

## Comments on Agency with Choice RFI

**Issued: April 12, 2022; Updated: April 21, 2022**

On March 11, 2022, The Department of Human Services (DHS) posted the Office of Long-Term Living (OLTL) Agency with Choice (AWC) Request for Information (RFI) on eMarketplace. The Office of Administration, Bureau of Procurement & Contract Management, issued the RFI to gather input and information concerning the implementation of AWC services for the beneficiaries of Medical Assistance (MA) managed care programs, 1915(c) MA home and community-based services (HCBS) waiver program and a state-funded program, all administered by the DHS OLTL. Specifically, the RFI was seeking information to assist DHS in determining how it may improve options for long-term services and supports (LTSS) participants to self-direct their services in the Community HealthChoices (CHC) Program, OBRA Waiver and the state-funded Act 150 Attendant Care Program through the procurement and implementation of AWC.

Twenty-nine agencies responded to the AWC RFI. Respondents included; 24 Hour Home Care, Addus Homecare, Americare Home Solutions, Aveanna Healthcare, Barber National Institute, CareGivers America, Center for Independent Living of Central PA, Community Health Choice Coalition, Community Living and Support Services, Complete Home Care, Consumer Direct Care Network, Consumer Workforce Council of PA, Home Centris Healthcare, Honor Health Network, Independence Care, MedStaffers, PA ADAPT, PA Association of Home and Community, PA Council on Independent Living, Public Consulting Group (PCG)\_Public Partnerships LLC (PPL), Pennsylvania Health Law Project, Pennsylvania Home Care Association, ProVanta Care, Rehabilitation and Community Providers, Roads to Freedom Center for Independence, Team Select Home Care, Traditional Home Care, Unknown, and Voices for Independence.

Below is a chart that summarizes the comments received along with responses.

<b>Comment</b>	<b>Number Commented</b>	<b>OLTL Response</b>
Public Comment period should be extended to 30 days and dedicate at least one hour of an upcoming MLTSS sub-MACC meeting to public comments.	9	OLTL will present on AWC at the April 2022 Long-Term Services and Supports SubMAAC meeting to ensure an additional opportunity to provide comment.
Create an approved provider network for this model or establish AWC services as a distinct service type to be provided by existing provider agencies. Allow current agency providers to be credentialed and enrolled for the delivery of this service.	6	At the onset of implementation, having one provider improves monitoring of quality and compliance and eliminates inconsistent application of AWC requirements. To clarify, AWC is a model of FMS and not a waiver service in CHC and OBRA.
Agency with Choice already exists, why duplicate the current model?	9	Agency with Choice is not recognized as an official model of service in OLTL waivers. Currently, the recognized models of service in the waiver programs are agency model and participant-direction, including budget authority. This model shifts the role of the Participant from being a legal employer to being the managing employer (have control over selecting and scheduling) while the AWC vendor becomes the legal employer and takes on responsibility for hiring, training, and firing. The CHC-MCOs will have to offer AWC as an option and will need to provide training and educational resources on this option, if selected.
The provider requirements that include Pennsylvania entities have 10 years' experience in human services with 5 in the consumer-directed model, 10,000 employees, and experience in the consumer-directed model in at least 2 states limit who is eligible to offer this service.	7	OLTL will revisit the provider requirements.

<p>The RFI contains inconsistencies about who is the managing employer and primary employer such as who sets wages and pays overtime and how will reimbursement rates compare to existing consumer-directed and agency models. The contract with the AWC should stipulate that if a participant wishes to fire a DCW, that the AWC be required to abide by that decision.</p>	<p>6</p>	<p>OLTL will review the inconsistencies and clarify in the RFA.</p>
<p>Diminish consumer choice with one statewide vendor and there are diverse regions in PA, which present unique challenges in the delivery of services, which are best served by a range of agencies. Recommend the use of regional providers throughout the state which will increase choice, provider competition and allow providers to operate efficiently and effectively.</p>	<p>18</p>	<p>Participant choice is increased with the addition of a new model of participant-directed services. Selecting a statewide provider allows greater oversight of the performance of the vendor. The selected provider may subcontract to other licensed home care agency providers for this service throughout PA. Participants who do not self-direct will continue to have a choice of agencies for direct care workers.</p>
<p>Concerned about increased costs of this program in future years, which may be substantial. DHS should make public the increased costs of this program in future years. Support and funding should be allocated to ensure access to quality care in current programs. There appears to be an inadequacy in the budgetary funding across the DHS programs to reimburse this type of service.</p>	<p>7</p>	<p>OLTL will monitor the vendor's and the model's costs and present them in their budget requests.</p>

<p>Contract should be awarded to current Dept of Health licensed and Medicaid Waiver certified provider with HCBS experience. What standards and Chapter regulations will AWC be held to?</p>	<p>2</p>	<p><b>Revised April 21, 2022</b> - The selected vendor must be a licensed home care agency, be enrolled as a Medicaid provider and meet all regulatory standards. These requirements are consistent with existing provider qualifications and standards.</p> <p>The Department of Health definition of home care agency is: “An organization that supplies, arranges or schedules employees to provide home care services, as directed by the consumer or the consumer’s representative, in the consumer’s place of residence or other independent living environment for which the organization receives a fee, consideration or compensation of any kind.” 28 Pa. Code 611.5.</p> <p>The AWC provider satisfies this definition, and consequently, should be licensed because:</p> <ol style="list-style-type: none"> <li>1. The AWC provider will supply, arrange or schedule the services.</li> <li>2. The AWC provider will be the common law/joint employer of the worker, and consequently, the worker is an “employee.”</li> <li>3. The services fit the definition of home care services (see Section 611.5).</li> <li>4. The consumer will direct the services in the consumer’s living space.</li> <li>5. DHS/CHC-MCOs will pay the AWC provider for this service.</li> </ol>
<p>Full cost of AWC be accounted for in the rate setting. Invest in the existing agency model provider network through a rate study with based on actuarial methodologies. A network of properly funded agency model providers will give the participants choice, and the</p>	<p>2</p>	<p>OLTL is including all the costs in the rate setting.</p>

competition will force those providers to be efficient and consistent in services.		
Onboarding requirements and labor standards are made consistent with existing models.	1	The onboarding requirements and labor standards will be the same for AWC as the agency model. OLTL will develop the same standards for OBRA Waiver providers.
OLTL must define the unique features and benefits of the three service models and create training and resources that can be used to educate participants of their choices.	1	OLTL and the CHC-MCOs will develop educational and training resources.
OLTL defines overtime protocol for AWC so the rates can anticipate those additional costs.	1	Overtime is being considered in rate setting. Agencies currently set their overtime policies.
AWC program supports a back-up option identified by Participants.	2	OLTL agrees and will address in RFA.
In addition to transparency and fraud, the AWC entity conduct training on Waste and Abuse and investigate any fraudulent activity.	1	OLTL will add to the RFA under qualifications that the agency must have experience in following-up with Waste and Abuse and conducting investigations when warranted.
AWC be responsible for reporting and investigating critical incidents to reduce the responsibility of the consumer employer.	1	OLTL agrees and will add a statement in the RFA.
Agency needs to provide clarity and training for the managing employer to manage their budget.	1	Agency with Choice does not give the managing employer any budgetary authority.
Focus be made on the education of managing employer.	1	OLTL will include in the training and educational resources section of the RFA.

Strengthen current models to address recruitment challenges.	1	The Department understands that recruitment of direct care workers will be a challenge.
OLTL should focus on exploring and promoting the involvement of consumers with these services. Need for in-depth training of the frontline service coordinators who work for MCOs.	1	The CHC-MCOs are required to have participant input through their regional consumer advisory councils. The CHC-MCOs will be required to provide training to the frontline service coordinators.