

## Public Comments: Proposed Mi Via Waiver (NM.0448) Renewal Application June 26, 2025

The State secured formal public input during the Mi Via 1915 (c) Waiver Renewal application process from May 27th through June 26, 2025. The Health Care Authority (HCA) solicited public input via multiple avenues including mailings, emails, newspaper announcements, web postings, and statewide public forums.

| Commenter                        | Public Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | State Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| Family Representatives           | <p><b>Comment:</b></p> <p>Commentor suggests that EORs be trained or certified as suitable candidates for paid Employer of Record (EOR). Commentor expressed concern that the service would be taken over by agencies. Parents with relevant experience can potentially manage other cases as well.</p> <p>In addition, commentor expressed concern regarding EOR as a paid service may be in violation of Fair Labor Standards Act when some people may be performing the service in an unpaid/volunteer position.</p> | <p><b>State Response:</b> The Employer of Record (EOR) could be a volunteer or paid support through a provider agency. The intent of EOR as a paid service was to provide support for Mi Via participants that could not identify an EOR through their circle of support. EOR as a paid service provides additional resources through an agency-based option. If someone wants to be a paid EOR, they can apply with a vendor agency to be employed as an EOR.</p> <p>As we implement the EOR service, DDS requires all providers to adhere to all current and future laws.</p> |
| Family Representatives, Advocate | <p><b>Comment:</b></p> <p>Commentors expressed disagreement on proposed limitation of 40 hours a week for Community Direct Support (CDS) Services, noting potential impact to participants who use this service to address behavioral, mental and social needs.</p> <p>Commentors noted how CDS minimize the need for emergency care and treatment in physical and mental facilities.</p> <p>Commentors expressed that CDS was a primary avenue for accessing educational, vocational, and social experiences</p>       | <p><b>State Response:</b></p> <p>The State thanks you for your comments. As a result of public comment received, the State has removed proposed limitations to Community Direct Support.</p>                                                                                                                                                                                                                                                                                                                                                                                    |

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| Advocate                         | <b>Comment:</b><br>Commentor expressed concerns with proposed limitations on Respite Service and the ability of primary caregivers to leave the home.                                                                                                                                                                                                                                                                                                | <b>State Comment:</b><br>The State thanks you for your comments. As a result of public comment received, the State has removed proposed limitations to Respite Service.  |
| Family Representatives, Advocate | <b>Comment:</b><br>Commentors expressed concern regarding proposed limits took away participants' rights to self-direction and was not person-centered. Commentors cited Olmstead v. L.C. Supreme Court Decision and were concerned with potential loss of flexibility within the Mi Via program.                                                                                                                                                    | <b>State Response:</b><br>Thank you for your comment. A decision was made to remove the proposed limitations.                                                            |
| Consultant Agency, Advocate      | <b>Comment:</b><br>Commentor expressed support for the proposed changes in the Mi Via waiver application, specifically changes in administrative consolidation of roles under HCA; addition of services of EOR and Socialization and Sexuality Education; updates to language on Level of Care; addition of financial abuse as reportable incidences; revision of CDS and Customized Community Group Support (CCGS) to include remote-based support. | <b>State Response:</b><br>The State thanks you for your comment.                                                                                                         |
| State Representative             | <b>Comment:</b><br>Commentor proposed that Respite Services have a limit of 750 hours per budget year, instead of the proposed 336 hours per budget year to align with the Developmental Disabilities Waiver renewal proposals.                                                                                                                                                                                                                      | <b>State Response:</b><br>The State thanks you for your comments. As a result of public comment received, the State has removed proposed limitations to Respite Service. |

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| Family Representative                        | <b>Comment:</b><br>Commentor requested a pay increase for therapy providers.                                                                                                                                                                                                                               | <b>State Response:</b><br>The State thanks you for your comment. The state is currently conducting a rate study which will review all waiver service rates including therapy provider rates. The rate study will conclude fall of 2025, and the State will consider all recommendations.                                                                                                                                                                                                                                                                                                                  |
| Consultant, Family Representative, Advocates | <b>Comment:</b><br>Commentors expressed that an Employment First approach will take away participants' decisions to access other services and that the state should not "push" participants to work. Commentors also expressed concern that there was not an adequate network to support employment first. | <b>State Comment:</b><br>Employment for individuals with intellectual and developmental disabilities (IDD) is an optional, person-centered choice that respects an individual's goals, preferences, and needs. Employment First initiatives are designed to fully support individuals who choose to pursue work by providing access to inclusive, meaningful employment opportunities, resources, and accommodations. These initiatives reinforce that while employment is encouraged as a valuable path to independence and community engagement, the decision to work remains entirely with the person. |
| Consultant, Family Representative            | <b>Comment:</b><br>Commentors stated that they were not getting notices for public comments timely.                                                                                                                                                                                                        | <b>State Response:</b><br>Opportunities for public comment were communicated through the Albuquerque Journal and the Las Cruces Sun thirty days prior to public hearing.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Advocate                                     | <b>Comment:</b><br>Commentor noted appreciation of prioritization of employment and encouraged HCA to and other entities to comment to providing the necessary supports so that participants actually retain integrated employment.                                                                        | <b>State Response:</b><br>The State thanks you for your comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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| Advocate | <b>Comment:</b><br>Commentor requests HCA reconsider the \$5000 limitation every 5 years for Environmental Modification services in order to improve and make home settings safe.                                                 | <b>State Response:</b><br>The State thanks you for your comment. The State is currently conducting a rate study which will review all waiver service rates including the limitations on Environmental Modification services. The rate study will conclude fall of 2025 and all recommendations will be considered. |
| Advocate | <b>Comment:</b><br>Commentor questions response to Appendix B-6(b), responsible party for performing evaluations and re-evaluations should be the Third-Party Assessor.                                                           | <b>State Response:</b><br>The State thanks you for your comment; the application was updated to reflect that the responsibility for performing evaluations and reevaluations is performed by an entity under contract with the Medicaid agency, the Third Party Assessor (TPA).                                    |
| Advocate | <b>Comment:</b><br>Commentor questioned Customized Community Group Supports service definition language that “the state does limit the maximum number of hours this service may be used in a day” and should be “does not limit”. | <b>State Response:</b><br>The State thanks you for your comment. Language was updated to read, “the state does not limit the maximum number of hours this service may be used.”                                                                                                                                    |
| Advocate | <b>Comment:</b><br>Commentor request that a more robust and comprehensive safety and critical events system for the Mi Via Waiver and is interested in knowing more about HCA’s plans.                                            | <b>State Response:</b><br>The State thanks you for your comment. The state will engage stakeholders throughout its compliance preparation to meet the access rule requirements for “Critical Incident Reporting”.                                                                                                  |

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| Advocate | <b>Comment:</b><br>Commentor states that the requirement to complete Abuse, Neglect, and Exploitation (ANE) training is specified only for Consultant providers and not for other service providers.<br>Commentor questions who pays for ANE training given the “low wage” direct support professionals are paid. | <b>State Response:</b><br>The requirement for service providers to complete ANE training is outlined in Appendix C1/C3 under Provider Specifications for Service, Other Standard.<br>The HCA provides ANE training at no cost to all service providers.                                |
| Advocate | <b>Comment:</b><br>Commentor notes that DD waiver and the DDS General Events Reporting (GER) are noted in Appendix G, State Critical Event or Incident Reporting Requirements. Commentor points out that GERs are not used in the Mi Via Waiver.                                                                  | <b>State Response:</b><br>The State thanks you for your comment, you are correct. GERs are not used in the Mi Via Waiver. The language in Appendix G-1(b) addresses incident reporting system and requirements for New Mexico’s developmental disabilities waiver programs as a whole. |