May 30, 2014

The LEAD Center Policy Update – Employment, Health Care and Disability is a project of the LEAD Center in collaboration with the Autistic Self Advocacy Network.

In This Issue

- National Disability Navigator Resource Collaborative Issues Updated Resources for Health Insurance Consumers with Disabilities
- CMS Issues FAQs on new Home and Community Based Services Regulations
- CMS Issues Guidance on Health Insurance Enrollment for People Eligible for Continued Coverage Through COBRA
- Departments of Education, Health and Human Services, and Labor Request Information on "Career Pathways" Approaches to Help Promote Employment
- Office of Disability Employment Policy Announces New Alliance on Health Care and Transition to Adulthood
- New Web Site Provides State-By-State Information About Implementation of New Medicaid Home and Community-Based Services Regulations
- Administration on Community Living, Centers for Medicare and Medicaid Services and Veterans Health Administration Offer Funding to Create "No Wrong Door" System for Long-Term Services and Supports
- States Announce Plans to Implement New Home and Community-Based Services Regulations
- Kansas Reports to State Legislature on Move to Medicaid Managed Care; Governor Proposes Reduction of Waiting Lists for Home and Community-Based Services
- Washington State to Eliminate Home and Community-Based Services Waiting List for People with Developmental Disabilities

National Disability Navigator Resource Collaborative Issues Updated Resources for Health Insurance Consumers with Disabilities

The National Disability Navigator Resource Collaborative (NDRC) has issued updated information for people with disabilities who are interested in purchasing health insurance through statewide
insurance marketplaces. These marketplaces, established by the Affordable Care Act of 2010 and launched in October 2013, offer consumers an opportunity to purchase individual health insurance and apply for coverage through Medicaid. Although open enrollment has closed for 2014, individuals may still apply for insurance this year if they have experienced a qualifying life event that affects their eligibility for insurance, such as loss of previous insurance, change in employment, marriage, or birth of a child. NDRC is a collaborative effort among disability and health care organizations to improve disability awareness and competence among professional health insurance navigators and other health insurance enrollment specialists.

The fact sheets published by NDRC include information on a) disability anti-discrimination laws that protect health insurance consumers; and b) use of the health insurance exchanges to obtain supplementary health coverage while on a waiting list for Medicaid-funded home and community-based services. NDRC also has published a fact sheet explaining how individuals with disabilities who are eligible for Medicaid coverage based on their income (in states that opted to expand Medicaid coverage to all individuals earning below 138 percent of the federal poverty line) can access full Medicaid coverage by establishing that they are “medically frail.” Although states have the option of providing only an alternative, “benchmark” Medicaid plan to most people who qualify for coverage based on income alone, people who are “medically frail,” including individuals with disabilities, are eligible for coverage through the state’s traditional Medicaid package. This may provide increased access to home- and community-based services, including supported employment services.

Further information is available via the NDRC website. 1 http://www.nationaldisabilitynavigator.org/ndnrc-materials/fact-sheets

Back to Top

CMS Issues FAQs on new Home and Community Based Services Regulations

The Centers for Medicare and Medicaid Services (CMS) have published a document answering frequently asked questions (FAQs) about its new regulations, published in January 2014, setting forth community integration requirements for home and community-based services (HCBS) funded through Medicaid. HCBS includes numerous services that assist individuals with disabilities in attaining employment, including home health aides, transportation assistance and supported employment services. CMS clarified that the new regulations, which require HCBS providers to ensure that these services are provided in settings that maximize opportunities for community integration and access to employment, apply to day programs as well as services provided in individuals’ homes. These include employment and training services.

CMS stated that it will provide additional guidance in the future on how the new regulations affect day and employment services, and provide more specific details on what constitutes an appropriate setting for providing such services in the future. Disability advocates are hopeful that any future sub-regulatory guidance will propel state governments into significantly shifting
Medicaid spending on day, prevocational and employment services from primarily segregated, facility-based settings to models of individualized supports in typical community-based settings. Research in recent years has demonstrated that the provision of prevocational and employment services in facility-based settings have negative implications that impede the chances of individuals with disabilities from ever attaining integrated employment, while in contrast services provided in community-based settings result in much stronger integrated employment and economic outcomes.


Back to Top

**CMS Issues Guidance on Health Insurance Enrollment for People Eligible for Continued Coverage Through COBRA**

CMS has issued guidance explaining when individuals who have recently left their employer, but are eligible for continued coverage by their employer-sponsored insurance plan through COBRA, can instead apply for health insurance through the statewide insurance marketplaces. Under COBRA, employees who lose or leave a job can keep their employer-sponsored insurance plan for up to 18 months, but must pay the full cost of the plan.

Under the Affordable Care Act, individuals may purchase individual insurance through statewide health insurance marketplaces either during the annual open enrollment period, or when they experience a qualifying life event such as change in employment, marriage, or birth of a child. CMS has clarified that, when a person leaves a job where they were enrolled in employer-sponsored health coverage, that person may apply for individual insurance through statewide marketplaces (1) upon first becoming eligible for COBRA coverage; (2) when that individual’s COBRA coverage is exhausted; or (3) during the annual open enrollment period or upon the occurrence of some other qualifying life event.

The new guidance will help ensure continuity of health care for workers with disabilities who experience gaps in employment. Because tax subsidies are available to people with incomes under 400 percent of the federal poverty line to help offset the cost of health insurance purchased over the statewide marketplaces, workers with disabilities may benefit significantly from the ability to enroll in insurance through the marketplaces even when they are eligible for
continued coverage through COBRA. Increased availability of affordable continued health coverage may help ensure that workers with disabilities retain access to health care, services and supports that will help them regain employment.


Departments of Education, Health and Human Services, and Labor Request Information on "Career Pathways" Approaches to Help Promote Employment

The Departments of Education, Health and Human Services, and Labor have issued a request for information (RFI) to employers, educators, workforce development professionals, state agencies and other policy advocates on how to implement “Career Pathways” approaches to employment. The “Career Pathways” model is defined as “a series of connected education and training strategies and support services that enable individuals to secure industry relevant certification and obtain employment within an occupational area and to advance to higher levels of future education and employment in that area.” Its purpose is to foster alignment and collaboration among education, employment training and human and social services to improve individual employment outcomes. The RFI asks stakeholders to provide inputs on which types of programs, funding approaches and performance measurement techniques should be used to support Career Pathways systems, and how these systems can be improved and expanded to cover underserved populations such as people with disabilities.


Individuals with disabilities, who are at especially high risk of unemployment or underemployment and who may interact with multiple social service delivery systems, are in particular need of alignment and coordination of services to promote employment. They may benefit from many of the key components of a career pathways approach described in the Dear Colleague letter, including crossagency partnerships, blending and alignment of multiple funding sources, organized career counseling, transportation and flexible scheduling of services.

Office of Disability Employment Policy Announces New Alliance on Health Care and Transition to Adulthood

The Office of Disability Employment Policy (ODEP), Youth Transitions Collaborative and Center for Health Care Transition Improvement have announced an alliance to promote the employment of youth and young veterans with disabilities, including those with chronic health conditions. The alliance will focus on sharing resources regarding career planning and health-care transition; developing new resources addressing the relationship between health care, career exploration and employment; and expanding educational and outreach activities to inform health care professionals, youth with disabilities and their families about employment and health-care transition planning.

Further information on the new alliance is available via the ODEP web site. http://www.dol.gov/odep/alliances/hscf2.htm

New Web Site Provides State-By-State Information About Implementation of New Medicaid Home and Community-Based Services Regulations

The Association of University Centers on Disabilities (AUCD), National Association of Councils on Developmental Disabilities (NACDD) and National Disability Rights Network (NDRN) have launched a new web site, HCBSAdvocacy.org, which will provide advocates with state-by-state information on the implementation of new regulations governing Medicaid-funded home and community-based services (HCBS). HCBS includes numerous services that assist individuals with disabilities in attaining employment, including home health aides, transportation assistance and supported employment services.

The new regulations, released in January 2014, restrict Medicaid funding for HCBS to settings that meet specific requirements for community integration, including access to competitive integrated employment. States must develop transition plans for compliance with the new rule by March 17, 2015 or earlier if they submit an application to renew or amend their Medicaid HCBS waivers.

The new web site tracks news about each state’s implementation of the new regulations, including opportunities for public comments on plans and upcoming deadlines to submit transition plans and/ or renew existing HCBS waivers. It also includes national resources explaining the impact of the new regulations.
Administration on Community Living, Centers for Medicare and Medicaid Services and Veterans Health Administration Offer Funding to Create "No Wrong Door" System for Long-Term Services and Supports

The Administration on Community Living, Centers for Medicare and Medicaid Services and Veterans Health Administration have announced a new grant opportunity, “Transforming State LTSS Access Programs and Functions into a No Wrong Door System for all Populations and All Payers,” through which states may receive grants of up to $185,000 to help make their long-term services and supports (LTSS) programs more accessible to people with disabilities.9 States that receive this funding will be required to develop a three-year plan to create a unified system to provide access to LTSS for all populations, including children and adults with disabilities and elderly individuals, and all programs that offer LTSS, such as Medicaid and Medicare. States that are already receiving grants to operate Aging and Disability Resource Centers are not eligible for these grants.

Back to Top

States Announce Plans to Implement New Home and Community-Based Services Regulations

Wyoming, Oregon and Iowa have submitted assessment and/or transition plans to the Centers for Medicare and Medicaid Services (CMS), detailing their plans to implement new CMS regulations defining home and community-based services funded through Medicaid. Under the new regulations, which restrict Medicaid HCBS funding to settings that meet certain requirements for community integration, states applying to renew or amend HCBS waivers must submit transition plans detailing the process by which they will come into compliance with the new regulations.

As required by the regulations, the three states that have submitted transition plans will conduct an assessment of existing HCBS services to determine which, if any, are out of compliance with the new HCBS requirements. One important factor in compliance assessment will be the extent to which these services provide adults with disabilities opportunities for competitive, integrated employment. The three states that have submitted transition plans are currently in this “assessment” stage, and as a result none of these states have identified specific services that must be changed in order to come into compliance. In its transition plans relating to its comprehensive waiver and support services waiver, Oregon has announced that it is waiting on further guidance from CMS on how to assess compliance for its nonresidential home and community-based services, including its supported employment and employment preparation services.

The absence of any concrete proposals for HCBS reform may reduce the impact of the public comment period. The new HCBS regulations require that all states solicit public comments on their transition plans. However, the assessment and transition plans submitted to date discuss
solicitation of public comment only during the pre-assessment and assessment periods. Members of the public may not have the opportunity to comment on the states’ proposals to remediate any instances of noncompliance before those proposals are submitted to CMS. As a result, policy advocates may need to provide input on such issues during the assessment process itself.

Comments on Wyoming’s assessment plan were due May 22, 2014; stakeholders may continue to provide feedback on providers and settings until August 1, 2014. Comments on Iowa’s transition plan are due May 31, 2014, and comments on Oregon’s transition plan are due June 9, 2014. The transition plans and other documentation are available at HCBSAdvocacy.org. http://hcbsadvocacy.org/state-resources/oregon

**Kansas Reports to State Legislature on Move to Medicaid Managed Care; Governor Proposes Reduction of Waiting Lists for Home and Community-Based Services**

The Kansas Department of Health and Environment has issued a report to the Centers for Medicare and Medicaid Services (CMS) detailing the effects of its transition to managed care for Medicaid recipients. Kansas began providing most Medicaid services through its managed care system, KanCare, in January 2013, and began providing home and community-based services and supports (HCBS) to people with intellectual and developmental disabilities through KanCare in January 2014.

According to the report, individuals who received substance use services through KanCare in 2013 were significantly more likely to retain employment than those who received these services through Kansas’ older Medicaid program in 2012. Those with significant and long-term psychiatric disabilities who received services in 2013 were also more likely to avoid homelessness, experience improvements in their housing status, avoid inpatient hospitalization, and gain or maintain competitive employment than those who received services in 2012. Because people with intellectual and developmental disabilities did not fully transition to receiving HCBS through KanCare until January 2014, comparative data on housing and employment outcomes is still unavailable. Kansas will continue to collect this data through the rest of the year. [The full report is available online.](http://hcbsadvocacy.org)

On April 25, Kansas Governor Sam Brownback announced that he would ask the Kansas legislature to approve a $2.6 million initiative to reduce the number of individuals with disabilities on waiting lists for Medicaid-funded HCBS. Brownback’s office predicted that the measure would provide services to 77 out of the 3,100 individuals with developmental disabilities on the waiting list, and 132 out of the 1,800 individuals with physical disabilities on
the waiting list. Brownback also plans to ensure that individuals currently receiving Medicaid HCBS receive all of the services they have been determined to need; at the beginning of this year, 1,700 Kansans with developmental disabilities were receiving some, but not all, of the services that they needed.

Rocky Nichols, the executive director of the Disability Rights Center of Kansas, has criticized the proposal. He noted that the Kansas legislature was contemplating an $8.6 million cut in HCBS funding and that, as a result, a $2.6 million “increase” in funding to reduce the waiting list would still result in an overall reduction of funding. Further information is available via the Kansas Health Institute and the Topeka Capital-Journal.


Washington State to Eliminate Home and Community-Based Services Waiting List for People with Developmental Disabilities

On April 18, 2014, Washington state Governor Jay Inslee signed into law the Vulnerable Individuals Priority Act, which will dramatically reduce the waiting list for home and community-based services (HCBS) for Medicaid-eligible people with developmental disabilities.

Under the new law, individuals who are eligible for community-based services through the state’s developmental disabilities administration, and who are also eligible for Medicaid, will receive priority access to those services. When a person with a developmental disability qualifies for HCBS that are covered by the state’s traditional Medicaid plan, the state must provide those services. Moreover, the state must track all cases in which a person with a developmental disability qualifies for HCBS through the state’s Medicaid waiver program, but cannot receive those services due to budgetary shortfalls.

The new law has potential to significantly increase access to supported employment services for Washington residents with developmental disabilities. Washington State Senator Andy Hill has estimated that up to 1,000 Washington residents with developmental disabilities currently cannot access supported employment services because they are on a waiting list. Hill projects that the Vulnerable Individuals Priority Act will eliminate this waiting list by 2017.

The costs of expanding services will be offset by the state’s future participation in the federal Community First Choice Option, which provides additional federal funding to states that provide certain Medicaid services in community-based settings. The law requires that the additional funds received through participation in the Community First Choice Option be used to increase
the number of people receiving Medicaid-funded services.

In 2006, Washington State became the first state in the country with an “Employment First” policy, which prioritized provision of employment services to adults receiving services through the state’s Developmental Disabilities Administration.

The full text of the legislation is available via the Washington State legislature’s web site.


Please note: The PDF generated using this link is not 508-compliant and is provided as a courtesy for those who wish to print the material. For a fully accessible version of this newsletter, please read the web-based version.