



CABINET FOR HEALTH
AND FAMILY SERVICES

The Future of Home and Community Based Services in Kentucky

Department for Medicaid Services
Division of Long-Term Services and Supports
November 14, 2023

Overview



CABINET FOR HEALTH
AND FAMILY SERVICES

01

1915(c) HCBS Waiver Updates

02

Children's Waiver Feasibility Study Progress

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1915(i) State Plan Amendment

1915(c) HCBS Waiver Updates

1915(c) HCBS Waivers

Acquired Brain
Injury

Home and
Community
Based

Michelle P.
Waiver

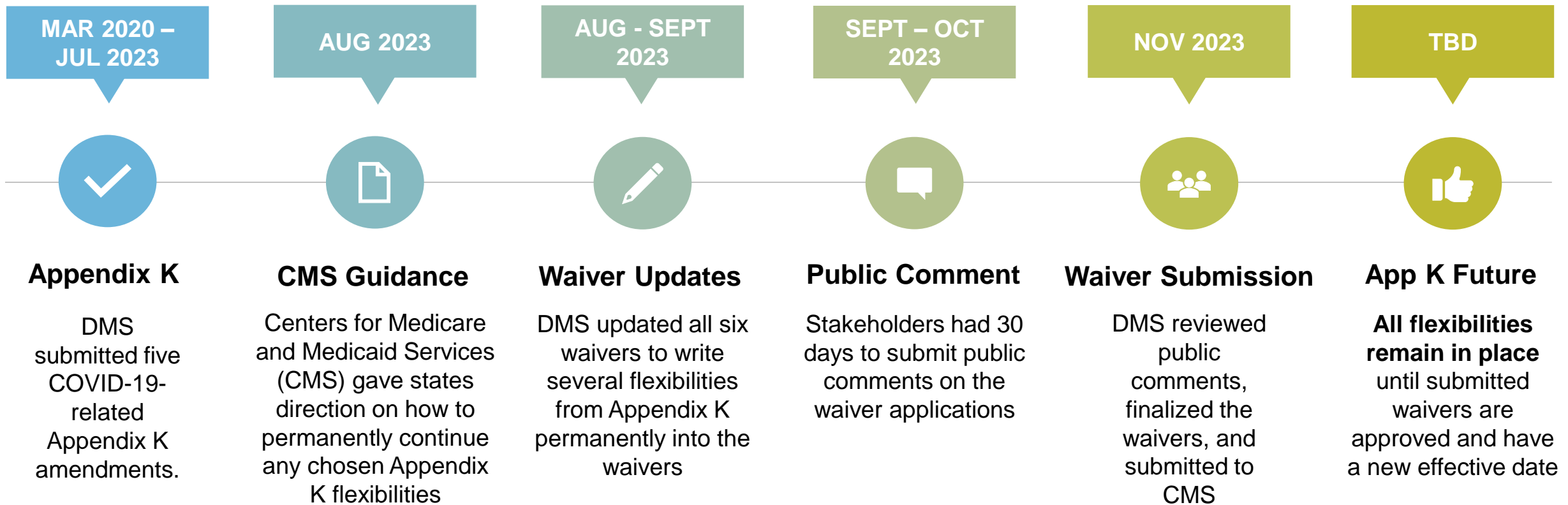
Acquired Brain
Injury Long
Term Care

Modell II
Waiver

Supports for
Community
Living

Recent 1915(c) HCBS Waiver Actions

The past three months, the Department for Medicaid Services (DMS) has focused on waiver updates necessary to making some Appendix K flexibilities permanent.



Which Appendix K Flexibilities Will Be Permanent?

01

Allow telehealth as a component of case management, counseling and therapies

02

Expand case management provider qualifications

03

Reduce age requirement for Respite, Personal Assistance, Attendant Care and Residential staff from 21 to 18

04

Allow access to respite for participants receiving Residential Support Level II in SCL

05

Allow limited waiver services to be provided in acute hospital settings under extraordinary circumstances

06

Expand Residential in ABI and ABI-LTC to allow up to five participants per house

07

Maintain Appendix K rate increases for all waiver services

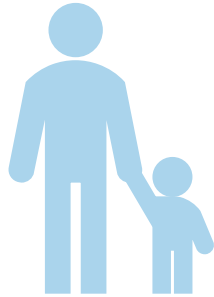
What Guided Proposed Policy Decisions?

- ▶ DMS carefully considered the Appendix K policy changes to keep vs. sunset.
- ▶ Some of the factors that guided proposed policy decisions include:
 - Health, safety, and well-being of program participants
 - Where it was best to return to in-person service delivery
 - When it was necessary to sunset a policy to revert to standing federal requirements
 - Where emergency-based allowances are no longer needed
 - Continued efforts to sustain and maintain the existing HCBS provider network

Legally Responsible Individual Review

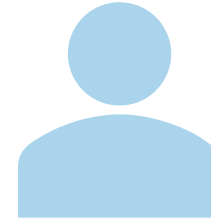
- DMS temporarily suspended the Immediate Family Member review process for PDS employees during the COVID-19 public health emergency. **The process will remain suspended until the effective date of the updated waiver applications.**
- Individuals hired while the suspension is in effect and who must go through the review process **can continue to work until the review is complete.** Reviews will take place at the time of the participant's recertification.
- When the review process resumes, DMS will change who must be reviewed. **Only legally responsible individuals (LRI) must be reviewed.** Any family member who is not also an LRI does not need to be reviewed.

Who Is a Legally Responsible Individual?



Minor Child
(Younger than 18)

- Parent
- Stepparent
- Adoptive Parent
- Court-appointed Legal Guardian



Adult
(Older than 18)

- Court-appointed Legal Guardian
- Spouse

Why Review LRIs?

- Per the Centers for Medicare and Medicaid Services, when PDS employees are allowed to be hired and provide services to a participant they are legally responsible:
 - The State must **define the types of LRIs who may be hired**; and
 - The **services provided must meet the definition of extraordinary care.**

What is Extraordinary Care?



“By extraordinary care, CMS means care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which are necessary to assure the health and welfare of the participant and avoid institutionalization.”

Additional details and training will be made available before the process resumes.

Next Steps for 1915(c) HCBS Waivers



Waiver Amendments

Continuing flexibilities were incorporated in amended waiver applications and submitted to CMS.



Public Comment Response

DMS will release a formal response to public comment soon.



CMS Approval

DMS will work with CMS to get the updated waivers approved. Discontinued flexibilities end on the effective date of the waiver.



Kentucky Administrative Regulations & Future Amendments

DMS will amend the waiver-related KARs to align with the updated waiver applications. Future waiver updates based on the findings of the 1915(c) HCBS rate study are planned as well.

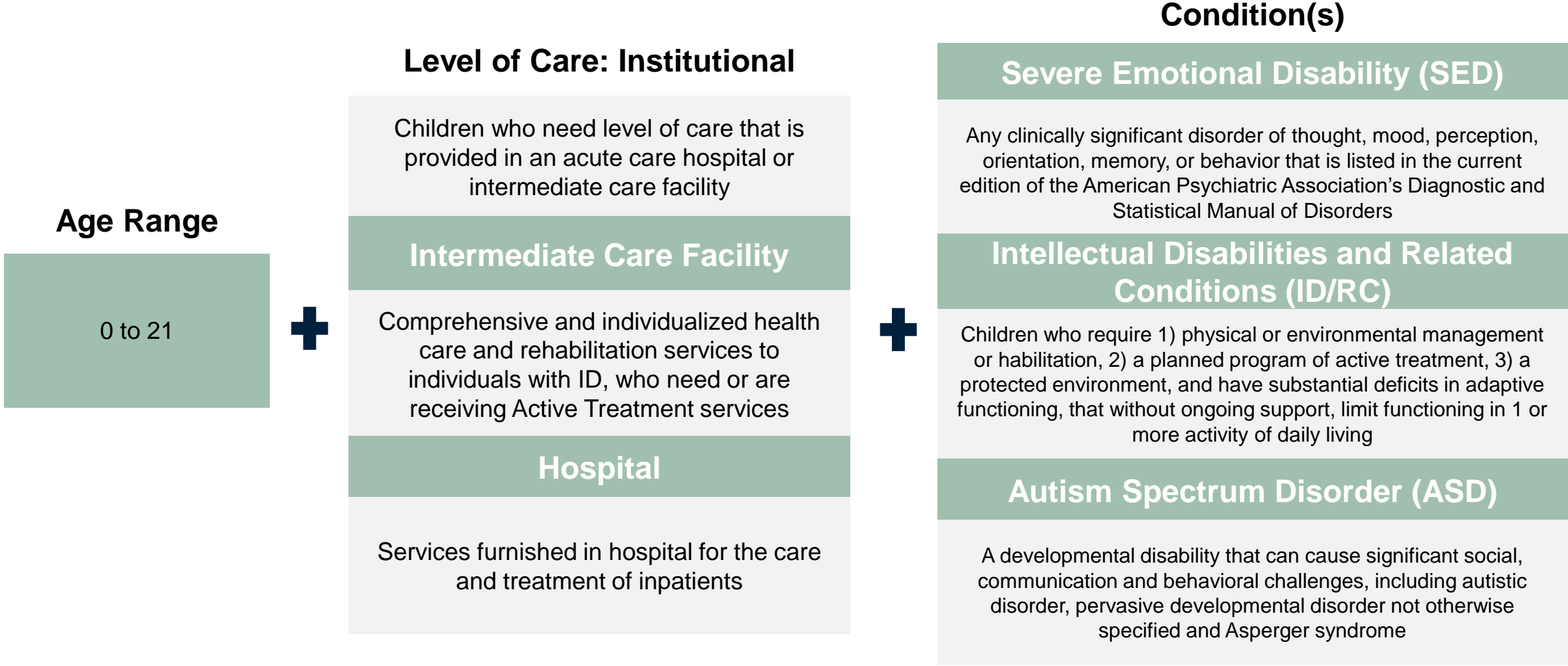
Children's Waiver Feasibility Study

Children's Waiver Feasibility Study Overview

Study Purpose

To determine how children with severe emotional disability (SED), intellectual disabilities and related conditions (ID/RC), including children with autism spectrum disorder (ASD), can have improved access to services and supports that would allow them to remain in their homes and communities.

Study Population



Sources: <https://www.law.cornell.edu/cfr/text/42/440.10>; <https://www.medicaid.gov/medicaid/long-term-services-supports/institutional-long-term-care/intermediate-care-facilities-individuals-intellectual-disability/index.html>

Study Activities To Date

Complete

- Family & Caregiver Focus Groups
- Family & Caregiver Survey
- Comparative State Research

In Progress

- Stakeholder Advisory Workgroup
- Provider Survey
- Comparative State Interviews
- Review Medicaid Data

Upcoming

- Determine Budgetary Impact
- Final Report (to include a summary of activities, findings and recommendations)

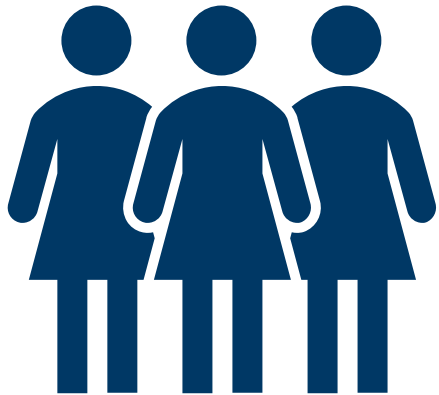
No decisions about whether to offer a new waiver or what services would be offered have been made. Any future waiver would require funding approved by the Kentucky Legislature in the state's biennial budget.

1915(i) State Plan Amendment

What is a 1915(i) State Plan Amendment?

States can develop a 1915(i) State Plan Amendment (SPA) program to:

1. Establish a new Medicaid eligibility group to receive HCBS
2. Define the supports and services included in the benefit
3. Target a program and its menu of services to one or more populations using needs-based eligibility criteria
4. Offer the benefit **state-wide** to eligible individuals. Note, when services are offered within the Medicaid state plan, they are available statewide and there are no capped slots.
5. Offer HCBS to people who do not yet meet the institutional level of care (e.g. qualify for a nursing home).



Evidence of Need for the 1915(i) SPA

Legislative Directive to Implement a New Medicaid Program:

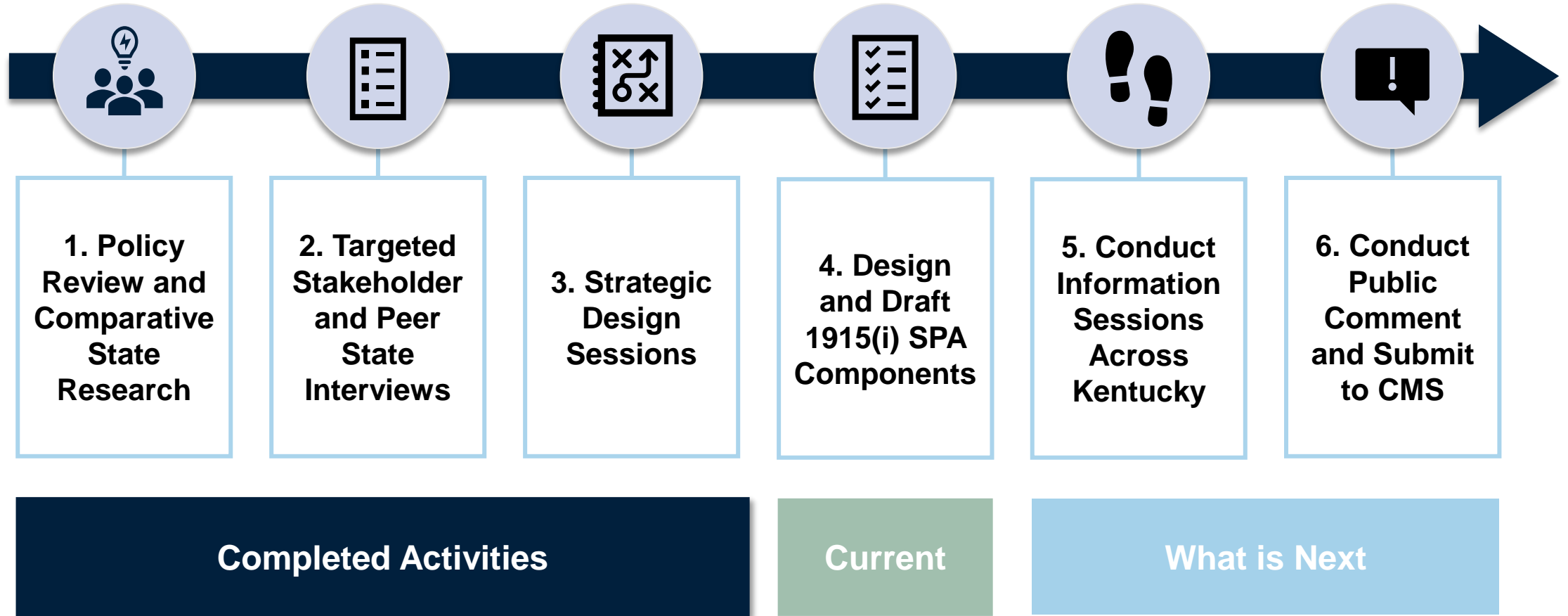
- Senate Joint Resolution 72 directed The Cabinet for Health and Human Services (The Cabinet) to create a Medicaid Program to address current needs of **individuals living with Severe Mental Illness (SMI)** in Kentucky.
 - The resolution stated the need for Supported Housing, Supported Employment, and Medical Respite.

Additional Indication of Behavioral Health Needs:

- Interviews with multiple behavioral health advocates and stakeholders to identified additional needs for individuals living with **SMI and Substance Use Disorder (SUD)**.



SPA Development To Date



1915(i) SPA Town Halls

Location	Venue	Date	Time
Morehead	Rowan County Public Library Community Room A and B 175 Beacon Hill Road, Morehead, Kentucky 40351	Wednesday, December 6, 2023	1:00PM to 2:30PM EST
Richmond	Madison County Public Library Ground Floor Community Room #103 507 West Main Street Richmond, Kentucky 40475	Thursday, December 7, 2023	1:00PM to 2:30PM EST
Northern Kentucky	St. Elizabeth Training Center Auditorium 3861 Olympic Boulevard, Erlanger, Kentucky 41018	TBD	1:00PM to 2:30PM EST
Louisville	Exact Location TBD	Wednesday, December 13, 2023	1:00PM to 2:30PM EST
Owensboro	Daviess County Fiscal Court 212 St. Ann Street – Second Floor, Owensboro, Kentucky 42303 <i>(Parking garage available at 2nd and Locust)</i>	Thursday, December 14, 2023	1:00PM to 2:30PM CST

Two locations will offer virtual attendance options as well. Email MedicaidPublicComment@ky.gov for details.

Contact Info

General Waiver Information

<https://bit.ly/KYMedicaidLTSSInfo>

Appendix K and COVID-19 Information

<https://bit.ly/KYDMSInfoCOVID19>

Children's Waiver Feasibility Study Info

<https://www.chfs.ky.gov/agencies/dms/dca/Pages/arpa.aspx>

1915(i) SPA Info

<https://www.chfs.ky.gov/agencies/dms/Pages/bhi.aspx>

Waiver-Related KARs

Legislature.ky.gov or find links the waiver-specific pages listed on <https://bit.ly/KYMedicaidLTSSInfo>

Waiver Policy and Case-Specific Questions

1915cWaiverHelpDesk@ky.gov or (844) 784-5614

Medicaid Financial Eligibility

Contact the Department for Community Based Services at (855) 306-8959 or DFS.Medicaid@ky.gov

To get email updates or submit a comment

MedicaidPublicComment@ky.gov

Self-Subscribe Instructions: <https://bit.ly/getkywaiverupdates>