



State of Vermont  
Agency of Human Services  
280 State Drive, Center Building  
Waterbury, VT 05671-1000

---

# Global Commitment Register

December 17, 2021

---

GCR 21-083  
CLARIFICATION

## **Home- and Community-Based Services Conflict of Interest Plan**

### **Policy Summary:**

As addressed in the [October 22, 2021 Global Commitment Register Clarification on Home- and Community-Based Services \(HCBS\) Conflict of Interest](#), Vermont Medicaid has submitted its HCBS conflict of interest plan to the Centers for Medicare and Medicaid Services (CMS).

Vermont's Agency of Human Services operates five specialized programs under its Global Commitment to Health Section 1115 waiver (Global Commitment) demonstration that offer a combination of Home- and Community-Based Services (HCBS) and rehabilitation services. The programs are as follows:

- 1) Choices for Care Program
- 2) Brain Injury Program
- 3) Developmental Disabilities Services Program
- 4) Community Rehabilitation and Treatment Program
- 5) Intensive Home- and Community- Based Services Program

The Centers for Medicare and Medicaid Services (CMS) determined that these HCBS, or HCBS-like, programs are subject to federal HCBS conflict of interest regulations at 42 CFR 441.730(b) which require the state ensure the independence of entities performing evaluations of eligibility, needs assessments, and person-centered plan development:

*“The State must define conflict of interest standards that ensure the independence of individual and agency agents who conduct (whether as a service or an administrative activity) the independent evaluation of eligibility for State plan HCBS, who are responsible for the independent assessment of need for HCBS, or who are responsible for the development of the service plan.”*

Vermont has developed a timeline of activities and milestones to serve as its roadmap for compliance with the HCBS conflict of interest requirements by the anticipated end of the next Global Commitment demonstration term. Understanding that transitions related to eligibility, assessment, and person-centered plan development in HCBS can have significant implications for individuals served by these programs, their families, caregivers, and providers, the timeline was developed with the following goals in mind:

- 1) There is adequate time and process for meaningful stakeholder input on key decision points.
- 2) Program transitions related to conflict of interest compliance ensure continuity and quality of care for individuals.
- 3) Access to care is not diminished.
- 4) Disruption and instability in the current systems of care are minimized.
- 5) Provider workforce capacity is taken into account, including the impacts of COVID-19.
- 6) Providers are supported throughout the planning and implementation process.
- 7) Person-centered planning enhancements, or mitigation strategies, such as options counseling or expanded ombudsman services, safeguard individuals from conflict of interest.
- 8) Program changes are aligned across the five programs to the extent possible to reduce administrative burden on individuals, providers, and the State.

The State will require significant resources and expertise to support this multi-year effort, therefore, in the beginning of 2022, the project team will select a technical assistance (TA) contractor through a competitive bidding process. The first main activity for this project will be an assessment of current HCBS system functioning by the TA contractor to inform options for program changes that will comply with conflict of interest requirements. The State aims to minimize the burden on providers in calendar year 2022 due to the strain they are currently under with COVID-19 response and limited workforce capacity. With this goal in mind, the information gathering in 2022 will be focused on an assessment of information that is already available to the State or does not require a significant time commitment from providers. This work will prepare the State to conduct a robust stakeholder engagement campaign in calendar year 2023. Stakeholder engagement in 2023 will be broad-based and delivered in multiple formats, including statewide community forums. It will inform the solutions for each program which are estimated to be identified in quarter 4 of 2023.

With identified solutions for each program, the State will begin the process of obtaining legislative approval and appropriation in 2024. Anticipating legislative approval by June of 2024, detailed implementation planning will begin in the second half of 2024. It is anticipated that implementation planning, which requires administrative rulemaking, payment methodology updates, establishment of provider standards and training, provider contracting, and more, will allow for a phase-in from July of 2025 through the end of December 2026. This could include an approach where individuals who choose to have an independent case manager transition to a new case management entity earlier as independent entities grow to scale. Contours of the phased-in implementation will be determined as part of the assessment and stakeholder engagement process.

It is important to note that this HCBS conflict of interest plan does not preclude the State from implementing planned or new program improvements as this work is underway. Additionally, this proposed plan is subject to change based on CMS review, evolving state and federal requirements, and changing circumstances as the State progresses along the estimated timeline.

The estimated timeline will be used by the State for internal planning and project tracking. The timeline will be posted to the [Global Commitment to Health webpage on HCBS conflict of](#)

[interest](#) on the Department of Vermont Health Access website, and an updated version will be posted annually.

The current version of the [HCBS Conflict of Interest plan is available here](#).

**Authority/Legal Basis:**

[42 CFR 441.730\(b\)](#)

[Global Commitment to Health Waiver](#)

**Population Affected:**

Individuals receiving Home- and Community-Based Services in the following programs:

- Choices for Care Program
- Developmental Disabilities Program
- Brain Injury Program
- Community Rehabilitation and Treatment Program
- Intensive Home- and Community-Based Services Program