



CHANGING  
**Maryland**  
*for the Better*

# Community Pathways Waiver Renewal

## ***Meaningful Day Employment and Day Services***

DDA Service Symposium – May 15, 2017  
Owen Brown Interfaith Center



# Agenda

---

- Introductions
- Overview
- Federal Instructions
- Stakeholder Input Themes
- Services Chart
- Next Steps
- Open Dialogue

Slide #2



# Overview

- The Community Pathways Medicaid home and community-based services (HCBS) waiver requires renewal by the federal government, through the Centers for Medicare and Medicaid Services (CMS), every five years.
- The current waiver is approved through the end of June 2018. In order to prevent a gap in services, the renewal application must be submitted to CMS in January 2018.

Slide #3



# Overview

- Stakeholder input processes began in October 2014 with independent consultants conducting 15 listening sessions statewide, offering input options via written comments and surveys, conducting topic specific webinars with various date and time options, and forming or meeting with established workgroups.
- The DDA carefully considers all input from various individuals, self-advocacy groups, families, service providers, and various advocacy organizations, groups, and associations.
- At times, suggestions, requests, and input conflict with other groups or with federal requirements. The current service proposals reflect changes based on consideration of all of these factors.

Slide #4



# Overview

- Before finalizing these service proposals, the DDA is looking forward to an open dialogue during the symposium with stakeholders including:
  - ✓ suggestions to enhance services and provider qualifications,
  - ✓ questions we need to consider,
  - ✓ cautions and concerns, and
  - ✓ processes, policy, regulatory requirements, operational consideration, and financial/billing needs and changes.
  
- The final official 30 day public comment period will be in September 2017 where everyone will again have the opportunity to submit comments for consideration.

Slide #5



# Overview

- If you have individual or family specific service delivery inquiries, challenges, or questions
  - ✓ DDA Regional Staff available to discuss privately during lunch and after sessions
  - ✓ DDA Regional Staff will provide additional follow up as requested or needed



Slide #6



# Overview

- The goals for the renewal application include:
  - ✓ Creating a more flexible, person-centered, family oriented system of supports;
  - ✓ Reflecting stakeholder suggestions from listening sessions, consultant reports, and various stakeholder individual and group recommendations over the past two years;
  - ✓ Simplifying the waiver language and description of processes so that everyone can understand;
  - ✓ Incorporating best practices;
  - ✓ Developing new services;
  - ✓ Meeting federal community setting service requirements; and
  - ✓ Improving business rules, processes, and service rates.

Slide #7



# Overview

Waiver services have been categorized under one of the following service groups:

- **Employment and Day Services**
- **Self-Directed Services**
- **Support Services**
- **Residential Services**



Slide #8





# Meaningful Day

- “Meaningful Day” services and supports provides opportunities for participants to:
  - ✓ seek employment,
  - ✓ work in competitive integrated settings,
  - ✓ develop skills,
  - ✓ engage in community life, and
  - ✓ control personal resources.



# *Federal Instructions*

- The Federal Center for Medicare and Medicaid Services (CMS) oversees all Medicaid and Home and Community-Based Services (HCBS) waivers including the Community Pathways waiver.
- CMS requirements are outlined in the Code of Federal Regulations (CFR).
- HCBS waivers must meet applicable federal statutory and regulatory requirements, especially the assurances specified in 42 CFR §441.302.
- CMS issues policies, memos, and technical guides; and conducts trainings, conference calls, and webinars to provide states with federal guidance, instructions, and requirements.



# Federal Instructions

- Waiver services complement the services that a state offers under its Medicaid State Plan.
- Waiver participants must have full access to State Plan Services, including Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services when children participate in a waiver.
- There is no limit on the number of services that a state may offer in a waiver nor are states required to include specific services in the waiver.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions

- In its application, a state must specify the scope and nature of each waiver service and any limits on amount, frequency and duration that the state elects to apply to a service.
- Also, the state must specify the qualifications of the individuals or agencies that furnish each waiver service.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions

- In accordance with 42 CFR §433 Subpart D, FFP may not be claimed for services when another third-party (e.g., other third party health insurer or other Federal or state program) is legally liable and responsible for the provision and payment of the service. This requirement applies to all Medicaid services, including waiver services. The Medicaid program functions as the payor of last resort.
  
- Therefore, the waiver can not cover:
  - ✓ services required under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401(16 and 17). IDEA includes the provision of comprehensive education and related services to children and youth with disabilities who are enrolled in special education programs or
  - ✓ service available under a program funded under section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. 1401 et seq.)

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions - Children

- When children are served in a waiver, the services that are included in the waiver must take into account the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit requirements.
- Federal requirements concerning EPSDT mandate that Medicaid eligible children receive all medically necessary services coverable under §1905(a) of the Act regardless of whether such services are specifically included in the State plan.
- The waiver may not provide for the coverage of services that could be furnished to children under EPSDT.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions - Children

- In the case of waivers that serve children, the waiver still may be employed to provide services that supplement the services available under the State plan, beyond those EPSDT benefits, required under §1905(r).
- If a service is available to a child under the State plan or could be furnished as service required under the EPSDT benefit under the provisions of §1905(r), it may not be covered as a waiver service for child waiver participants.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions - Children

- In a waiver that serves children, services such as rehabilitative services (as defined in 42 CFR §440.130), private duty nursing (as defined in 42 CFR §440.80), physical and occupational therapy (as defined in 42 CFR §440.110), and nurse practitioner services (as defined in 42 CFR §440.166) may not be furnished as waiver services to children.
- Services that may be provided under a waiver to children could include respite care, supported employment (in the case of older youth), and other services approved by CMS that are cost neutral and necessary to prevent institutionalization.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*





# Federal Instructions- Children

- When a waiver serves both children and adults, any waiver services that could be furnished in accordance with the provisions of EPSDT requirements at §1905(r) must be limited to adult waiver participants since comparable services for waiver participants under the age of 21 are provided as part of the EPSDT benefit. For example, if an extended state plan coverage is proposed in order to provide a service in an amount greater than permitted under the State plan, the coverage may only apply to adults.
- States have an affirmative responsibility to ensure that all child waiver participants (including children who become eligible for Medicaid by virtue of their enrollment in a HCBS waiver) receive the medically necessary services that they require, including Medicaid coverable services available under EPSDT.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions - Providers

- The waiver assurances at 42 CFR §441.302(a) require that: (a) there are adequate standards for all types of providers that provide services under the waiver and (b) that the standards must be met when services are furnished.
- In addition, it is important to keep in mind that §1902(a)(27) of the Act (as further specified in 42 CFR §431.107(b)) requires that each provider of a Medicaid service have a provider agreement in effect with the Medicaid agency. This requirement applies to the provision of waiver services and assures accountability in the provision of Medicaid services.
- Provider qualifications must be reasonable and appropriate in light of the nature of the service. They must reflect sufficient training, experience, and education to ensure that individuals will receive services from qualified persons in a safe and effective manner.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# Federal Instructions- Pre-vocational

- Pre-vocational services do not continue indefinitely, but are time limited service for the purpose of helping someone obtain competitive employment.
- Prevocational services should be designed to create a path to integrated community based employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

*Reference: Center for Medicaid & CHIP Services (CMCS) Informational Bulletin- Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services (September 16, 2011)*



# Federal Instructions- Vocational

- Waiver funding is not available for the provision of vocational services delivered in facility based or sheltered work settings, where individuals are supervised for the primary purpose of producing goods or performing services.
- The distinction between vocational and pre-vocational services is that prevocational services, regardless of setting, are delivered for the purpose of furthering habilitation goals such as attendance, task completion, problem solving, interpersonal relations and safety, as outlined in the individual's person-centered services and supports plan.

*Reference: CMCS Informational Bulletin- Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services (September 16, 2011)*



# Federal Instruction- Supported Employment

- Volunteer work and activities that are not paid integrated community employment are not covered under supported employment services.
- Volunteer learning and training activities that prepare a person for entry into the paid workforce are addressed through pre-vocational services.

*Reference: CMCS Informational Bulletin- Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services (September 16, 2011)*

*Revised: May 19, 2017*



# *Federal Instruction- Supported Employment*

- Supported employment supports does not include facility based, or other similar types of vocational services furnished in specialized facilities that are not a part of the general workplace.
- Supported employment services may only be furnished to a waiver participant to the extent that they are not available as “vocational rehabilitation services” funded under section 110 of the Rehabilitation Act of 1973.

*Reference: CMS– Instructions, Technical Guide and Review Criteria – January 2015*



# *Input Themes*

## ➤ Service Scope

- ✓ Permit flexible schedules and authorize services to occur on weekends (e.g. employment supports, Community Development Supports)
- ✓ Allow the ability to receive multiple services (employment, community engagement, volunteering, “nice place to spend day”, Occupational Therapy, Physical Therapy) during the day and in a provider owned and operated site.
- ✓ Liked focus on development and increase of social networks
- ✓ Providers expressed concerns with activity schedules



# *Input Themes*

## ➤ Service Scope

- ✓ Supports for personal care, medical and behavioral needs
- ✓ Impose a time limit for transitional employment services because it is important that people are not stuck in transition employment services
- ✓ Clarify what is meant by group (small and large) employment





# *Input Themes*

## ➤ Community Development Services

- ✓ Let people spend time in provider owned and operated day programs under
- ✓ Support the use of day habilitation provider sites for activities such as private and dignified changing facilities, lunch in increment weather, etc.



# Input Themes

## ➤ Qualifications

- ✓ Enough staff needed to be certified in employment
- ✓ Clarification as to whether there will be additional staff certifications and training beyond DDA required
- ✓ Establish reasonable training requirements and make requirements part of the rate
- ✓ People in self-directed services want access to certified employment staff
- ✓ Should DDA look at competency versus certification



# *Input Themes*

---

- Limitations
  - ✓ Increase time limits
  - ✓ Consider a limit for total days per year versus limiting specific days



# Input Themes

## ➤ Funding and Operations

### ✓ DDA should provide funding for:

- Staff activities
- Employment certification
- Grants to offset cost of employment certification
- Transportation to and from provider sites and to and from community activities
- Acuity differences

✓ Concerns with administrative processes associated with hourly billing, funding, and rates

✓ Outcome and milestone payment good but need monitoring and oversight

✓ Remove job trial minimum



# Input Themes

- Other suggestions to consider:
  - ✓ Incentive for employers may be needed
  - ✓ There are too many day service options
  - ✓ Funding process should be developed in a way to support flexibility to change services
  - ✓ How will DDA implement audit processes
  - ✓ Use Division of Rehabilitation Services (DORS) to define terms (e.g. competitive integrated employment, customized, self-employment)
  - ✓ Determine which service includes unpaid internship
  - ✓ Providers may need a detailed process to access both waiver and DORS services



# Employment and Day Services

Current	Amendment #2 Proposal	Renewal Proposal
	Employment Supports (2018)	Employment Supports
Supported Employment	Supported Employment	<i>(Moved to Employment Supports)</i>
Employment Discovery and Customization	Employment Discovery and Customization	<i>(Moved to Employment Supports)</i>
	Co-Worker Supports	<i>(Moved to Employment Supports)</i>
	Transitional Employment Services	Transitional Employment Services
Community Learning Services	Community Development Services	Community Development Services
Day Habilitation Services	Day Habilitation Services	<i>Day Habilitation Services</i>
Medical Day Care	Medical Day Care	<i>Medical Day Care</i>



# Waiver Renewal Next Steps

- DDA Service Symposium May 15, 2017 – May 16, 2017
- State review of symposium input for consideration of final revisions – May 2017
- Official final public input – September 2017
- Waiver renewal submission to CMS – January 2018
- Respond to CMS Questions – January through June 2018
- Projected CMS Approval – June 2018
- Projected effective Date – July 1, 2018



# Information

- **DDA Website – Community Pathways Waiver - Renewal 2018**

[http://dda.dhmh.maryland.gov/Pages/Community\\_Pathways\\_Waiver\\_Renewal\\_2018.aspx](http://dda.dhmh.maryland.gov/Pages/Community_Pathways_Waiver_Renewal_2018.aspx)

- **Current and proposed services**

[http://dda.dhmh.maryland.gov/Pages/Community\\_Pathways\\_Waiver\\_Renewal\\_2018.aspx](http://dda.dhmh.maryland.gov/Pages/Community_Pathways_Waiver_Renewal_2018.aspx)





# Open Discussion

- Suggestions to enhance proposed services
- Suggestions to enhance provider qualifications
- Questions we need to consider
- Cautions and concerns to consider related to:
  - ✓ Processes
  - ✓ Policy
  - ✓ Regulatory requirements
  - ✓ Operational, financial and billing needs and changes



Slide #33



MARYLAND  
DEPARTMENT OF HEALTH  
& MENTAL HYGIENE

