INFORMATION BRIEF
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Medicaid Home- and Community-Based Waiver Programs

This publication provides background information on the Medicaid home- and community-based waiver programs and provides details on the five Minnesota-specific waivers.

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Home- and Community-Based Waivers

Home- and community-based waivers allow for federal Medicaid reimbursement for certain services provided to the chronically ill, disabled, and elderly, which are not otherwise covered under the Medicaid program in the state plan.

Home- and community-based waiver services (HCBS) help people remain in their homes and communities, rather than be institutionalized. These waivers allow Minnesota (1) an alternative to placing Medicaid-eligible individuals in hospitals, nursing facilities, or intermediate care facilities for the developmentally disabled (ICF/DD) and (2) provide services that are not covered, or are limited, under the traditional Medicaid program.

Historical Background

Medicaid, or Medical Assistance (MA) as it is called in Minnesota, is a joint federal-state health care program that provides necessary medical services for low-income families, children, pregnant women, and people who are elderly (65 or older) or have disabilities.

Prior to 1981, the only comprehensive long-term care that was reimbursed by Medicaid was care in an institutional setting, such as a nursing facility, hospital, or an ICF/DD.

Medicaid home- and community-based waivers were established under section 1915(c) of the federal Social Security Act of 1981. The waivers were intended to correct a bias toward institutional care in the Medicaid program. They allow states to offer a broad range of home- and community-based services to people who may otherwise be institutionalized.

In addition, in 1999, the U.S. Supreme Court ruled in *Olmstead vs. L.C.* that states have an obligation to ensure that people with disabilities are not forced to remain institutionalized when a more integrated setting is appropriate and the affected people do not object to the community placement. The court also indicated that states should have comprehensive, effective working plans for placing qualified people in less restrictive settings. This ruling prompted states, including Minnesota, to review their policies and practices and to determine whether they were most effectively supporting the relocation and diversion of people from institutional settings.

Procedures for States to Receive Waivers

In order to participate in and receive federal reimbursement for home- and community-based Medicaid expenditures, states must make special application to the federal Department of Health and Human Services (DHHS), seeking approval for each home- and community-based waiver program. Each state must assure the DHHS that it will protect each consumer's health and welfare and assure the consumer's right to choose HCBS or services in an institutional setting. States must also assure that the expenditures under the home- and community-based waiver program, on average, will not exceed the cost of care for the identical population if they would have been in an institution.

Minnesota's Waivers

Minnesota has been authorized by the DHHS to provide HCBS to people with developmental disabilities (DD) or a related condition since 1984. Since its introduction in 1984, the home- and community-based waiver programs have been the primary means of support for Minnesota's shift from institutional to HCBS. This shift from institutional care to HCBS both saves money and is preferred by the vast majority of people involved.

Minnesota currently administers the following five home- and community-based waiver programs:

- *Developmental Disabilities (DD) Waiver.* This waiver is for people with developmental disabilities or a related condition who need the level of care provided at an ICF/DD.
- *Community Alternative Care (CAC) Waiver.* This waiver is for people who have a chronic illness and need the level of care provided at a hospital.
- *Community Alternatives for Disabled Individuals (CADI) Waiver.* This waiver is for people who have a disability and require the level of care provided in a nursing home.
- *Brain Injury (BI) Waiver.* This waiver is for people with a traumatic or acquired brain injury who need the level of care provided in a nursing home or neurobehavioral hospital.
- *Elderly Waiver.* This waiver is for people who are over 65 years old and need the level of care provided at a nursing facility.

Eligibility Requirements for Individuals to Receive Services

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible. Minnesotans with disabilities or chronic illnesses who require a certain level of care may qualify for the Minnesota home- and community-based waiver programs.

To meet the requirements for the DD waiver a person must meet all of the following conditions:

- meet the ICF/DD level of care requirements
- have a developmental disability or a related condition, as determined by the assessment process
- require a 24-hour plan of care
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the CAC waiver, a person must meet all of the following conditions:

- require the level of care provided in a hospital
- be certified disabled by the Social Security Administration or the State Medical Review Team (SMRT)
- be under age 65 at the time of going on the waiver
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the CADI waiver a person must meet all of the following conditions:

- require the level of care provided in a nursing facility
- be certified disabled by the Social Security Administration or the SMRT
- be under age 65 at the time of opening to the waiver
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the BI waiver a person must meet all of the following conditions:

- meet nursing facility level of care or neurobehavioral hospital level-of-care requirements
- be certified disabled by the Social Security Administration or the SMRT
- be under age 65 at the time of opening to the waiver
- have a diagnosis of brain injury or related neurological condition that is not congenital and resulted in significant cognitive and significant behavioral impairment
- be able to function at a level that allows participation in rehabilitation
- have an assessed need for a service that is only available through the BI waiver

To meet the requirements for the elderly waiver, a person must meet all of the following conditions:

- require the level of care provided in a nursing facility
- be 65 years or older
- choose to reside in the community

- have an assessed need for supports and services over and above those available through the MA state plan

Administration and Operation of the Waiver Programs

The federal Centers for Medicare and Medicaid Services administers Medicaid nationwide, provides funding, approves state plans, and ensures compliance with federal regulations. In Minnesota, the Department of Human Services (DHS) oversees the MA program, including the waivers and the distribution of funding to counties. The lead agencies (counties, tribes, and health plans) administer the MA program locally, including the waiver programs, and develop individualized service plans with recipients.

Services Provided

The home- and community-based waiver programs provide a variety of support services that assist people to live in the community instead of going into or staying in an institutional setting. Available support services include the following:

- assistive technology
- caregiver training and education
- case management
- consumer-directed community supports
- behavior programming by professionals
- day training and habilitation services
- home-delivered meals
- modifications to home or vehicle
- homemaking and chore services
- independent living skills training
- specialized supplies and equipment
- transportation services
- respite care
- certified community residential services (assisted living, foster care, residential care)
- extended MA home care services, including therapies
- transitional services
- supported employment services

Participation in Waiver Programs

The number of people served in the waiver programs is determined by DHS. DHS allocates "slots" to counties. If a county determines that it is able to serve more people than the slots it has available under the DD waiver, the county can serve more people as long as it stays within its waiver budget.

Participation in Minnesota's Home- and Community-Based Waiver Programs

Waiver Program	FY 2010 Recipients	FY 2011 Recipients	FY 2012 Recipients	FY 2013 Recipients
DD Waiver	15,352	15,841	16,155	16,452
CAC Waiver	406	401	424	445
CADI Waiver	18,416	19,297	20,743	21,164
BI Waiver	1,604	1,514	1,542	1,559
Elderly Waiver	29,112	30,361	31,326	31,977
Total	64,890	67,414	70,190	71,597

Source: Minnesota Department of Human Services, February 2013 Forecast
Note: FY 2013 numbers are estimates.

There is a very high demand for some of the home- and community-based waiver programs. As of October 4, 2013, there were 3,604 people waiting for the DD waiver and 1,271 people waiting for the CADI waiver in Minnesota. It is important to note that 3,331 of the individuals on the DD waiver waiting list live with their immediate family or an extended family member. These individuals may be receiving MA home care services, family support grants, consumer support grants, day training and habilitation services, or other publicly funded assistance as they wait for an available DD waiver slot. Currently, there are 95 individuals on the DD waiting list residing in an ICF/DD facility.

Funding

As with Minnesota's other MA services, the waiver programs receive half of their funding from the federal government and half from the state general fund. However, for the period October 1, 2008, through December 31, 2010, the American Recovery and Reinvestment Act provided Minnesota with a higher federal MA percentage. The amount allocated to these programs on a per-recipient basis cannot be greater than the amount that would have been spent if the recipient had been institutionalized.

Expenditures and Average Recipient Costs for Waivered Programs

Waiver Program	FY 2010 Expenditures (in 000s)	FY 2010 Average Cost per Recipient	FY 2011 Expenditures (in 000s)	FY 2011 Average Cost per Recipient	FY 2012 Expenditures (in 000s)	FY 2012 Average Cost per Recipient	FY 2013 Expenditures (in 000s)	FY 2013 Average Cost per Recipient
DD	$982,172	$63,977	$1,019,835	$64,379	$1,012,695	$62,686	$1,057,880	$64,302
CAC	20,722	51,040	20,169	50,297	21,781	51,421	24,430	54,879
CADI	410,088	22,268	468,118	24,259	499,315	24,072	535,356	25,295
BI	97,047	60,503	96,517	63,749	96,239	62,398	99,436	63,766
Elderly	299,842	10,300	310,798	10,237	311,817	9,954	289,102	9,041
Total	$1,809,871		$1,915,437		$1,941,847		$2,006,204	

Source: Minnesota Management and Budget and Department of Human Services, February 2013 Forecast
Note: Expenditures represent state and federal funding. FY 2013 expenditures and average cost per recipient are estimates.

Cost-Effectiveness of Community HCBS Waivers to Institutional Service Options

The Center for Medicare and Medicaid Services (CMS) requires HCBS waivers to maintain cost neutrality with institutional care, meaning on average, the HCBS waiver programs must cost no more than it would cost for the same population to receive institutional care. The table below compares the HCBS waiver cost to institutional costs to demonstrate the cost-effectiveness of the disability waivers, using the annual reports, called 372 Reports, submitted by DHS to CMS. DHS is not required to collect this data for the elderly waiver. The table below shows the CAC waiver provides the largest per capita savings over institutional costs for corresponding populations.

Comparison of Annual per Capita Medicaid Costs for an HCBS Waiver Population and a Corresponding Institutional Population[1]

HCBS Waiver	Level of Care	HCBS Waiver Costs (in thousands)			Institutional Costs (in thousands)			Savings (in thousands) HCBS Waiver over Institutional
		Waiver Services	State Plan Services	Total Waiver	Institutional	State Plan Services	Total Institutional	
DD	Intermediate Care Facility (ICF/DD)	$64,272	$6,443	$70,715	$104,194	$5,180	$109,374	$38,659
CAC	Hospital	50,158	126,156	176,314	249,168	189,448	438,616	262,302
CADI	Nursing Facility	25,755	16,531	42,286	44,980	13,129	58,109	15,823
BI	Nursing Facility and Hospital	63,751	12,742	76,493	126,629	20,484	147,113	70,620

Source: FY 2011 Centers for Medicare and Medicaid Services 372 Reports
The 372 comparison periods are:
DD: 07/01/10 to 06/30/11
CAC: 04/01/10 to 03/31/11
CADI: 10/01/10 to 09/30/11
BI: 04/01/10 to 03/31/11

[1] These numbers were used when comparing with Medical Assistance forecasts and include home care costs.

Recent Changes to Waiver Programs

Recent Programmatic Changes

DHS has been working on creating and implementing a new web-based application that is comprehensive and integrates assessment and support planning for people who need long-term care services and supports MnCHOICES. MnCHOICES is for people of all ages who have any type of disability or need for long-term care services and supports. The MnCHOICES assessments will replace a variety of long-term care assessment processes and forms. MnCHOICES is intended to increase consistency and equity in accessing a variety of HCBS, including waivers, reduce the need for multiple assessments, and streamline support plan development.

Beginning January 1, 2014, the nursing facility level-of-care criteria for public payment of long-term care will become more stringent due to 2009 legislative changes. This change will affect the most independent people who would receive publicly funded nursing facility services or long-term care services in the community through programs such as the elderly waiver, CADI, or BI. An alternative for some individuals aged 65 years or older whose eligibility for MA is affected by this change will be available through the essential community supports program. The essential community supports program will provide up to $400 per month for essential services needed to live in the community.

Upon federal approval, a new service called individual community living support will be added to the elderly waiver. This service will give seniors living in their own home a coordinated package of services from a single provider of their choice as an alternative to assisted living and other services that require the individual to live in a certain place.

Recent Legislative Actions

Due to budget constraints, since July 1, 2003, the legislature has at times placed limits on caseload growth for the CADI waiver and limits on allocations within the DD and BI waivers. Currently, there are growth limits placed on the CADI and DD waivers through June 30, 2015.

Beginning July 1, 2006, the legislature required elderly waiver services to be covered statewide through managed care organizations under the prepaid MA program. The Commissioner of Human Services was authorized to develop a schedule to phase in implementation of these waiver services. This statewide implementation was completed in 2009. Currently, approximately 82 percent of elderly waiver participants receive services through managed care organizations. The remaining 18 percent receive services through a fee-for-service model, due to various exclusions.

The 2009 Legislature required the Commissioner of Human Services to consult with a variety of stakeholders to update the common service menu for HCBS. Additional services have been added to the waivers incrementally as the waivers have gone through the federal renewal process, but some work remains to be done to achieve a common service menu. When completed, the common service menu will go across all waiver programs. DHS will simplify

service options by having the same service description, service eligibility criteria, and provider qualifications.

The 2013 Legislature made several changes to the HCBS waiver programs, including:

- modifying statewide priorities for persons on the waiting lists for the DD, CAC, CADI, and BI waivers;

- enacting statewide HCBS waiver provider standards. As a result, waiver services and systems will be more consistent throughout the state once the new standards become effective January 1, 2014. The county and tribal waiver provider contract-based system will be eliminated and replaced with new licensure standards. Many of the changes were required by the federal DHHS;

- enacting a disability waiver rates system in order to comply with federal requirements for uniform rate determination methods and standards for the four disability waivers. The disability waiver rate system will be effective January 1, 2014;

- requiring the Commissioner of Human Services to provide specific recommendations and language for proposed legislation by February 1, 2014, to redesign case management services for persons with disabilities, including persons receiving HCBS; and

- directing the Commissioner of Human Services to develop (1) HCBS performance-based incentive payments by April 1, 2014; (2) a state-administered safety net for disability waiver recipients whose costs increase above an identified threshold; (3) a shared living model option for disability waiver recipients; and (4) recommendations for a HCBS report card and report to the legislature by August 1, 2014. The report card must be available on July 1, 2015.

Potential Legislative Issues

Due to ongoing budget constraints, the legislature will most likely continue to look for ways to contain the growth in these programs or make budget reductions.

There may be some legislative action necessary related to some of the work currently being completed by the Commissioner of Human Services related to the common service menu update, HCBS report card, HCBS performance-based payments and quality profiles, and the redesign of case management services.

In addition, there may be some legislative action necessary to implement the Olmstead Sub-Cabinet's Olmstead Plan to improve the availability of community-based services for people with disabilities. The Minnesota Olmstead Sub-Cabinet was created by executive order in January 2013 to develop and implement a comprehensive Minnesota Olmstead Plan supporting freedom of choice and opportunity for people with disabilities (for more information see http://www.dhs.state.mn.us/main/groups/olmstead/documents/pub/dhs16_178671.pdf).

Glossary

BI: Brain Injury waiver

CAC: Community Alternative Care waiver

CADI: Community Alternatives for Disabled Individuals waiver

CMS: Center for Medicare and Medicaid Services

DD: Developmental Disabilities waiver

DHHS: Federal Department of Health and Human Services

Department of Human Services (DHS): Minnesota Department of Human Services

HCBS: Home- and Community-Based Services

ICF/DD: Intermediate Care Facility for persons with developmental disabilities

MA: Medical Assistance (Minnesota's Medicaid program)

MnCHOICES: A web-based application that is comprehensive and integrates assessment and support planning for people who need long-term care services and supports.

SMRT: State Medical Review Team

For more information about assistance programs, visit the health and human services area of our website, www.house.mn/hrd/.