



OPERATIONAL MEMO

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Purpose and Audience:

The purpose of this Operational Memo is to provide information about the process to transition to Conflict-Free Case Management when new providers move into regions where the Centers for Medicare & Medicaid Services have granted a rural exception.

Information:

Background

In 2014, the Centers for Medicare & Medicaid Services (CMS) published a rule (42 CFR 441.301(c)(1)(vi)) requiring the separation of case management from the provision of direct services for members enrolled in a Home and Community-Based Services (HCBS) waiver. The rule allows for an exception in geographical areas where there is no other willing or qualified provider. The Department of Health Care Policy & Financing (Department) submitted HCBS waiver actions for the HCBS-Children's Extensive Support (HCBS-CES), HCBS-Persons with Developmental Disabilities (HCBS-DD), and HCBS-Supported Living Services (HCBS-SLS) waivers asking for this exception in 10 Community Centered Board catchment areas, comprising of 47 counties. The Department received approval for this rural exception in all three waivers in August

2018. In addition, the rural exceptions were again approved in the HCBS-CES, HCBS-DD, and HCBS-SLS waiver renewals effective July 1, 2019 through June 30, 2024.

Information/Procedure

In order to comply with the federal requirement of Conflict-Free Case Management and to ensure members receive both case management and direct services, the Department is providing direction to rural Community Centered Boards regarding the rural exception. The direction is divided into two scenarios:

- A new Case Management Agency enters a rural exception catchment area, or
- A new direct service provider enters a rural exception catchment area.

The direction provided is applicable to members enrolling into or currently enrolled in the HCBS-CES, HCBS-DD, and HCBS-SLS waivers.

A New Case Management Agency Enters a Rural Catchment Area

When a new Case Management Agency enters a region where a rural exception has been granted prior to June 30, 2022, the Case Management Agency shall follow the timelines to be conflict-free established in 25.5-10-211.5(3)(f) and (g).

When a new Case Management Agency enters a region where a rural exception has been granted after June 30, 2022, the following shall occur:

1. A newly enrolled member may choose the conflicted case management agency to provide case management services only if they do not choose that agency to also provide direct services.
2. Members currently enrolled in an HCBS waiver will be informed by the Department or its vendor of the new Case Management Agency that is not in conflict and those who wish to change to the new agency shall work with the Department's statewide vendor to assist with this process.
3. Members currently enrolled in an HCBS waiver who do not self select to transfer to the new Case Management Agency that is not in conflict shall be provided information about the Case Management Agency that is not in conflict at their annual Service Plan meeting and all members will be required to transition to the new Case Management Agency by the end of the approved waiver cycle.

The conflicted Case Management Agency shall begin this process as follows:

- a. Members who receive 50% or less of their direct services from the conflicted Case Management Agency shall transition first.
- b. Members who receive 50% or more of their direct services from the conflicted Case Management Agency shall transition second.
- c. Members who receive 75% or more of their direct services from the conflicted Case Management Agency shall transition third.
- d. All transitions shall be complete by the end of the waiver cycle.
- e. Percentages are based on the number of authorized services in the Service Plan and Prior Authorization.

A New Direct Service Provider Enters a Rural Catchment Area

When a new direct service provider enters a region where a rural exception has been granted prior to June 30, 2022, the Case Management Agency shall follow the timelines to be conflict-free established in 25.5-10-211.5(3)(f) and (g).

When a new direct service provider enters a region where a rural exception has been granted after June 30, 2022, the following shall occur:

1. When a new direct service provider is approved to provide services in a rural catchment area, the Department will notify the Case Management Agency that is in conflict of the new provider and the services approved to provide.
2. The Department will initially inform members of the option to receive their direct services from a provider that is not in conflict.
3. All new members enrolling into an HCBS waiver will be required to select the new direct service provider for the services authorized in the Service Plan that the direct service provider provides up to the capacity of the new provider.
4. Members currently enrolled in an HCBS waiver shall be informed of the new direct service provider by the Case Management Agency that is in conflict at time of service authorization and those who wish to change to the new direct service provider shall work with their case manager to transition to the new direct service provider.
5. Members currently enrolled in an HCBS waiver who have not selected to transfer to the new direct service provider shall be provided information on the new

direct service provider at their annual Service Plan meeting and those who wish to change to the new direct service provider shall work with their case manager to transition to the new direct service provider.

6. Members currently enrolled in an HCBS waiver who do not wish to change to the new direct service provider shall be allowed to remain with their agency providing both case management and direct services. In this situation, the following shall occur:
 - a. Members shall be provided informed choice no less than annually at the Service Plan meeting.
 - b. The case manager shall document in the Department's prescribed system the conversation with members regarding informed choice and the member's decision for their direct service provider.
 - c. The Case Management Agency shall collaborate with the direct service providers in their area to host a provider fair no less than annually where members enrolled in an HCBS waiver can attend to learn about the providers in the area.
 - d. The Case Management Agency shall track referrals sent to all direct service providers with the response rate from all direct service providers along with members' selection for direct service providers and submit this to the Department quarterly for review.
7. All transfers to the new direct service provider are contingent upon the new direct service provider's capacity and the services offered by the direct service provider to provide services to members receiving both case management and direct services from their Case Management Agency.
8. In the event that a direct service provider is already serving a rural catchment area, the Case Management Agency shall follow steps four (4) through six (6) outlined above.
9. This process is contingent on the direct service provider's willingness to serve a location and a Member.

Attachment(s):

None

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