CHANGING
Maryland
for the Better

Community Pathways Waiver Renewal

Residential *Services*

DDA Service Symposium – May 16, 2017
Owen Brown Interfaith Center

Agenda

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

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.

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.

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.

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

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.

Overview

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

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

- **Support Services**
- **Residential Services**

Residential Services

- Residential Services include:
  - ✓ Community Living –Group Home
  - ✓ Community Living – Enhanced Supports
  - ✓ Shared Living
  - ✓ Supported Living

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 meets 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 - Residential

- Residential habilitation means individually tailored supports that assist with the acquisition, retention, or improvement in skills related to living in the community. These supports include adaptive skill development, assistance with activities of daily living, community inclusion, transportation, adult educational supports, social and leisure skill development, that assist the participant to reside in the most integrated setting appropriate to his/her needs. Residential habilitation also includes personal care and protective oversight and supervision.

- Payment is not be made for the cost of room and board, including the cost of building maintenance, upkeep and improvement. The method by which the costs of room and board are excluded from payment for residential habilitation is specified in Appendix I-5.

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

Federal Instructions - Residential

- Payment is not made, directly or indirectly, to members of the individual's immediate family, except as provided in Appendix C-2.

- Provider owned or leased facilities where residential habilitation services are furnished must be compliant with the Americans with Disabilities Act.

- If transportation between the participant's place of residence and other service sites or places in the community is provided as a component of residential habilitation services and the cost of this transportation is included in the rate paid to providers of residential habilitation services, include a statement to that effect in the service definition.

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

Federal Instructions – Residential

- Respite care may not be furnished for the purpose of compensating relief or substitute staff for a waiver residential service. The costs of such staff are met from payments for the waiver residential service.

- Provider owned and operated residential habilitation service sites must meet community settings standards including assuring that the living arrangement is homelike rather than institutional in character.

- Retainer payments may be made to providers of residential habilitation while the waiver participant is hospitalized or absent from his/her home for a period of no more than 30-days.

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

Federal Instructions – Host Home

- Adult foster care is a residential service that is furnished in the primary caregiver's own private home. In some states, these services are entitled "host home services."

- A state may contract with each primary caregiver for the provision of adult foster care services and/or contract with agencies that, in turn, contract with and supervise individual caregivers.

- Adult foster care is considered a residential habilitation service only when habilitation is included in the defined scope of the adult foster care service. Adult foster care is not consider a residential habilitation service when habilitation services are furnished in the adult foster care setting by a different provider and billed separately.

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

Input Themes

- Community Living – Enhanced Supports
  - ✓ Service forces people into segregated living environments
  - ✓ Staff ratios and qualifications requirements need to be appropriate to meet the needs of the person and outlined in the person centered plan
  - ✓ People need to be able to choose their roommate
  - ✓ Sufficient community interactions and resources are needed for person to be successful
  - ✓ Lease requirements may be challenging to implement

Input Themes

- Community Living – Group Homes
  - ✓ Homes should be integrated into the community and not violate the federal settings requirements
  - ✓ Group Homes are mini institutions with little choice and none, if any, real community integration
  - ✓ Trial experience should include moving between own or family home and provider residential site
  - ✓ Suggestion to provide back-up caregivers for people receiving Rare and Expensive Case Management Services (REM)
  - ✓ Increase training requirements to including person centered planning, working with people with challenging behaviors, trauma informed care, and de-escalation
  - ✓ Supported decision making should be utilized by all people who receive supports

Input Themes

- Shared Living – Host Home
  - ✓ Explore Department of Labor requirements
  - ✓ Allow personal assistance and respite services to be covered
  - ✓ Provide guidance on:
    - Host Home tax exempt options
    - Licensing requirements
  - ✓ Concern with potential abuse of participants
  - ✓ Expand Retainer Fee beyond 30 days
  - ✓ Increase training requirements to including person centered planning, working with people with challenging behaviors, trauma informed care, and de-escalation
  - ✓ Supported decision making should be utilized by all people who receive supports

Input Themes

- Shared Living – Companion
  - ✓ Clarification is needed to distinguish in home supports vs Supported Living vs Shared Living
  - ✓ Suggestion that additional details are needed to clarify whether the individual will be compensated for services provided. The assumption is the individual is not paid as an employee. The legal parameters of paying for this service needs to be spelled out.
  - ✓ Comment to allow more than three people to live together
  - ✓ Model a true family/roommate setting and therefore not require family or roommate to be certified by the Board of Nursing to provide medication assistance
  - ✓ Support for family members as providers

Input Themes

- Shared Living – Companion - *continued*
  - ✓ Comment to review retainer fee policies to ensure medical absences are covered and consider language that Wisconsin adopted for self-directed services
  - ✓ Clarification requested related to Respite services being available under this service
  - ✓ Supported Decision Making should be utilized by all individual who require such support, regardless of who their staff are or which residential service they access
  - ✓ Suggestion to expand Retainer Fees for additional days as approved by DDA, when the recipient is unable to receive services during a hospitalization, behavioral respite, family visit, etc.

Input Themes

- Shared Living – Companion - *continued*
  - ✓ DDA needs to "establish a system of accountability that would preserve individual choice to have family members living in the home receive payment for providing supports. If, after every effort to do so, the Department is unable to create such a system of accountability, then suggestion that requirement F. The program does not make payment to spouses, legally responsible individuals, or family members living in the home, including legally responsible adults of children and representative payee, for supports or similar services" be phased in through a process that includes time for families and individuals to adjust to their roles, as well as guidance and support for individuals seeking to hire new staff. (Reference Service Requirement H.)"

Input Themes

- Shared Living – Companion - *continued*
  - ✓ Desire for transportation to be available as a stand-alone service in addition to being a component of this service when appropriate
  - ✓ Nurse delegation services may be needed for someone administering medication
  - ✓ DDA should explore alternatives to ensure people who handle and administer medications have sufficient training to competently perform the task without burdensome training requirements that will result in few or no shared living companions.
  - ✓ Increase training requirements to including person centered planning, working with people with challenging behaviors, trauma informed care, and de-escalation

Input Themes

- Supported Living
  - ✓ Allow Live-In Caregiver Rent to be covered
  - ✓ Expand Retainer Fee to include family visits and behavioral respite
  - ✓ Requests to offer as self-directed service
  - ✓ Provide for people living with families and use of relatives as staff
  - ✓ Support the use of shared hours among house mates
  - ✓ Clarification is needed related to:
    - "public housing"
    - 24 hour period of time versus 24 hours of services total services to meet needs of people with 2:1 staffing needs
  - ✓ Develop a system of accountability

Residential Services

Current →	Amendment #2 Proposal →	Renewal Proposal
	Supported Living	Supported Living
Shared Living	Shared Living – Companion	
	Shared Living – Host Home	Shared Living – Host Home
Residential Habilitation	Community Living – Group Home	Community Living – Group Home
	Community Living – Enhanced Supervision	Community Living – Enhanced Supports

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

- ***Current and proposed services***

  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