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Centers for Medicare and Medicaid Services Release New Regulations on Home and Community-Based Settings

On Jan. 10, Centers for Medicare and Medicaid Services (CMS) released new regulations governing home and community-based services (HCBS) provided through state Medicaid programs. The regulations clarify that, in order to receive federal HCBS funding for services to seniors and people with disabilities, states must ensure that those services are tailored to each individual’s needs and provided in a setting that promotes community integration and employment. States must ensure that HCBS recipients live in the setting of their choice, and that those settings provide opportunities to these individuals to work in competitive integrated settings, manage their own money and property, and receive services in the community. CMS also noted that HCBS services provided outside the home – such as supported employment services, job training or day programs – also must be provided in settings that promote community integration. CMS plans to issue additional guidance on those nonresidential settings that also qualify as “community-based” for the purposes of receiving HCBS funding. The rule
goes into effect on Mar. 17, 2014, and states will have to submit transition plans to CMS related to how they plan to transition the provision of services to meet the requirements laid out in the regulation. More information on the new regulations is available at Medicaid.gov.

http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and Support/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Senators Wyden and Grassley to Introduce Bill Incentivizing States to Fund Integrated Employment

Senators Ron Wyden (D-Ore.) and Chuck Grassley (R-Iowa) have announced their intention to introduce legislation that would give states incentives to move people with disabilities out of sheltered workshops and facility-based day habilitation programs and into integrated employment. The legislation would create a 10-state Medicaid demonstration project, entitled Transition to Independence. Participating states would receive bonus payments for reducing the number of people with disabilities in sheltered workshops and facility-based day habilitation programs, for increasing the number of people with disabilities in integrated employment and for meeting other employment-related benchmarks.

Senators Wyden and Grassley initially introduced their bill in Dec. 2013, as an amendment to legislation being considered by the Senate Finance Committee. The amendment was later withdrawn after the Congressional Budget Office agreed to provide assistance with calculating the anticipated effect of the legislation on the federal budget. For a description of the bill as originally introduced before the Senate Finance Committee, see page 77 of the amendments to the Sustainable Growth Rate Repeal and Medicare Beneficiary Access Improvement Act.


Medicaid Expansion Underway

On Jan. 1, 2014, 25 states and the District of Columbia began providing Medicaid coverage to adults earning less than 133 percent of the federal poverty level (FPL). The Affordable Care Act of 2010 (ACA) authorized states to expand coverage to this population beginning in January 2014. Although states may enroll this new population in alternative health plans instead of in traditional Medicaid programs, the ACA requires that those classified as “medically frail” – including those with significant disabilities – must be given the option of enrolling in traditional Medicaid.

The Supreme Court ruled in 2012 that states could not be required to take advantage of the
ACA’s Medicaid expansion provision. As a result, 23 states have so far declined to expand coverage. Another two states, Pennsylvania and Indiana, have expressed potential interest in the expansion but their proposals have not yet been approved by CMS.

In states that have moved forward with the Medicaid expansion, many previously uninsured workers with disabilities will now be covered. The expansion population includes people with disabilities who, despite earning less than 133 percent of FPL, were not already eligible for Medicaid coverage through the Supplemental Security Income (SSI) program and do not receive coverage through their employer. Newly eligible Medicaid participants with disabilities may have access to numerous Medicaid-funded services and supports, such as job training or supported employment services. For more information, see recent coverage in the Washington Post.

http://www.washingtonpost.com/national/health-science/with-new-year-medicaid-takes-on-a-broader-health-care-role/2013/12/31/83723810-6c07-11e3-b405-7e360f7e9fd2_story.html

**Iowa’s Medicaid Expansion to Provide Private Managed Care Coverage to Low-Income Adults**

On Dec. 10, 2013, CMS approved the majority of Iowa’s proposed Medicaid expansion program, which will provide health coverage to adults with incomes under 133 percent of the FPL. The Affordable Care Act of 2010 (ACA) authorizes states to offer Medicaid coverage to this population beginning in January. States that offer Medicaid coverage to this population will receive full federal funding until 2016 for the costs of covering this population.

The expansion will provide coverage to many workers with disabilities who, despite earning less than 133 percent of FPL, are not already eligible for Medicaid coverage through the SSI program or the Medicaid for Employed People with Disabilities Program and do not receive coverage through their employer. Instead of enrolling in traditional Medicaid, the majority of adults earning between 100 percent and 133 percent of FPL will be required to select a managed care policy from those listed on Iowa’s statewide health insurance marketplace. Individuals earning less than 100 percent of FPL will be enrolled in a state-sponsored health program. Adults classified as “medically frail,” including adults with significant disabilities, will retain the option of enrolling in traditional Medicaid coverage as required by the ACA.

Enrollment in plans through the statewide exchanges may benefit workers with disabilities whose incomes are close to 133 percent of FPL, or who anticipate earning more in the future. In the event that workers’ incomes increase, they will have the opportunity to stay with the same health plan by purchasing continued coverage through the Marketplace. Federal premium assistance tax credits, which are available to those with incomes between 133 percent and 400 percent of FPL, will ensure that coverage remains affordable as workers’ incomes rise. Workers with disabilities who qualify for the Medicaid for Employed People with Disabilities Program will still have the option to enroll or continue participation in that program, which provides access to
traditional Medicaid benefits and supports.

Because CMS has granted a one-year waiver of the requirement that Iowa provide the managed care enrollees with non-emergency medical transportation, workers with disabilities affecting mobility may be compelled to opt out of the managed care program in order to obtain assistance in traveling to routine health care appointments. These workers may instead enroll in traditional Medicaid through the “medically frail” exemption, or through the Medicaid for Employed People with Disabilities Program. For more information, see related coverage by NPR.

https://www.healthcare.gov/iowa-health-insurance-marketplace/

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Kansas Delays Transition to Managed Care for Long-Term Services and Supports

On Dec. 27, Centers for Medicare and Medicaid Services (CMS) announced that it would not approve a proposal from the state of Kansas to switch to managed care for the provision of long-term services and supports (LTSS), including job training and employment supports, for people with developmental or intellectual disabilities who are covered by Medicaid. Under the Kansas proposal, people with intellectual and developmental disabilities would have received LTSS through KanCare, the state’s privatized Medicaid program, originally scheduled for Jan. 1, 2014. CMS, which must approve states’ proposals to alter their Medicaid programs, determined that it required additional information about the proposal before it could be approved, including information about how the transition would affect the existing waiting list for services and what rights beneficiaries would have to appeal denials of coverage.

CMS’ decision follows days of hearings on the state’s plan to provide LTSS through KanCare. The National Council on Disability (NCD), an independent federal agency that advises the president on disability matters, had written a letter to CMS following those hearings, in which it recommended that the administration postpone the planned transition for one year. In its letter to CMS, NCD noted that the managed care companies that participate in KanCare were required to pay for LTSS services but not for expenses associated with institutionalization. NCD expressed concern that this arrangement would create a financial incentive for managed care companies to avoid serving people on the waiting list for intensive LTSS services and to move existing LTSS users into institutional settings. It also expressed concern that the move to managed care would cause payment delays, harming smaller LTSS providers that depend on timely reimbursement.

The delay in transitioning to managed care for LTSS should help avoid disruptions in job training and employment supports for Kansans with disabilities. It will also provide more opportunities for stakeholders to learn more about the plan and participate in the planning process.
New Hampshire Self-Advocates and Long-Term Support Agencies Sue to Prevent Managed Care of Medicaid-Funded Supports

Fifteen New Hampshire individuals with disabilities who rely on long-term community-based services and supports (LTSS), including supported employment, and 10 agencies that provide LTSS, have sued to stop New Hampshire’s plan to move Medicaid-funded LTSS into managed care. The plaintiffs argue that the move to managed care would violate a 1981 federal court order requiring the state to establish a system of independent non-profit agencies to provide community-based care for people with developmental disabilities. Plaintiffs and advocates are concerned that a move to managed care for LTSS would interfere with consumers’ right to choose care providers and may result in loss of access to services, including supported employment services. The transition to managed care for LTSS could begin sometime in 2014. The full text of the complaint is available online. Further coverage is available via the Nashua Telegraph.

http://mediad.publicbroadcasting.net/p/nhpr/files/201308/Complaint.pdf

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