



Policy Update – Employment, Health Care and Disability - June 2014 Newsletter

June 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](#).

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Centers for Medicare & Medicaid Services Issue Final Rules for Marketplace

The Centers for Medicare & Medicaid Services (CMS) released final regulations governing operation of the statewide health insurance marketplaces created by the Affordable Care Act (ACA). The statewide marketplaces, which opened in October 2013, provide access to private health coverage for individuals and small businesses and serve as a point of entry to Medicaid coverage in states that have elected to provide Medicaid coverage to all adults earning less than 138 percent of the federal poverty line (FPL).

The regulations clarify, among other things, that the ACA's prohibition on discrimination based on race, color, national origin, disability, age, sex, gender identity or sexual orientation applies not only to the statewide marketplaces but also to related service providers and programs, including contractors, professional health insurance navigators, and application counselors. Programs that receive federal funding to serve a defined population, such as Ryan White

HIV/AIDS assistance programs or Indian health providers, may qualify for exceptions to the extent that they are necessary to restrict services to members of their target population. This clarification ensures that programs designed to serve solely individuals with disabilities can continue to be able to offer health insurance navigation or counseling services to their target demographic. These programs may include those designed to help people with disabilities obtain health care that they need in order to obtain or retain employment such as benefits counselors under the Social Security Work Incentives Programs (WIPAs).

The regulations also require states to conduct regular health insurance marketplace surveys in order to monitor performance of the marketplaces, including enrollment rates and customer satisfaction. The surveys will include information about disability and employment status among enrollees. This data may prove valuable in tracking the effect of access to health care on employment for individuals with disabilities. In commentary, CMS announced that it plans on exploring ways that aggregated data from the surveys may be made available to the public.

CMS also clarified in its commentary on the regulations that, although the regulations prohibit health insurance navigators or other professionals from soliciting clients door-to-door, they do not prohibit navigators from providing in-home counseling or assistance to individuals with disabilities who have limited mobility. Benefits counselors for Social Security WIPAs should coordinate closely with navigators and other professionals to ensure that people with disabilities who have limited mobility or lack access to telephones receive the assistance they need to ensure continued health coverage as they enter or re-enter the workforce.

More information on these regulations, including the full text, is available via the CMS web site. <http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/marketstandards-5-16-2014.html>

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U.S. Department of Labor Announces \$15 Million in Grants Through Disability Employment Initiative

On May 28, 2014, the U.S. Department of Labor announced \$15 million in grant funding available through the Disability Employment Initiative (DEI). The DEI is a collaborative effort jointly funded and administered by the Employment and Training Administration and the Office of Disability Employment Policy within the Department of Labor. It is designed to improve education, training, and employment opportunities and outcomes for youth and adults by refining and expanding on successful public workforce programs.

The newly announced grants, which represent the fifth round of DEI funding, will fund up to eight state agencies that offer training and employment services to people with disabilities. The grants will support projects to improve services to people with disabilities through federally-funded American Job Centers (AJCs). This current round of funding is focused especially on

promoting the inclusion of people with disabilities in [career pathway initiatives](#) through the workforce investment systems and community college programs. Strategies may include health benefits counseling for individuals receiving Medicaid or Medicare and creating partnerships with state Medicaid programs to provide employment supports. Applications are due on July 8.

Career Pathways is a series of connected education and training strategies to support the transition from education into the workforce. For more information on Career Pathways, see the May Employment, Health and Disability Update at <http://www.leadcenter.org/resource-center/publication/policy-updateemplo...>

View the full grant announcement at [grants.gov](http://www.grants.gov/web/grants/view-opportunity.html?oppld=256015) <http://www.grants.gov/web/grants/view-opportunity.html?oppld=256015>

Learn more about the Disability Employment Initiative <http://www.dei-ideas.org>

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Government Accountability Office Issues Report on Oversight of Medicaid Managed Care Expenditures

The Government Accountability Office (GAO) issued a report in May finding that Medicaid expenditures through managed care organizations (MCOs) were in need of increased oversight to reduce the risk of improper expenditures. Although states are increasingly relying on MCOs to deliver services to beneficiaries, most of their efforts to detect fraudulent or improper claims are focused on their more traditional fee-for-service programs. The GAO recommended that CMS require states to perform audits of MCOs, update its guidance on managed care program integrity, and provide additional support to states in oversight of managed care expenditures. The full report is available on the GAO web site. <http://gao.gov/assets/670/663306.pdf>

States have been looking increasingly to MCOs as a means of delivering long-term services and supports, including supported employment services, to Medicaid beneficiaries with disabilities. In January, CMS approved Kansas' proposal to begin providing all long-term services and supports to people with intellectual and developmental disabilities through MCOs starting February 1, 2014, and Tennessee has announced that it plans to begin providing supported employment and housing services to Medicaid beneficiaries through a managed care contract.

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AAPD and USBLN® to Release Disability Equality Index (sm)

On June 26, 2014, the American Association for People with Disabilities and the U.S. Business Leadership Network® released the first Annual Disability Equality IndexSM. This tool will gauge a number of different policies and practices of employers on their disability inclusion by putting them on a scale of 0 to 100. The tool is expected to be a valuable resource for millions of people with disabilities, and will likely also act to raise standards of disability inclusion in a significant

number of competitive organizations when implementing their policies and practices—which could include anything from workplace accessibility to health care services.

More information about the Disability Equality IndexSM is available via the AAPD website.

<http://www.aapd.com/resources/press-room/press-releases/disability-equality-index-2.html>

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LEAD Center Hosts Webinar on Impact of Home and Community-Based Services Regulations on Employment Services

On June 25, the LEAD Center hosted an informational webinar for state administrators, service providers, and members of the public on the potential impact of new Medicare and Medicaid regulations on employment services. The new regulations, published in January 2014, are intended to ensure that federal Medicaid funding for home and communitybased services (HCBS) is used only to provide services in community-based settings. State Medicaid programs that provide home and community-based services are required to propose transition plans outlining the steps they will take to ensure compliance with the new regulations.

The CMS regulations affect not only services provided in residential settings but also day habilitation services, supported employment, pre-vocational training services, and other similar services that typically take place outside the home. The LEAD Center seminar focused on services provided in non-residential settings, including vocational training and supported employment. The webinar served as a follow-up to webinars that LEAD hosted with CMS and ODEP on February 20 and 27.

Slides and a transcript of the webinar will be posted to the LEAD webinar archive.⁷ Transcripts and slides from the February CMS webinars are also available online: <http://www.leadcenter.org/webinars/new-cms-regulation-hcbs-settings-implications-employment-services>

- Innovative Strategies for Using Medicaid State Plan and Waiver Options to Promote Integrated Employment of People with Disabilities:
<http://www.leadcenter.org/webinars/innovative-strategies-using-medicaid-state-plan-and-waiver-options-promote-integrated-employment-pwd>
- Implications of HCBS Final Rule on Non-Residential Settings – The Impact of New HCBS Guidance on Employment & Day Services:
<http://www.leadcenter.org/webinars/implications-hcbs-final-rule-non-residential-settings-impact-new-hcbs-guidance-employment-day-services>

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National Disability Navigator Resource Collaborative Releases Q&A Fact Sheet on Medicaid Buy-In

The National Disability Navigator Resource Collaborative (NDNRC) has released a new resource explaining Medicaid Buy-In programs. These programs permit workers with disabilities to receive Medicaid services, including long-term services and supports, while earning incomes that would otherwise exceed eligibility caps for the Medicaid program. Access to such long-term services and supports, which may include personal attendant care and supported employment services, are a major determinant of long-term employability for many workers with disabilities. The new resource is intended to improve awareness of the program among health care navigators who assist individuals in evaluating their options for health coverage, as well as for individual consumers.

View the Q&A fact sheet at the NDNRC web site.
<http://www.nationaldisabilitynavigator.org/ndnrc-materials/fact-sheets/fact-sheet-15>

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Tennessee to Create "Employment and Community First Choices" Medicaid Program

In a concept paper that they submitted to CMS, Tennessee's Department of Intellectual and Developmental Disabilities and its Medicaid authority, TennCare, have announced their intention to become the first state in the country to develop an HCBS program that promotes both integrated, competitive employment and community living as the first and preferred option for all individuals with intellectual and developmental disabilities.

Under the proposed Employment and Community First CHOICES program, managed care organizations would operate a long-term services and supports program that allows consumers to choose among three models of care: consumer direction, which would allow the individual to manage his or her own support budget; home health agency with choice, which would allow the individual to select a provider to develop and direct services; or basic managed long-term services and supports. Youth with disabilities under age 21 would be eligible for transition services, whereas adults at all levels of disabilities would be eligible for supported employment services. The program would at first be available only to individuals newly enrolled in HCBS waiver programs, but would then be expanded to permit enrollment by individuals who were previously enrolled in other HCBS waiver programs.

The full concept paper is available online. 11 The public is invited to submit comments on the concept paper by June 30, 2014.:<http://hcbadvocacy.files.wordpress.com/2014/06/final-concept-paper-5-30-14.pdf>

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Alaska Passes "Employment First" Law

On May 29, 2014, Alaska Governor John Parnell signed into law a piece of legislation that will effectively make Alaska an "Employment First" state. The law requires state agencies that support people with disabilities to prioritize "gainful employment"—employment above minimum wage working alongside people without disabilities—as the first option in vocational contexts. This requirement would affect a range of state programs, including those funded by Medicaid.

Read full text of the legislation at the Alaska legislature's web site:
http://www.akleg.gov/basis/get_bill_text.asp?hsid=HB0211Z&session=28

Learn more about the Employment First model via the ODEP web site:
<http://www.dol.gov/odep/topics/EmploymentFirst.htm>

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