

Introduction:

The “One Big Beautiful Bill Act” includes an important provision (Subchapter E, Sec.71121) that allows states to create new stand-alone 1915(c) waivers to provide HCBS to individuals whose eligibility is determined through state-developed needs-based criteria rather than through meeting an institutional level of care. This change will go into effect starting July 1, 2028. Here is what states should know:

Requirements:

- The needs-based criteria must be less stringent than institutional LOC
- The state must still attest to the **cost neutrality** of this new standalone waiver, meaning the average per capita cost of the waiver participants cannot exceed the average cost of institutional care. In their waiver application, states must:
 - Specify how many people the state expects to serve under the waiver
 - A crucial condition for CMS approval is that the state must demonstrate that the approval of this new waiver **will not increase the average wait time** to receive HCBS under any of the state's other existing 1915(c) waivers.
- States must report annually:
 - The cost of each service provided through the waiver
 - The length of time individuals receive each service
 - A comparison between this data and “any comparable data” for people in LOC-based HCBS and in institutions
 - The number of people who received services through the waiver during the preceding year
- The statute restricts states from using these waiver funds to make direct third-party payments

Funding:

This subsection of the statute makes two sets of funding available to CMS:

- In 2026, \$50 million for purposes of carrying out this new statutory provision; and
- In 2027, \$100 million to support states to deliver HCBS through 1915(c) or 1115 waivers. These payments are based on the proportion of the population of the state that is receiving HCBS through 1915 (c) or 1115 waivers

Early Thinking on Potential Uses:

- Supporting people with autism or other neurodevelopmental disabilities who do not meet ICF/IID level of care;
- Supporting people with brain injury who may not readily or consistently meet institutional level of care;
- Supporting people who are aging or with physical disabilities before condition decline to institutional level of care;
- Designing multi-target group waiver to better support families with people with disabilities and aging caregivers;
- Supporting children with multi-system involvement who may not consistently meet a specific level of care;