

Proposed Medicaid Brain Injury Waiver

Options

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Presentation Outline

■ *Background Information About Waivers*

- ☐ Other States' Brain Injury Waivers
- ☐ Cost of Alternate Institutional Placement
- ☐ Options for a Brain Injury Waiver in Virginia

Medicaid State Plan Services vs. Waivers

- ◆ Usually services must be available in the same amount, duration, and scope to all similarly situated Medicaid recipients. Services are to be available to the extent they are available to the general public, providers must be willing and able to provide services, and recipients must be allowed to choose their providers.
- ◆ In addition, services cannot usually be targeted by age or type of disability.
- ◆ Waivers allow states to “waive” some of these requirements and target specific ages or disabilities, provide services only in parts of the state, and have managed care programs.

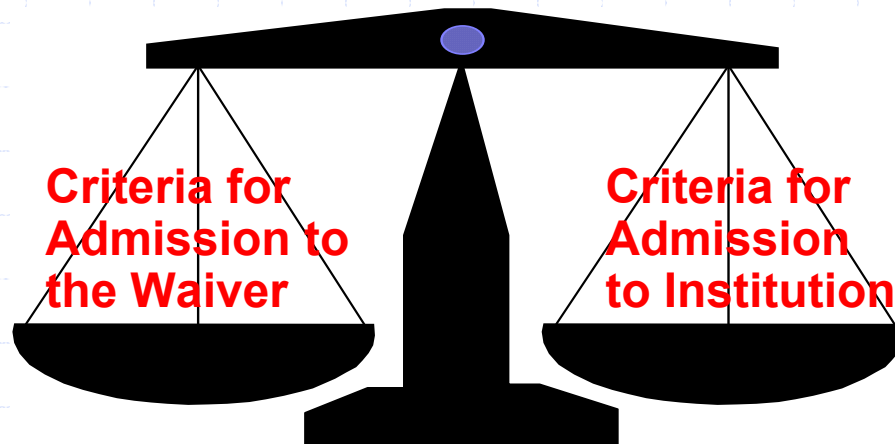
Home and Community Based Services - 1915(c) Waivers

- ◆ Optional programs that afford States flexibility to develop and implement alternatives to institutionalization. Approved initially for 3 years, and then in 5 year increments.
- ◆ Can request waivers for individuals who are:
 - Aged or disabled, or both; or
 - Mentally retarded or developmentally disabled, or both; or
 - Mentally ill*
- ◆ Alternate institution can be a nursing facility, ICF/MR, or hospital.

Alternate Institutional Placement

- ◆ There must be an alternate institutional placement for which Medicaid pays. Cannot get a waiver with an alternate institutional placement of an IMD.
Medicaid does not pay for services in an IMD for people between the ages of 21 and 64.
- ◆ Must determine the alternate institutional placement, and must name that placement in the waiver application.
- ◆ This does not mean that the individual must actually be placed in the institution or make application to an institution.

Alternate Institutional Placement



The individual who is applying for a waiver must meet the same criteria that is used for admission to the institution. 42 C.F.R. 441.302 (c)(1); 42 C.F.R. 441.303 (c)(2)

To Receive Approval to Implement a Waiver

Must Offer Choice

In order to have a waiver approved by the Centers for Medicare and Medicaid Services (CMS), the applicant must be offered the choice between the waiver and the alternate institution.

42 C.F.R. 441.302(d)

To Receive Approval to Implement a Waiver

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The Single State Medicaid agency must:

- ◆ make policy
- ◆ administer the program
- ◆ can contract services but must retain responsibility for policy and administration of the program 42 C.F.R. 431.10
- ◆ The waiver Plan of Care must be subject to approval by the Medicaid agency. 42 C.F.R. 441.431(b)(1)

**Applies to
all
Medicaid
Services**

To Receive Approval to Implement a Waiver

The Medicaid Agency must also assure CMS that there are safeguards to protect the health and welfare of recipients.

42 C.F.R. 441.302(a)



Waiver Payments are for Services Rendered

- ◆ Waivers provide services that are not available to the general Medicaid population.
- ◆ Waivers don't have to offer the same services with the same service definitions as other waivers.



Medicaid waiver funds cannot pay for room and board.

To Receive Approval to Implement a Waiver

Waiver Eligibility

- ◆ Higher income level for long term care = 300% of SSI income level (currently \$1,692; will be \$1,737 January 2005) - all waivers. (Federal law will not allow a state to use an income level higher than 300% of SSI.)
- ◆ For AIDS, CD-PAS, Elderly and Disabled, and Technology Assisted Waivers, individual could be on a spend-down if income is over this amount. There is no spend-down option for the MR and DD Waivers.

Waiver Eligibility - All Waivers

- ◆ The State and CMS agree to a number of slots that will be available for the waiver.
- ◆ The State cannot exceed the number of slots that have been agreed upon.
- ◆ States must conduct yearly level of care reviews on all waiver recipients.

Waiver Eligibility

Most Waivers

- ◆ Most waiver recipients must contribute toward the cost of care through payment of a patient pay. The patient pay is usually all income in excess of 100% of the SSI income level - currently \$564 (will increase to \$579 January 2005).
- ◆ Two exceptions:
 - the AIDS waiver does not have a patient pay;
 - the CD-PAS, DD, and MR waivers allow individuals to keep more of their earned income.

Number of Individuals Served & Expenditures in Waivers in FY 2004

Waiver	Recipients	Waiver Costs (in Millions)	Other Costs (in Millions)	Total (in Millions)
AIDS	274	\$608,497	\$5*	\$5.6*
CD-PAS	417	\$4.4	\$2.2	\$6.6
DD	270	\$4.7	\$2	\$6.7
E&D	10,161	\$101.3	\$78	\$179.4
MR	5,622	\$224*	\$45.3*	\$269.3*
Tech	340	\$19.6	\$8.2	\$27.8
Total	16,814	\$354.1*	\$140.7*	\$494.9*

Source CMS 372 reports FY 04

*MR and AIDS Waiver totals are not yet available

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Other States' Brain Injury Waivers

- ◆ 25 states have a home and community-based services waiver program specifically designed for individuals with brain injuries.
- ◆ Kansas was the first state to develop a Brain Injury Waiver (1991).
- ◆ Most of these waivers are considered small by CMS (meaning that the waiver serves under 500 individuals).

Other States' Brain Injury Waivers

- ◆ Several states combine individuals with other disabilities under the same waiver. Example, Florida provides services to individuals with a TBI or a spinal cord injury under the same waiver.
- ◆ Other states, like Virginia, do not specifically have a waiver designed for individuals with TBI but serve these individuals through other waivers such as a waiver for individuals with developmental disabilities.

Other States' Brain Injury Waivers

- ◆ States vary in the number and types of services that they offer through brain injury waivers. Some services offered in other states include:

Adult Day Health Care
Case Management
Behavior Management
Home Delivered Meals
Environmental Mods
Skilled Nursing
Independent Living Skills

Assistive Technology
Crisis Support
Personal Care
Cognitive Rehab
Residential Svcs.
Substance Abuse

Other States' Brain Injury Waivers

- ◆ States vary in their eligibility criteria. For example, states have varying age restrictions. Some states will only serve individuals 22 and under, some states will only serve adults, some states restrict the elderly from receiving TBI services.

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Alternate Institutional Placement

- ◆ For individuals who have sustained an injury prior to age 22 the alternate institutional placement is an ICF/MR. The average cost in Virginia for individuals in an ICF/MR is about \$105,000 per year.
- ◆ If the injury was sustained after age 22, the alternate institutional placement would be a nursing facility brain injury unit. \$120 per diem for NF + \$50 per day for the brain injury unit = \$62,050 for the entire year. Due to patient pay and people not staying for the entire year, the cost to Medicaid would be lower.

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Needed to Develop a Brain Injury Waiver

- ◆ Legislation to allow DMHMRSAS to license services
- ◆ Staff needed at DMAS (2) and DMHMRSAS (1); DMAS staff is 50% federally funded; DMHMRSAS staff is 100% State funded (cannot get federal funding for state-required licensing).
- ◆ Funding for the waiver
- ◆ Emergency regulatory authority if the waiver is to be developed in 2005.

Funding Options for a Brain Injury Waiver : 200 Slots

- ◆ Fund 200 slots with the services recommended by the work group:
 - cost in 2005 = \$4.3 million (GF);
 - in 2006 \$6.8 million (GF)

Funding Options for a Brain Injury Waiver : 200 Slots

- ◆ Place limits on services to assure a lower cost per person. Determine the target cost per person and place limits accordingly.
 - For example, \$40,000 per person would cost \$4 million in general funds;
 - \$30,000 per person would cost \$3 million in general funds.
 - Could control waiver costs through this means, could not control other Medicaid costs
 - People might not get the services needed to avoid institutionalization

Funding Options for a Brain Injury Waiver : Fund Fewer than 200 slots

# of slots	Total Funds In millions	GF
150	\$9.7	\$4.8
100	\$6.5	\$3.2
75	\$4.8	\$2.4
50	\$3.2	\$1.6

These are approximate amounts; this is not an official fiscal impact statement.

Funding Options for a Brain Injury Waiver : Fund Fewer than 200 slots

- ◆ Administrative costs and activity would remain the same (part of the reason for this is increased reporting requirements to CMS and new quality framework).
- ◆ Might need to target the waiver to specific geographic locations in order to build a sufficient provider base.