

Community Living Advisory Group

Waiver Simplification Committee

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Recommendations from the Waiver Simplification Committee

1. Medicaid state plan benefits should be expanded for all children and adults eligible for long-term services and supports (LTSS) to include:

- Personal care
- Homemaker services
- Health maintenance
- Behavioral supports and mental health services regardless of diagnoses

Change Rationale/Problem Definition:

HCBS Medicaid waivers were designed and intended to provide services and supports for people eligible for long term benefits in addition to typical “health” services covered by Medicaid state plans. However, the Colorado Medicaid state plan limits or excludes services that are necessary for people to live successfully in the community.

The Medicaid state plan should be expanded to ensure that people eligible for LTSS can get these benefits without having to be enrolled in a Medicaid waiver—which by definition—is limited to a pre-determined number of individuals.

HCBS Waivers provide supports that are not covered in the state plan or are more expansive than what is offered in the plan.

Access to mental health and behavioral supports is particularly problematic in Colorado for people who are determined to have a diagnosed developmental disability and a co-occurring mental illness or problematic behaviors.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that CO HCPF take steps necessary to explore all options for expanding the Medicaid state plan to include the identified benefits for children and adults eligible for LTSS.

The 1915(k) Community First Choice option is one vehicle to expand the state plan and includes incentives for ensuring access to these community-based services. CFC also allows states to establish clear limits on eligibility to ensure that only those people who need long term care can access these benefits.

The Waiver Simplification Committee recommends that stakeholder groups continue to work with state staff to address mental health/behavioral support system issues. The current state plan mental health benefit requires that the Medicaid funded mental health system serve all persons regardless of underlying conditions but the plan does not require or provide funding for the state mental health

system to develop expertise for all covered populations and diagnosis-based determinations make it difficult for people with IDD to access needed supports.

We anticipate that some persons who currently use HCBS Medicaid waiver services would not need this level of support if personal care, homemaker, health maintenance, and mental health/behavioral services were available in the Medicaid state plan. As a result, more people could be served in the Medicaid waivers.

Additionally, if mental health services and behavioral supports were available to all eligible persons at a young age, the cost of intensive and long term supports could be mitigated. CMS has recently approved state plan amendments in some states to ensure that behavioral treatments for children with Autism are available under the state’s EPSDT Medicaid benefits. Colorado could avoid prolonged and expensive litigation by amending the state plan benefits. Care must be taken to ensure that persons currently meeting financial eligibility for HCBS Medicaid waivers will be able to access benefits in the state plan.

The Children with Autism Waiver, the Children with Life-Limiting Illnesses and the Children’s Home and Community-Based Services waivers could be eliminated if benefits are added to the state plan.

Triple Aim Goals:

- a. Improved Consumer Experience: Clearly, making these benefits available to all who need them would improve the lives of people with LTSS needs. If the state requires these services and supports for all who are eligible and properly reimburse for them, provider availability would improve.
- b. Improved Health and Social Integration: Personal care and health maintenance services—at home or in the community—are essential to avoid the isolation of hospital or institutional care.
- c. Fiscal Responsibility: Providing personal care, homemaker, health maintenance and mental health/behavioral services for all LTSS eligible children and adults will result in avoidance of expensive and extensive supports later in life.

Type of action required (e.g., administrative, regulatory, and statutory):

Changes to the state plan require statutory and regulatory changes.

Likely fiscal impact:

The fiscal impact is not known at this time.

2. Options for self-direction and individual budget control should be available to all populations served by HCBS Medicaid waivers. Participants (and families) should have a range of options from full consumer direction to full support by approved agencies. Participants should have a choice of fiscal agents and access to employers of record (should they choose not to employ staff).

Change Rationale/Problem Definition:

Current CO law provides for self-directed options in all waivers but has only been implemented in the HCBS Medicaid waivers for the Elderly, Blind and Disabled; the Traumatic Brain Injury Waiver and the Waiver for persons with mental illness. Also that option, known as Consumer Directed Attendant Services and Supports (CDASS), is limited to personal care, health maintenance, and homemaker services.

CMS has recently issued new regulations and guidance to states requiring that Long Term Services and Supports be provided with individual, holistic approaches. Options for self-direction and individual budget control for all populations are critical for the state to meet goals of “person centeredness.”

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that CO HCPF take steps necessary to include self-direction options in all HCBS Medicaid waivers for all services. As noted above, a true “person-centered” system cannot be achieved without individual choices and options.

Triple Aim Goals:

- a. Improved Consumer Experience: Options for self-direction and individual control over budgets are the capstones of a good experience for persons eligible for LTSS.
- b. Improved Health and Social Integration: The CO experience with CDASS and national data on self-direction are clear: the greater the involvement and control of the participant, the better the outcomes.
- c. Fiscal Responsibility: Self-direction options and individual budget control can facilitate responsible use of public funds. Proper oversight and consumer protection rules can be implemented without much difficulty.

Type of action required (e.g., administrative, regulatory, and statutory):

A statutory change would be required to expand self-direction options to services other than those currently available to CDASS participants. Statutory changes may be required to implement individual budget control. Waiver amendments (or language in new waivers) would be required to expand CDASS. New regulations re: consumer direction and administrative regulation would be required.

Likely fiscal impact: The fiscal impact is unknown but the state can establish limits on the money available for re-imburement for any type of service.

3. Case management options based on individual needs and preferences should be available to all people served by HCBS waivers.

Change Rationale/Problem Definition:

Presently, Colorado has multiple approaches and ways of funding case management services for individuals enrolled in HCBS waiver programs. With certain waiver programs, the ratio of clients per case manager is a structural barrier to supporting a more responsive, person-centered system and person-centered planning. With many programs, the case management approach is structured as a one-size fits all model where the number of contacts per year are prescribed by regulation regardless of what the client may need or prefer. In some programs, clients have a choice of case management agencies while in other programs clients do not have a choice of agencies. The current systems for case management have structural challenges that are characterized by staff turnover; variability in the adoption of person-centered planning approaches and the various roles of a case manager (e.g. gate-keeper versus advocate; administrator versus service broker); and inconsistency in the training and qualifications of case managers.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that CO HCPF take steps necessary to restructure case management systems so that clients have choice to the extent possible, that the level of case management is tailored to the individual needs and preferences of the client and/or family and that training and case manager-to-client ratios support a responsive, person-centered system.

Triple Aim Goals:

- a. Improved Consumer Experience: A case management system with choice, well-trained and retained staff and capacity to tailor case management to the individual needs and preferences of a client will foster an improved consumer experience.
- b. Improved Health and Social Integration: A well-trained case manager with capacity to coordinate services and supports, apply person-centered planning principles, to be responsive to the needs of a client and balance the responsibilities associated with the various roles of a case manager is better positioned to support improved health and social integration.
- c. Fiscal Responsibility: A case management approach that is tailored to the individual needs and preferences of a client has the potential to target limited case management resources to the clients most in need of case management services.

Type of action required (e.g., administrative, regulatory, and statutory):

Restructuring Colorado's case management systems will require administrative, regulatory and statutory changes.

Likely fiscal impact: Unknown. Fiscal analysis will be required by the Department to determine costs associated with training, right sizing case manager-to-client ratios and the implications of a more individualized case management approach.

4. A new universal assessment tool and person centered planning process for all children and adults eligible for LTSS should be developed.

Change Rationale/Problem Definition:

Colorado currently has one assessment tool (Universal Long-Term Care (ULTC) 100.2) to determine eligibility for Home and Community-Based Programs (HCBS) and approximately 30 other assessment instruments that are used for support planning, resource allocation, transition support and rates determination for specific services once a client has been enrolled in a program. Beyond the limited purpose of the 100.2, other limitations with the 100.2 include:

- The 100.2 primarily covers Activities of Daily Living (ADLs).
- The instrument lacks depth in assessing memory/cognition and behavior issues.
- The tool does not include other domains that might be part of a comprehensive assessment that would inform support planning are missing.
- Case management agencies and state staff have created other tools on their own to address the limitations in the 100.2 to better discover the goals, strengths, needs and preferences of clients receiving LTSS.
- The application of the 100.2 scoring criteria has led to inconsistent decisions regarding eligibility due to the lack of reliability of the tool.

A well-designed assessment tool will balance the burden on families and clients while supporting specific functions, such as intake and screening, functional eligibility and support planning, which are required and if possible resource allocation. While selecting and designing a new assessment tool is left to the states, CMS has articulated that an LTSS assessment at a minimum should include the specific domains:

- Activities of Daily Living
- Instrumental Activities of Daily Living
- Medical Conditions/Diagnoses
- Cognitive Function and Memory/Learning
- Behavior Concerns

To support a person-centered planning process, the assessment tool/process should support the exploration of the client's goals, strengths, individualized needs and preferences and inform what services and supports might be considered to achieve the identified goals and to address the needs of the client. Presently, Colorado does not have a consistent approach for person-centered planning. As of March 2014, CMS requires states to establish a person-centered planning process for HCBS clients.

As Colorado moves to support greater choice and control for clients, community integration and consumer direction, a strong assessment tool is necessary to support the creation of individual budgets that allow clients more control, to support clients in making decisions about possible service options, to gauge clients' interest and capacity for consumer direction and to promote employment. At present, the 100.2 has limitations in supporting these areas across programs and populations.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that CO HCPF take steps necessary to select, pilot and implement a new universal assessment tool to support a person-centered planning process, reliably determine eligibility, support consumer direction and community integration. Piloting a new assessment tool may require multiple pilots through different phases of implementation over the course of a few years.

Triple Aim Goals:

- a. Improved Consumer Experience: Consistent, reliable eligibility decisions regardless of the assessor; establishing meaningful individual budgets that provide more choice and control and that adequately supports the purchasing of necessary services; and person-centered planning are essential for promoting a good experience for persons eligible for LTSS.
- b. Improved Health and Social Integration: An assessment tool/process that adequately captures the goals, strengths, preferences and needs of a client can better inform what paid supports might be considered to improve the health and social integration of a client.
- c. Fiscal Responsibility: A reliable, robust assessment tool/process linked to a meaningful, transparent resource allocation methodology can allow the state to establish thresholds for individual budgets within state fiscal constraints and based on the level of need of the client while allowing more choice and control regarding services and supports.

Type of action required (e.g., administrative, regulatory, and statutory):

Implementing a new assessment tool would require a regulatory and administrative change.

Likely fiscal impact:

Implementing a new assessment tool will require costs associated with designing, piloting and training as well as costs related to automation and if applicable of any licenses.

5. Initial waiver re-design should focus on:

- Development of a single HCBS Medicaid waiver for adults with IDD
- Development of a new adult HCBS Medicaid waiver to support older persons, adults with brain injury, spinal cord injury and adults with mental illness
- Development of a new HCBS Medicaid waiver to support children with IDD to replace the Children's Extensive Supports Waiver and the Children's Habilitation Residential Program waiver

Change Rationale/Problem Definition:

As noted many times throughout the Community Living Advisory Group subcommittee process, Colorado's current HCBS waiver system is unwieldy and complicated. The number of HCBS waivers as well as the disparate service definitions in the existing waivers must be addressed and simplified. The Community Living Advisory Group has already approved the recommendation to develop a single adult waiver for people with IDD and to merge the Persons Living With AIDS waiver in the EBD waiver.

Additionally, the concept paper submitted to CMS by the Waiver Simplification Committee, and presented to the Community Living Advisory Group, to CMS in 2013 proposed these changes.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that CO HCPF continue with plans to re-design the adult DD waiver and that the department formalize re-design groups for the children's waivers and a new adult waiver for older persons, people with physical disabilities, brain injuries, and mental illness.

We anticipate that a new waiver for adults with IDD will include flexible service definitions and easy access to enable participants to access services and supports when and where needed based on individual needs and preferences. The new waiver should ensure that participants can readily adjust and make changes in services as needs and preferences change.

Likewise, a new adult waiver for adults in other population groups will result in greater flexibility and individualization.

The current CHRP waiver for children with IDD is outmoded and unneeded. The existing requirements re: level of care in the CES waiver for children with IDD is prohibitive and exclusionary. A new waiver for children with IDD will address current concerns as highlighted in the CMS concept paper.

Triple Aim Goals:

- a. Improved Consumer Experience: More flexibility in waiver design—across all populations—will improve consumer experience.
- b. Improved Health and Social Integration: With greater flexibility and enhanced responsiveness, individual service plans can be readily modified to accommodate changes in health, family, and social conditions. Greater individual control over the types of services provided as well as the direction of service providers will allow for enhanced social integration.

- c. Fiscal Responsibility: Reducing the number of HCBS Medicaid waivers will reduce administrative oversight and management needs. Greater flexibility in waiver design should allow people to get what they need and want when they need and want it and will not force people into a service plan that doesn't meet their needs.

Type of action required (e.g., administrative, regulatory, and statutory):

Statutory and regulatory changes will be required. Administration of the waivers will change within the department.

Likely fiscal impact: Unknown.

6. All HCBS Medicaid waivers should include options for the following services and supports:

- Personal support for activities of daily living and instrumental activities of daily living (if not available in the Medicaid state plan)
- Health maintenance (if not available in the Medicaid state plan)
- Homemaker services (if not available in the Medicaid state plan)
- Personal coaching to develop goals and explore options
- Respite support because of the absence of or need for relief of the primary caregiver
- Therapeutic respite
- Home modifications
- Assistive technology
- Behavioral supports (if not available in the Medicaid state plan)
- Non-medical transportation
- Vehicle modification
- Community and personal engagement (includes employment options)

Change Rationale/Problem Definition:

Colorado's current waivers offer a range of services for different populations with similar names but different definitions. As noted in the CMS concept paper, it is imperative that there be greater consistency for all LTSS. While individual needs and preferences will vary, a common core of services and benefits should exist in all waivers.

For example, current waivers limit the availability of respite to certain populations and restrict employment-related services to persons with IDD. The Waiver Simplification committee believes that options for true community living should be available to all populations.

Additionally, the current definitions of services within the waivers are too prescriptive. Greater flexibility must be provided to ensure that individual plans can be implemented.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that CO incorporate a common set of services with flexibility in the definition across all waivers for all populations. We further recommend that if personal support, homemaker services, health maintenance, and mental health/behavioral supports are not included in the state Medicaid plan that they must be included in all waivers.

Individualized service plans can be developed within flexible service definitions allowing greater responsiveness to changing situations, enhanced consumer control and more efficient use of resources.

Triple Aim Goals:

- a. Improved Consumer Experience: Consumers will have access to more services that are based on individual needs and preferences across the life span.
- b. Improved Health and Social Integration: Access to more community-oriented supports will lead to better physical and mental health for all populations.

- c. Fiscal Responsibility: Limits on waiver services can be established to maintain control over costs.

Type of action required (e.g., administrative, regulatory, and statutory):

Statutory and regulatory changes will be required.

Likely fiscal impact: Unknown

7. Person centered approaches for all HCBS Waiver Services will address essential life domains:

- Living arrangements
- Health and safety
- Community integration
- Special consideration for children to ensure that HCBS waiver services address family needs, preferences, and choices.

Change Rationale/Problem Definition:

Regardless of age, type of disability, or family system, all HCBS waiver services should focus on essential life domains to include where and how one lives, the health and safety of the person, connections to the greater community as well as the well-being and integrity of the immediate family in the case of HCBS waiver services for children. Currently, CO HCBS waivers and the accompanying design of service delivery systems limit choices of individuals and their families.

Residential options (where included in the waiver) are restrictive and, in many cases, overly protective. Persons who live in a group setting seldom have a choice about who they live with, what they do all day, and how their lives are scheduled; risk-adverse rules too often restrict personal choice and preferences and lead to practices that equate all risk with danger. Congregate environments limit community integration. Services for children are often designed in a vacuum ignoring the needs of siblings and parents.

New CMS rules require that states re-think the definition of community based settings and requires states to implement person-centered planning in all aspects of HCBS delivery.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee supports the current movement toward person-centeredness and recommends that principles of person-centered design be incorporated into every facet of the LTSS system from the point of entry to service plan implementation. HCPF should ensure that every point of contact for a person with LTSS needs considers the individual strengths, needs, choices and preferences of the consumer.

For people to live in the community and avoid expensive and restrictive institutional, congregate, or hospital placements, persons must have options to as many choices as possible. A person-centered culture will benefit consumers, providers and state regulators.

Triple Aim Goals:

- a. Improved Consumer Experience: Choice will lead to greater consumer satisfaction
- b. Improved Health and Social Integration: Waiver services that acknowledge individual strengths, needs, choices and preferences will enable people to live more typical lives in the community and facilitate social integration.
- c. Fiscal Responsibility: Person centered systems can be designed with fiscal limits and still facilitate individual choice

Type of action required (e.g., administrative, regulatory, and statutory):

Statutory, administrative and regulatory changes will be required.

Likely fiscal impact: Unknown

8. **Changes to licensure requirements for agencies that provide community based services as well as changes to or waivers of scope of practice requirements should be made to ensure access to home and community-based services. The state should re-examine and modify regulations that govern delegation and assure appropriate oversight and supervision of services.**

Change Rationale/Problem Definition:

The current CO Nurse Practice Act was developed, as is the case in many states, within a hospital/institutional based clinical context. As more people choose to live in the community, changes must be made to ensure that services and supports can be delivered in the home and in other community setting without compromising health and safety. The Nurse Practice Act does allow for delegation of some services but implementation of the delegation function is inconsistent and uneven. Providers lack clarity about liability issues and services defined as requiring “skilled” administration are often simply not available to consumers because of the cost of scheduling intermittent skilled support.

Provider requirements identified in some HCBS Medicaid waivers are different from the requirements established by the CO Department of Health and Environment and in some cases are contradictory.

Access to health maintenance supports in community settings as well as at home is often limited by licensure requirements and regulations.

Recommendation and anticipated outcomes:

The Waiver Simplification Committee recommends that HCPF and CDPHE with the Department of Regulatory Affairs with consumer input review existing scope of practice requirements and licensure requirements toward changes that will ensure client health and safety while facilitating community living.

Triple Aim Goals:

- a. Improved Consumer Experience: Consumers can access the health related services they need from the people with whom they engage most frequently with the assurance that procedures are appropriately delegated and supervised.
- b. Improved Health and Social Integration: Ensuring that people’s daily schedules are integrated and not divided arbitrarily among professional service categories will allow people to live more typical lives and enhance social integration.
- c. Fiscal Responsibility. With changes to home and community-based service delivery requirements, the cost of providing some services can be reduced and there can be less reliance on more expensive institutional/hospital services.

Type of action required (e.g., administrative, regulatory, and statutory):

Statutory and regulatory changes will be required.

Likely fiscal impact: unknown