Proposed HUD Regulations Would Expand Supported Housing for People with Disabilities

The Department of Housing and Urban Development (HUD) has issued a notice of proposed rulemaking to implement HUD’s supportive housing for persons with disabilities (Section 811 program) enacted in 2011. The new rule would require that housing funded under Section 811 offer service coordination in order to assist residents with disabilities in obtaining “supportive services.” The rule specifies that participation is voluntary and is not a precondition for living in HUD-funded housing. Each resident will be permitted to choose and acquire their own services.
or choose to not receive any services at all. These supportive services may include health-related and mental health services, case management, and assistance with activities of daily living, and can be provided through any source, including Medicaid-funded home and community-based services (HCBS) programs.

As a result, these supportive housing placements will help connect individuals with disabilities with the health care and independent living services that they need in order to live and seek employment in the community.

However, because supportive services are initially defined in a section that focuses on elderly individuals, the proposed rule does not clarify whether individuals with disabilities in supportive housing will be eligible to receive supported employment services as part of the range of supportive services associated with their placements. By increasing access to economic stability and community integration, supported employment may further HUD’s goal of helping individuals with disabilities remain in the community and avoid institutionalization.

Stakeholders, including people with disabilities and other advocates, are encouraged to submit comments by December 8, 2014. Read the full Notice of Proposed Rulemaking.  
https://www.federalregister.gov/articles/2014/10/07/2014-23276/supportiv...

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**Senate Help Committee Report on Barriers to Economic Self-sufficiency for People with Disabilities**

The Senate Committee on Health, Education, Labor and Pensions (HELP) has released a new report, entitled *Fulfilling the Promise: Overcoming Persistent Barriers to Economic Self-Sufficiency for People with Disabilities*. The report, released September 18, 2014, focuses on challenges that individuals with disabilities face when seeking economic advancement, including inadequate access to employment, work disincentives in federal health and income support benefits programs, and low expectations among employers and service providers.

The report also noted that individuals with disabilities often spend a significant amount of their own money on personal care attendants and medical expenses. Although programs such as Medicaid and Medicaid-funded HCBS programs often cover these expenses, individuals with disabilities may lose access to these benefits if they earn too much money to qualify for SSI, unless their state offers a Medicaid “Buy-In” option for working adults with disabilities.

The report cited other challenges including bureaucratic barriers to obtaining services and health care that individuals need in order to live independently and seek employment, asset limits for Medicaid coverage, lack of adequate accessible housing and transportation, and long wait times for those reapplying for benefits after a drop in income and long waiting lists for those seeking home and community-based services.

http://www.help senate.gov/imo/media/doc/HELP%20Committee%20Disability%2...
Kaiser Family Foundation Report Finds People with Disabilities Lack Information to Make Informed Coverage Decisions

The Kaiser Family Foundation has issued a report reviewing customer assistance programs that help individuals seeking individual health insurance. The Affordable Care Act of 2010 (ACA) created statewide marketplaces where individuals who do not have employer-sponsored health coverage can purchase health insurance and/or apply for coverage through Medicaid. Certified navigators help individuals seeking coverage. The exchanges opened in October 2013, with coverage beginning in January 1, 2014.

The report found that navigators needed more in-depth training on how to serve individuals with disabilities seeking health coverage. Individuals with disabilities may need specific health benefits, such as coverage for wheelchairs and wheelchair repairs, in order to remain in the community and obtain or retain employment. These benefits are not always clearly described in summary information available to people seeking coverage through the Marketplaces. Assisters also are in need of additional training on Medicaid eligibility. Although some individuals with disabilities may benefit from Medicaid-funded home and community-based services, including supported employment services, they may not be aware that they are eligible for these services unless they receive this information from Navigators.


National Disability Navigator Resource Collaborative Receives Funding for Second Year Community Outreach

The National Disability Navigator Resource Collaborative (NDNRC) has received a second year of funding to expand community outreach at the state and local levels and provide information that health insurance navigators and enrollment specialists need in order to be more responsive to the needs of people with disabilities seeking enrollment.

The project was originally created to provide cross-disability information and support to navigators and other enrollment specialists in order to better meet the needs of people with disabilities seeking coverage through the statewide health insurance marketplaces created through the Affordable Care Act of 2010. These marketplaces, which opened in October 2013, offer access to health insurance for individuals with disabilities who are employed, but do not have access to health insurance through their employer and are not eligible for Medicaid through a Medicaid “buy-in” option for workers with disabilities. Without access to skilled advice on how to choose a health plan, individuals with disabilities may select a plan that does not cover services or supplies that they need, such as mobility equipment, in order to attain or retain employment.
While the collaborative will continue to produce fact sheets, state resources, webinars, and other forms of technical assistance, the second year will focus on community outreach collaborations. These collaborations aim to both develop cross-disability coalitions with existing disability organizations and support those coalitions in serving as dissemination and outreach resources in their local communities. In addition, NDNRC will be publishing further resources on mental health and plan parity.

The American Association on Health and Disability will continue to lead the collaborative, which has included the American Association of People with Disabilities (AAPD); the Disability Rights Education and Defense Fund (DREDF); the National Alliance on Mental Illness (NAMI); the National Multiple Sclerosis Society (NMSS); The Arc and United Spinal Association. Additionally, four partner organizations will be joining the collaborative: the Association of University Centers on Disabilities, Autism Speaks, the Christopher and Dana Reeve Foundation, and Family Voices. For more information, see the NDNRC Press Release.

http://www.nationaldisabilitynavigator.org/2014/10/02/ndnrc-receives-yea...

**National Quality Forum Developing Quality Measures for HCBS**

The National Quality Forum (NQF) has received funding from the Department of Health and Human Services to conduct a two-year project aimed at building performance measures for home and community-based services (HCBS) that support older people and people with disabilities. The project will be guided by a multi-stakeholder committee, including NQF, other HCBS experts, and direct consumers. The committee will create a conceptual framework to measure quality of HCBS programs and their outcomes, synthesize existing quality measures, identify gaps in those existing measures, and make priority recommendations for future development of HCBS quality measurement efforts. Stakeholders have previously identified employment outcomes of HCBS recipients as one potential gap in quality measurement.

http://www.qualityforum.org/ProjectDescription.aspx?projectID=77692

**October is National Disability Employment Awareness Month**

October is National Disability Employment Awareness Month (NDEAM), according to a longstanding Congressional declaration dating back to 1988. The theme of this year’s NDEAM of “Expect. Employ. Empower,” reflects the need for higher expectations for employment of individuals with disabilities and the extent to which employment empowers individuals with disabilities to achieve economic advancement and security. In a blog post announcing NDEAM, Sharon Lewis, Principal Deputy of the Administration on Community Living, emphasized that increased employment of individuals with disabilities requires action not only on the part of employers but also on the part of the Department of Health and Human Services and state
health departments to increase access to supported employment services and increase access to quality health coverage.

More information about NDEAM is available via ODEP’s web site.
http://www.dol.gov/odep/topics/ndeam/index-2014.htm

CPSD Webinar Series on HCBS Rule

The Collaborative to Promote Self-Determination hosted a 5-part webinar series on the CMS’s recently issued final rule setting forth community integration standards for Medicaid-funded home and community-based services (HCBS). The webinars provided advocates with information and strategies to influence the interpretation and implementation of the standards at the state level. The webinars, which took place September 30 and October 28, provided an overview of the final rule and the role of state-level advocacy in influencing its implementation, including the impact of the new rule on housing for people with disabilities, strategic use of the public comment period, the implications of the final rule for day habilitation and employment services, and potential for robust enforcement and monitoring mechanisms in each state. Recordings and transcripts of the webinars are available via the Autistic Self Advocacy Network’s YouTube channel.
https://www.youtube.com/playlist?list=PLG18VRFaDwLaIEmyxINc9wpjd72VGVxsp

Bazelon Center Report: Action Steps for Advocates on Implementing New Home Care Rule

The Bazelon Center for Mental Health Law has published a report to help advocates ensure fair implementation of the Department of Labor’s New Home Care Rule.

The report explains that prior to the new rule, most home care workers (also known as domestic service employees, personal attendants or home aids) were exempt from the Fair Labor Standards Act’s (FLSA) minimum wage and overtime requirements. The new home care regulation expands the FLSA’s requirements to most home care workers by: (1) updating and narrowing the definition of services that are considered “companionship services” exempt from the minimum wage and overtime requirements; and (2) eliminating the use of exemptions if there is a “third party employer” of the worker who provides care, meaning any employer other than the consumer or his/her family or household.

Most (but not all) consumer-directed home care programs have a third party who is a joint employer with the consumer, and therefore those programs will no longer be exempt from the FLSA’s requirements. As a result, the new rule will likely have a significant impact on most
states’ consumer-directed home care programs.

The Bazelon Center report includes several action steps for advocates to ensure that consumers retain undisrupted access to services by encouraging states to conduct individual impact analyses, working with states to develop compliance mechanisms that avoid unnecessary and prohibitive restrictions, and identifying program design options in states that are considering elimination of consumer-directed services models. Disruption in access to HCBS, including reductions in hours or changes in schedules in order to minimize service worker travel and overtime costs, may significantly impact working adults with disabilities who need to receive HCBS on a schedule that is compatible with their working hours.

http://www.bazelon.org/LinkClick.aspx?fileticket=yU9Q2al_Dvw%3d&tabid=40

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**CMS Response to Wisconsin Letter Requesting Clarification on HCBS Funding for Sheltered Workshops**

The Centers for Medicare and Medicaid Services (CMS) has responded to the Wisconsin Department of Health Services’ (DHS) letter seeking clarification on how to apply the new HCBS rule to sheltered workshops and other non-residential day and employment services. Wisconsin’s DHS had taken the position that segregated day services, including sheltered workshops in which individuals with disabilities work solely with other people with disabilities and staff members, should remain eligible for HCBS funding provided that the state also offers some more integrated service options. In its response, CMS clarified that all employment and day services receiving HCBS funding must comply with the new HCBS rule, which requires that services be integrated into the community and provide opportunities for competitive integrated employment. Although it has submitted a work plan for its process to determine which services can be covered under the new HCBS regulations, Wisconsin has not yet submitted a full transition plan addressing whether it intends to cover segregated or sub-minimum wage employment services for HCBS recipients.

- Read the Wisconsin DHS letter to CMS
- Read the CMS response


https://hcbsadvocacy.files.wordpress.com/2014/04/wi-dhs-letter-to-cms-8-...

https://hcbsadvocacy.files.wordpress.com/2014/04/cms-response-to-wiscons...

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**Review of Recent State Transition Plans**

While states continue to develop transition plans for compliance with home and community-
based services setting regulations issued by CMS in January 2014, details on how states intend to apply these regulations to their Medicaid-funded employment services remain elusive.

California, which published its transition plan for public comment on September 19, 2014, noted in the plan that it already funds supported employment services, but did not discuss whether it plans to phase out funding for segregated employment placements such as sheltered workshops.

Idaho’s transition plan, published October 3, 2014, notes that the state has yet to develop standards that ensure that employment services recipients have access to the community and integrated employment “to the same degree of access as individuals not receiving Medicaid HCBS,” as is required by the regulations.

Massachusetts, which issued a transition plan on October 15, 2014, noted that it would address non-residential services, including employment services, in a separate plan document. Nevertheless, it noted that it had already developed a plan for transformation of sheltered workshop services into integrated supported employment services. More information on comment deadlines and upcoming transition plans is available at HCBSAdvocacy.org.

http://www.dhcs.ca.gov/services/ltc/Documents/HCBS_Statewide_Transition_...
http://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/DraftId...
http://www.mass.gov/eohhs/docs/masshealth/provider-services/hcbs-att-a-d...

Utah Disability Law Center Issues Report on Transition Planning for Young Adults with Disabilities

The Utah-based Disability Law Center issued a report earlier this month on ways that Utah’s service systems can improve employment outcomes for youth and young adults with disabilities. It recommended that schools and adult services providers personalize job training and placement efforts for transitioning youth with disabilities and increase focus on competitive, integrated employment as an alternative to sheltered and segregated employment placements. The report noted that nearly one-fifth of all students who had received special education services were neither employed nor taking classes a full year post-graduation and less than 40 percent were engaged in competitive employment. The report described various characteristics of successful programs, including focus on strengths, parent involvement, employment experiences, and cooperation between schools and other service programs such as Vocational Rehabilitation offices and DD agencies. The report specifically highlighted supported employment, interest- and strength-based job placements, job mentoring or coaching, and emphasis on competitive and integrated employment as the goal for all students with disabilities, including those with the most significant disabilities, as practices that improve employment outcomes.
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