youth that can be provided in agreement with the requirements outlined in the service descriptions, those services are documented on the child’s ISP. At that time, the CWA completes authorization in compliance with the CLTS Waiver Program Rate Schedule (P-02184) and the CLTS Waiver Program Benefit Code Crosswalk for the services on the ISP.

Refer to the Children’s Long-Term Support Waiver Program: Third Party Administration (TPA) Claims Processing web page for additional information.
4.05 Allowable Services

Refer to the Medicaid Home and Community-Based Services Waiver Manual for the CLTS Waiver Program (P-02256).

4.06 Resources

§ 1915(b)(4) waiver application

Children’s Community Options Program (CCOP) Procedures Guide (P-01780)

CLTS Waiver Program Benefit Code Crosswalk

CLTS Waiver Program Rate Schedule (P-02184)

CLTS Waiver Program Service Rates Initiative

CLTS Waiver Program Provider Registry and Directory

CLTS Waiver Program Third Party Administration (TPA) Claims Processing

Medicaid provider agreements

- County Waiver Agencies (F-02349)
- Service Provider Agencies (F-02363)
- Sole Proprietor or Individual Waiver Service Providers (F-02364)
- Fiscal Agents Managing Self-Directed Waiver Supports (F-02365)

U.S. DHHS Office of Inspector General’s List of Excluded Individuals and/or Entities

Wisconsin Caregiver Program

Service Provision from Parents, Relatives, Legal Guardians

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<th>Service</th>
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<td>Adaptive aids</td>
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<td>Service</td>
<td>May the service be provided by...?</td>
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<tr>
<td></td>
<td>Parent</td>
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<td>Training for parents and/or guardians and families of children with disabilities</td>
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</tr>
<tr>
<td>Transportation</td>
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</tr>
</tbody>
</table>

**Completing a Wisconsin Caregiver Background Check**

- The background check process is initiated when the prospective caregiver submits a completed [Background Information Disclosure form (F-82064)](https://wic:wicged/) to the employing agency.
- The agency retains the [F-82064](https://wic:wicged/) form and submits a Wisconsin Criminal History Single Name Record Request form ([DJ-LE-250](https://wic:wicged/) or [DJ-LE-250A](https://wic:wicged/)) to the Department of Justice, Crime Information Bureau.
- The requesting agency checks the Caregiver box on the [DJ-LE-250](https://wic:wicged/) or [DJ-LE-250A](https://wic:wicged/) to receive a complete criminal background check report.
- The Department of Justice then sends written results of the record search to the requesting agency.