

**Summary of the Public Meetings and Comments for the Renewal of the
Medicaid Intellectually Disabled and Related Disabilities Waiver Program
And the Intellectually Disabled and Related Disabilities Waiver Transition Plan**

South Carolina Department of Health and Human Services (SCDHHS) held four public in the following areas:

Columbia, SC	August, 12, 2104	Charleston, SC	August 14, 2014
Florence, SC	August 19, 2014	Greenville, SC	August 21, 2014

The meetings were to provide information about the State's intent to request a five-year renewal of the Intellectually Disabled and Related Disabilities (ID/RD) home and community-based waiver program, the ID/RD Waiver Transition plan, and the opportunity for the public to comment. The public was provided the proposed information prior to the meetings, and the proposed ID/RD Waiver Transition Plan was posted online for public viewing and comment. The public was also provided the opportunity to submit comments through the mail and/or e-mail.

ID/RD Waiver Renewal Proposal

The ID/RD waiver program expires December 31, 2014. The State is proposing to renew the program for an additional five-year period (2015-2019) with the following changes:

- Revise the Medicaid ICF/IID level of care criteria to clarify the developmental period for intellectual disability is prior to age 22;
- Address the CMS Home and Community-Based Services Final Rule requirements;
- Modify performance measures for quality improvement;
- Modify the waiting list procedures;
- Implement a two (2) waiver service minimum related to the addition of the waiver case management service;
- Remove psychological service due to the service's availability through the State Plan;
- Revise respite service provider qualifications to expand provider availability;
- Add a non-medical transportation waiver service for various day services.

Summary of comments and clarifications

I. ID/RD Waiver Renewal

A. Change in Level of Care (LOC) Criteria to make the developmental period age 22 for intellectual disabilities

- Comments/Questions about LOC criteria:
 - There was support for changing the age for determining the onset of a developmental period to age 22 for intellectual disabilities and not 18.
 - It was suggested that DDSN change their criteria to match for consistency between agencies.

-Concern noted if DDSN did not change their criteria what would happen? *Response: If approved by CMS, this will be waiver policy.*

B. Respite Service: adding qualifications to expand provider capacity

- Comments about expanding provider capacity:
 - Does this mean the qualifications for respite providers are increasing which might reduce the amount of qualified providers? *Response: No, this should increase the pool of qualified providers by opening up the option for personal care agencies to contract for respite.*
 - Does this affect participant choice in respite providers? And will the system be centralized or does a participant have to go through their local DSN boards to find providers? *Participants will still have choice. Response: If approved by CMS, participants can use the Boards or other new options for their respite choices.*
 - The rate for respite is very low, which also impacts provider availability.
 - If nursing agencies are being able to provide respite, does this mean nurses could then provide skilled respite, or if that would be in place of nursing? *Response: Participants could not get skilled respite without an established nursing need.*
 - When will this expansion take place? *Response: The additional provider options should be available in Spring 2015 if approved by CMS.*

C. Waiting List (WL) Policy revisions

- Comments about WL policy:
 - Many commenters were glad the waiting list was going to be addressed and potentially eliminated in the next few years.
 - Some commenters expressed concerns about the requirement to be Medicaid eligible to be on a waiver waiting list. *Response: It was noted this is because the waivers are South Carolina Medicaid Waiver Waiting Lists and to potentially expedite the processing once a waiver slot becomes available.*
- Commenters sought clarity on what funding stream is being used to reduce the waiting list and if it is one-time dollars. *Response: It was noted this was a legislative appropriation from the state and the appropriation is recurring.*
- Commenters were concerned about the changes impacting current individuals on the waiting list. *Response: Changes are not intended to impact individuals currently on the waiver waiting lists as long as all existing criteria are met.*

D. Exploring Pest Control as a waiver service

- Commenters thought this was positive.

E. Exploring non-medical transportation as a waiver service

- Commenters supported this. Also asked about getting Medicaid transportation to non-Medicaid services because the adult day services that are not Medicaid are more active. *Response: Medicaid transportation is generally used for Medicaid services. Additionally, it was noted that cost and mileage would need to be researched.*

F. Response: Quality Assurance Measures

- Commenters asked about the QA components of waiver. *Response: It was noted that since waiver case management was added as a service, new performance*

measurements were added. Performance Measures have also been updated related to the HCBS Final Rule requirements.

G. Implement a two waiver service minimum related to the addition of the waiver case management service

- Commenters stated this additional requirement could be a burden on the case managers given caseloads, or families given family schedules.

H. Removal of Psychological Services

- It was asked what was covered under psychological services and how that was different from the state plan. *Response: The State Plan service is offered by many of the same providers. It must meet medical necessity criteria and includes planned face-to-face interventions intended to help the beneficiary achieve and maintain stability.*
- Is ABA covered under psychological services? *Response: No. However, behavioral supports offers a similar service.*
- How are LIPS services accessed? *Response: This is done through individual assessments.*

I. Summary of ID/RD Waiver Renewal Miscellaneous Comments

- A commenter suggested the flat caps on the Personal Care and Nursing services should be eliminated. The Waiver should be designed to allow the flexibility to have a meaningful person centered plan. *Response: The ID/RD waiver offers a very large and comprehensive package of services based on assessed need. CMS allows States to utilize service caps.*
- A commenter believes that procedures to protect individuals in the community are an essential part of person-centered planning and DHHS quality control.
- A commenter suggests review of the National Core Indicators Data on choice of home, work and the development of community-based employment and day activities.
- Commenters noted the need for more service providers and asked about strategies to bring them into the state or the Medicaid system.
- Commenters stated they want “improvement services” not just “maintenance services”.
- Case managers are vitally important in rolling out waiver slots. It is important to make sure they are compliant. There must be adequate funding and manageable case loads.
- A commented asked if consideration has been given to adding developmental disabilities to the ID/RD definition and/or expanding the related disabilities definition?
- A commenter suggested there is no training for PCA’s working with children.
- Parents expressed concern about background checks and that the scope is limited to South Carolina, not the entire country. *Response: Currently background checks are performed by the South Carolina Law Enforcement Division.*
- Commenters asked about the use of technology to support families/beneficiaries in the waiver and providing this as a service. *Response: this currently exists based on assessed need.*
- Commenters suggested it is challenging to find good care/available nurses and aides. Please make sure the agencies and the service providers are more accountable and staff is better trained. *Response: Staff training is required and families can assist by reporting any concerns to the provider agencies.*

- One commenter expressed concern about a certain DSN Board “phasing out the companion and respite providers currently on staff and shifting the responsibility to the parents to hire caregivers.” *Response: This change is unrelated to the ID/RD Renewal.*
- Commenters expressed concerns about the capitation of services that were proposed in the waiver renewals and the current capitation levels. *Response: There are no new caps proposed in waiver renewals.*
- Would the state consider making the guardianship and special needs trusts a waiver service? It is an expensive, but sometimes necessary thing to do. *Response: The State is unaware of this as an approved waiver service, intended to prevent institutionalization.*
- The waiver programs are very confusing.
- One commenter asked why hearing aids are only available through the ID/RD waiver, and not the CS Waiver. *Response: The ID/RD Renewal is maintaining this service. Waiver service packages do not always match between waivers.*
- Is there a way for Medicaid to pay for the services directly rather than paying the providers to pay the people providing the actual services? *Response: DHHS reimburses the provider of record for waiver claims billed to Medicaid.*

II. ID/RD Waiver Transition Plan

A. Facilities Assessments

- Assessor of facilities needs to have a high level understanding of the HCBS rule and that needs to be specifically focused on during training and part of the transition plan.
- The deadlines proposed seem unrealistic and too tight of a timeframe. Brick and mortar contracts are going to take time and that has to be taken into account. *Response: These were reviewed and amended.*
- While providers can conduct a self-assessment of their compliance with the Final Rule – for instance describing how many activities residents can choose to attend outside the facility – DHHS must ensure an external review is part of the assessment process. *Response: DHHS clarified in the plan that DHHS, or an external agency it will employ, will review all assessments and conduct site visits as a means of validation for compliance.*
- The site survey is not very clear and should include when sites should expect to hear back from DHHS and that there will be follow up by DHHS. *Response: This information was added in the transition plan and timeline.*
- Is budgetary impact happening along the way? The assessment tool might want to include some sort attestation/statement as to what the provider thinks this will cost them to come into compliance. *Response: This may be included in a provider’s corrective action plan.*
- Are there plans for specific counties about facilities? What is to be done about current facilities that **need** attention? *Response: It was noted that the assessment is intended to help address that.*
- DHHS must develop a plan to provide meaningful choice of settings. Many participants in the ID/RD waiver currently reside in four-person Community Training Home IIs. While many of these homes are physically integrated into the community, residents of those CTH IIs may not have been offered a choice of another, smaller setting. P & A agrees

that informed choice would allow individuals to choose a CTH II, but participants should be able to choose from a variety of settings. *Response: This should be part of the person-centered planning process.*

- Development of a full array of residential and day services requires a statewide, coordinated approach. For example, it might be necessary for local Disability and Special Needs (DSN) Boards to work together to create new types of housing. DHHS and the Department of Disabilities and Special Needs (DDSN) should also continue efforts to attract new private providers with experience in different models of housing, particularly one and two bedroom units.
- The plan should clearly indicate responsibility for development of appropriate language to comply with the requirement for a legally-enforceable tenancy agreement. *Response: That will be included in the policy review.*
- Are education facilities considered institutional? *Response: It was noted that they are not subject to the new rule.*
- For all providers who will have to meet the new requirements, will guidelines be provided for what we have to do? Right now we are in a holding pattern until we know what to do. *Response: It was noted that the self-assessment will provide guidelines for the requirements. You can also look at the CMS website or the www.scdhhs.gov/hcbs website.*

B. Person-centered Planning/Conflict-Free Case Management

- DHHS should provide extensive training to all participants in the person-centered planning process.
- DHHS should develop a comprehensive oversight process to ensure compliance with the Final Rule. Suggestions for such a process include: unannounced visits to the person-center planning meetings to determine whether the process is truly individualized; regularly reviewing a sample of plans to determine what kinds of choices were offered to participants; and interviewing participants who have been through the planning process.
- DHHS should use the Final Rule as an opportunity to clarify the appeals process for applicants and recipients of DDSN services and members of HMOs.
- DHHS should establish criteria for professionals providing assessment of individual needs in developing the person-centered plan. Service providers should take a fresh look at each individual receiving services to consider how their access to the community could be expanded.
- How will DHHS get meaningful recipient participation in ongoing planning?
- We currently provide person centered planning, will it be different than what we are doing now or are we good? *Response: It is was noted that it may be what you are doing now, but that should be outlined in the self-assessment.*
- For conflict-free case management, can the person who provides case management still work for the service provider?
 - **Response:** This is true. CMS wants to create a conflict free environment and protect the individuals. If you would like to pick a provider that also made your service plan, it would have to be well documented. CMS also makes an

exception based on rural and geographical situations, but that also has to be well documented.

- As parents we all want our children to be independent, but the truth is that they cannot make educated decisions for themselves without the guidance of a parent. We will end up costing the state more money if we allow these children to make decisions by themselves because they will change their minds and cause a can of worms to be opened.
 - **Response:** We are not looking to put out parents, and we recognize that some individuals won't be able to make this decision by themselves. We want to make sure that individuals have the choices that will make them as independent as possible.

C. Other comments

- DHHS should increase coordination with the Vocational Rehabilitation Department to increase training and employment opportunities outside the DSN Board framework. DHHS should work with the Governor's office to implement the National Governor's Association employment initiative.
- Does DHHS plan to conduct a survey of all community day programs, such as those run by Area Agencies on Aging, county recreation commissions, and church groups to see what opportunities are available for participation by Medicaid recipients? *Response: If those providers wish to provide HCBS services, they can participate in the assessment and review process.*
- Can Medicaid transportation be used to get people to community activities other than medical, if activities are part of plan? *Response: Non-medical transportation is being explored as a waiver service.*
- How will these changes affect current limits or hourly caps for services? Will each individual's needs be considered without limit by a flat cap?
- The ID/RD Transition plan seemed very focused on the way the system looks now rather than looking at what we would have in a perfect world. Nothing is included about analyzing what we are missing.
- DHHS needs to do a system assessment, looking at the regulations, policies, directives, etc. that bore the programs out there now. We want it to be flexible to allow things to look different if that is what is needed. *Response: A systems policy review as it pertains to HCBS settings has been added to the transition plan.*
- Have to look at this not just for adults, but also for children. What is out there in the community for children?
- DHHS has to make attainable goals and not a plan that sets up people for failure.
- DHHS needs to break out opportunities for other state agencies "to leverage resources to bolster HCBS"
- Would the HCBS Rule allow someone to use a restrictive environment to prepare for a less restrictive environment? *Response: It was noted that each individual should have a person-centered plan that addresses his/her needs and that might be something addressed in that plan.*
- Given that choice is mentioned in the HCBS rule, what if only one provider provides services? Where is the choice? *Response: It was noted that the system needs to be*

examined to explore why there are not enough providers, and how it can be restructured to increase provider capacity.

- If we ask a provider what can they do (for services), and we want to use them, can we? Or does the HCBS Rule prevent that? *Response: It was noted that the HCBS Rule does not.*
- For parents who do not want integration for their child, can they opt out? *Response: It was noted that is a decision that must be discussed with their case manager and well-documented in the person-centered plan.*
- Parents expressed concern about beneficiaries making choices they aren't equipped to make (like through the person-centered planning process) and that parents would be excluded from the process altogether. *Response: It was noted that was not the intent of the HCBS Rule.*

D. Response

- The guidelines regarding the waiver transition plans indicate that they must only address the HCBS rule settings requirements and how those will be assessed and brought into compliance. Other comments will be taken under advisement as DHHS works to examine all aspects of coming into compliance with the HCBS rule.