

**PROPOSED BRAIN INJURY WAIVER  
2009-2011**

**Department of Medical Assistance Services  
Division of Long- Term Care**

*“Creating a Better Future”*

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# PROPOSED MEDICAID BRAIN INJURY WAIVER

- Medicaid Waiver Process
- BI Research
- Advisory Committee Work
- Public Comment Forum
- Proposed Medicaid Brain (BI) Waiver
- Other program options being explored

# Medicaid Waiver Process:

- **The Centers for Medicare and Medicaid Services (CMS) mandates that Medicaid services must be available in the same amount, duration, and scope to all Medicaid participants**
- **Without a federal waiver, in general, services cannot be targeted by age or type of disability**

# Medicaid Waiver Process:

- **Approved initially for 3 years, then in 5 year increments**
- **There must be an alternate institutional placement for which Medicaid pays**
- **Must determine the alternate placement and must name that placement in the waiver application**
- **This does not mean the individual must actually be placed in the institution or make application to an institution**

# Medicaid Waiver Process:

- The participant applying for a Medicaid waiver must meet the same criteria that is used for admission to the alternative institutional placement
- In order to have CMS approval of a Medicaid waiver the applicant must be offered the choice of:
  - The Medicaid waiver or the alternate institutional placement
  - Service providers, and,
  - Types of services available

# Medicaid Waiver Process:

- **Medicaid waivers provide services that are not available to the general Medicaid population**
- **Medicaid waiver funds cannot pay for room and board**
- **The waiver must be cost effective- the total cost of the waiver must be less than the alternate institutional cost.**

# Medicaid Waiver Process:

- What is the time line for development?
  - Typically it takes a year to fully develop and launch a new waiver after General Assembly allocates funds for the waiver.

# How do you Create a Waiver?

## Key steps

### General Assembly

General Assembly provides funding and mandate for the waiver.

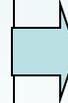


### CMS

Submit request for new waiver- describe service details, available providers and number of participants to be served

Ensure all proposals meet CMS and Omstead requirements

Typical processing time for new waiver is minimum 90 days for approval



### Infrastructure

Determine staffing for waiver development and quality management reviews

Develop the proposed services

Draft & process regulatory requests

Develop waiver policy manuals

Automated Systems Changes

Establish Rates

Educate Stakeholders

Inform Medicaid members

# CMS submission cycle

Final Approval

DMAS drafts  
Waiver Proposal

Draft submitted  
to CMS

State responds

CMS reviews  
answers  
New 90 day clock

CMS reviews  
on 90 day clock

# JLARC 2007 STUDY

- The 2006 Appropriation Act directed the Joint Legislative Audit & Review Commission (JLARC) to report on access to community-based brain injury services in Virginia
- The following is a summary of some findings dated September 10, 2007 from the “Report of the Joint-Legislative Audit and Review Commission to the Governor and The General Assembly of Virginia”

# COMPELLING NEED

- Growing population – JLARC Report
  - In 2007, it was found that more than 82,000 Virginians were reported to Virginia’s brain injury (BI) registry since 2002
  - 150,000 Virginians have a permanent BI related disability per CDC findings
- No specific brain injury system of care in the Commonwealth to provide comprehensive service needs to include neurobehavioral services
- Increasing disposition issues regarding appropriate services/placement for individuals with a BI who exhibit behavioral challenges

# JLARC 2007 STUDY

- Many areas of Virginia have few State-funded community-based BI services
- Long waiting lists of up to one year for some programs such as case management services and clubhouse programs
- Behavior resulting from BI may lead to placement in local hospitals, skilled nursing facilities, or incarceration in correctional facilities without adequate treatment
- Few nursing facilities (NF's) offer brain injury-specific services, such as cognitive rehabilitation
- BI survivors placed in (NF's) are often discharged due to behavioral problems

# JLARC 2007 STUDY

- **Thousands of persons with brain injury have neurobehavioral disorders**
- **Few beds are available for the costly and intensive treatment needed**
- **Residential programs, are not a Medicaid covered service**
- **Growing number of returning Veterans from the war in Afghanistan and Iraq require services for BI**

# JLARC 2007 STUDY

- **Study Recommendations**
  - Expansion of Virginia's existing Medicaid Individual and Family Developmental Disabilities (DD) Support Waiver or
  - Implementation of a specific BI waiver program could aid the State's most severely impaired individuals

*Currently DD Waiver utilization (as of 8/1/11)*

- *792 Slots and 37 BI diagnosis participants enrolled*
- *960 on wait list and 20 on the waiting list with a BI diagnosis*

# BI RESEARCH

- **A National View**
  - **28 states provide BI services either through a Medicaid BI waiver, within another waiver, or other state resource**
  - **23 states provide specific Medicaid BI waivers**
  - **5 states include BI services through a variety of means (ex. Georgia has a Brain and Spinal Injury Trust Fund Commission to assist with a variety of services)**

# BI RESEARCH

- **Currently, in Virginia 10 individuals are placed out of state due to lack of appropriate BI services in Virginia**
  - Average daily cost \$380
- **Currently 6 clubhouse programs (day support) for BI are operating in Virginia**
  - Club house programs are primarily member driven and focused on living with life long disabilities
    - Key services include
      - Vocational supports
      - Psychological therapeutic interventions
      - Social supports

# Advisory Committee

**On 3/10/08, an initial meeting was held with DMAS, representatives from the Office of the Secretary of Health and Human Services, and various stakeholders dedicated to increasing VA's services to the brain injury (BI) population**

# Advisory Committee

**The committee composition,**

- Department of Medical Assistance Services**
- Department of Rehabilitative Services**
- Brain Injury Association of Virginia**
- Providers**
- Consumers**

# Advisory Committee

- **DMAS and the stakeholders have been meeting since 2008 and will continue to meet**
- **Work from previous efforts to develop a Medicaid waiver was examined and discussed**
- **Work continues towards the development of a proposal that would adequately address the needs of persons with BI in the Commonwealth**
- **As part of the development process, the committee sought public comment through a live video conference in August 2008**

# **Public Comment Forum**

- **Policom “live video” was held on August 6, 2008**
- **Over 100 interested parties participated**
- **Participants included**
  - **Community Services Boards (CSB’s)**
  - **Area Agencies on Aging (Triple A’s)**
  - **Service Facilitator’s**
  - **Case Managers**
  - **Private Providers**
    - **Community based**
    - **Residential based**

# Public Comment Forum

- **Conclusions:**
  - **BI waiver is needed**
  - **BI Waiver needs to be complete and realistic in the services offered**
  - **BI Provider reimbursement pricing needs to be reasonable**
  - **Clarity of definitions**

# 2009-2011 Efforts

- **General Public, Provider, and family support continues to grow for needed services**
- **DMAS continues to receive calls from consumers, stakeholders, and other state agencies, requesting assistance**

# **Proposed Medicaid BI Waiver**

- **DMAS with support of advisory committee & stakeholders have submitted for DMAS EMT a BI waiver proposal**
  - **Waiver proposal submitted in 2008, 09,10, and 11**
  - **Language and funding not in approved budget**
- **DMAS and the stakeholders continue to discuss the design of a Medicaid BI**

# Proposed Medicaid BI Waiver

## Proposed Definition:

**“injury to the brain that occurs after birth and is acquired through traumatic and non-traumatic insults; non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, and tumor. The definition does not include hereditary, congenital or degenerative brain disorders, or those injuries induced by birth trauma.”**

# Proposed Medicaid BI Waiver

## Enrollment:

- **First come first serve –**
  - **process works best with other Medicaid waivers**
- **Application process –**
  - **An initial 90-day application period would be instituted, the application must include all information that is required to make the application complete or it will not be considered**

# Proposed Medicaid BI Waiver

## Alternative Placement:

- ICF/MR/ID for individuals age 16 – 21
  - NF for individuals age 22 – 64
- 
- Slots:
    - 200 initial slots will be allotted for the waiver

# Proposed Medicaid BI Waiver

Age :

- **Serve persons 16 - 64 who have a brain injury and who do not have a diagnosis of intellectual disability/ID**
- **Individuals whose injuries occur prior to age 16 can be served by the Individual and Family Developmental Disabilities Supports Waiver (DD Waiver)**
- **Someone on the Medicaid BI Waiver at age 64 will not be “removed” for “aging out”**

# **Proposed Medicaid BI Waiver**

## **The proposed services:**

- **Assistive technology/specialized durable medical equipment (DME)**
- **Behavioral Interventions**
- **Companion Care (Adult & Child)**
- **Crisis Stabilization / Intervention**
- **Crisis Supervision**
- **Day Programs**
- **Environmental modifications**
- **Family/caregiver training**
- **In-Home Residential**
- **Personal Emergency Response systems (PERS)**
- **Personal Care (Agency & Consumer Directed)**
- **Prevocational Services**
- **Residential Programs (not including room/board)**
- **Respite Care (Agency & Consumer Directed)**
- **Supported Employment**
- **Therapeutic Consultation**
- **Transition Coordination**
- **Transition Services**

# Proposed BI waiver compared Virginia's other Waiver's at a Glance

Waiver	Alternate Institutional Placement	Eligibility	Initial Assessment	Pre Authorization	Wait list	Quality Management Review	Technical Assistance
HIV/ Aids	Hospital	Diagnosis HIV	Dept. Soc. Serv. (UAI)	KePRO	NONE	DMAS	DMAS
Alzheimer's	Nursing Facility	Diagnosis of ALZ. or related dementia (NO MR/ID)	Dept. Soc. Serv. (UAI)	DMAS	NO 1 <sup>st</sup> come 1 <sup>st</sup> served	DMAS	DMAS
EDCD	Nursing Facility	No age limit, meet nursing facility criteria	Dept. Soc. Serv. (UAI)	KePRO	NONE	DMAS	DMAS
Individual & Family Developmentally Disabled	Intermediate Care Facility for the Mentally Retarded (ICF/MR)	Age 6 and above Diagnosis of Dev. Disability (NO MR/ID)	Child Dev Clinic (LOF)	DMAS	YES 1 <sup>st</sup> come 1 <sup>st</sup> served	DMAS	DMAS
MR/ID Intellectual Disability & Day Support	Intermediate Care Facility for the Mentally Retarded (ICF/MR)	Under Age 6 & at developmental risk Above age 7 diagnosis of MR/ID	Comm. Serv. Board (LOF)	DBHDS	YES Urgent Non-Urgent Planning	DMAS	DMAS & DBHDS
Assisted Technology	Nursing Facility  Specialized Care / Hospital	21 and older - dependent at least part of each day on a mechanical ventilator or meet complex tracheotomy criteria.  under 21 - meet criteria based on various methods of respiratory or nutritional support. (tracheostomy, oxygen, tube feeding)	Dept. Soc. Serv. (UAI)	KePRO	NONE	DMAS	DMAS
TBI	Intermediate Care Facility for the Mentally Retarded (ICF/MR) Nursing Facility	Age 16 to 64 Diagnosis of TBI (NO MR/ID)	(LOF) UAI	KePRO	1 <sup>st</sup> come 1 <sup>st</sup> served	DMAS	DMAS

# Other Supplemental Medicaid Services

## State Plan

- **Case Management**
- **Psychological Evaluations**
- **Neuropsychological Evaluations**

# CONTACT INFORMATION

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# Proposed Medicaid Brain Injury Waiver

Thank you

Any Questions