



CHANGING  
**Maryland**  
*for the Better*

# Community Pathways Waiver Renewal

## Support Services

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



# Agenda

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- 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.

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# Overview

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

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



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# Support Services

## ➤ Support Services include:

- ✓ Assistive Technology and Services
- ✓ Behavioral Support Services
- ✓ Environmental Accessibility Adaptations
- ✓ Environmental Assessment
- ✓ Live-In Rent
- ✓ Nursing Services
- ✓ Personal Supports
- ✓ Respite
- ✓ Remote Monitoring
- ✓ Transition Services
- ✓ Transportation Services
- ✓ Vehicle Modification



# *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 - Equipment

- Specialized Medical Equipment and Supplies - Medical equipment and supplies that can be covered under the State plan should be furnished as services required under EPSDT to waiver participants under age 21.

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



# Federal Instructions - Nursing

- Skilled nursing is the provision of nursing services on an intermittent or part-time basis.
- Skilled nursing services that can be furnished under the State plan should be furnished as services required under EPSDT to waiver participants under age 21.

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



# Federal Instructions - Personal Care

- Personal care services are an optional benefit that a state may furnish under its State plan, as provided in 42 CFR §440.167. A state may offer personal care under a waiver when: (a) it does not offer personal care under its State plan; (b) its coverage under the waiver differs in scope and nature from the coverage under the State plan; or, (c) the state wishes to furnish personal care services in an amount, duration or frequency that exceed the limits in the State plan.
- When personal care services are offered under the State plan, a state may not restrict the access of waiver participants to such services.
- Personal care services that can be covered under the State plan should be furnished to waiver participants under the age of 21 as services required under EPSDT.

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



# Federal Instructions - Respite

- 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.

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



# Federal Instructions - Transportation

- Waiver transportation services may not be substituted for the transportation services that a state is obligated to furnish under the requirements of 42 CFR §431.53. For example, transportation of a waiver participant to receive medical care that is provided under the State plan must be billed as a State plan transportation service or charged as an administrative expense, not as a waiver service.
- Payment for transportation under the waiver is limited to the costs of transportation needed to access a waiver service included in the participant's service plan or access other activities and resources identified in the service plan.
- When the costs of transportation are included in the provider rate for another waiver service (e.g., adult day health), there must be mechanisms to prevent the duplicative billing of non-medical transportation services.

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



# *Federal Instructions - Transition*

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- Community Transition Services may not include payment for room and board. The payment of a security deposit is not considered rent.

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





# *Federal Instructions - Vehicle Modification*

- Payment may not be made to adapt the vehicles that are owned or leased by paid providers of waiver services. The costs of necessary adaptations to provider vehicles may be compensated in the payment rate for transportation or other services (e.g., day habilitation) that include the cost of transportation.

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



# *Input Themes*

## ➤ Assistive Technology and Services

- ✓ Suggestion to add Speech Pathologist with assistive technology experience as qualified provider
- ✓ Importance to educate providers about technology options and how to communicate with people they serve
- ✓ Expand experts in augmented communication
- ✓ Low tech communication strategies from school should be used for after children transition
- ✓ Suggestion to add iPad to ensure tablets are included
- ✓ Information and guidance is needed as to services available from other resources
- ✓ Advocacy to offer services to children when request is not medically necessary



# *Input Themes*

## ➤ Behavioral Support Services

- ✓ Concerns that EPSDT does not offer comprehensive services for children
- ✓ Requests to offer as self-direction service
- ✓ Suggestion to allow DDA licensed providers to provide services
- ✓ Concerns with current quality of behavioral support providers
- ✓ Advocacy for adequate reimbursement rate
- ✓ Request to include behavioral respite, mobile crisis services, and temporary behavioral staff
- ✓ Importance to ensure enough service providers



# Input Themes

## ➤ Community Personal Supports

- ✓ Suggestions to simplify service description
  - Suggestion to add examples of home skills development activities
  - Comment that there is no value in splitting services into three categories
  - Personal assistance services should be available during community integration and home skills activities
- ✓ Guidance is needed related to:
  - the difference of community engagement activities under Community Development Services versus Community Personal Supports
  - the use of representative payees as services providers
  - the use of personal assistance under Community First Choice versus the waiver
  - documentation of service delivery and billing



# *Input Themes*

## ➤ Community Personal Supports

- ✓ Advocacy to offer services to children when request is not medically necessary
- ✓ Accountability is needed for Community First Choice services and providers
- ✓ Additional training requirements need to be consider in the rate
- ✓ Suggestion to expand criteria for retainer fees to include vacations, funerals, and refusal of services
- ✓ Comments to remove service limitations



# *Input Themes*

## ➤ Environmental Assessment

- ✓ Guidance is needed as to services available from other resources
- ✓ Advocacy to offer services to children when request is not medically necessary
- ✓ Requests to offer as self-direction service



# *Input Themes*

## ➤ Environmental Modification

### ✓ Generators

- The purchase should be for medical reasons and not general appliances, washer/dryer, or security system
- Specify the types of generators (stationary, standby, full house, solar, portable, etc.) that will be covered

### ✓ Remove total funding limitation

### ✓ Clarification is needed related to ADA requirements

### ✓ Requests to offer as self-direction service



# *Input Themes*

## ➤ Nursing

- ✓ Support family members, who are paid staff, to administer medication without additional training requirements
- ✓ Require Health Risk Screening Tool to be administered by people with medical background
- ✓ Concerns with monitoring compliance by staff
- ✓ Suggestion to streamline system instead of adding more layers and details
- ✓ Advocacy to offer services to children





# Input Themes

## ➤ Nursing – *continued*

- ✓ Importance for services providers to communicate coordination with families
- ✓ Training to meet qualifications need to be reasonable and available
- ✓ Monitoring and oversight of quality of service will be needed
- ✓ Clarification needed regarding when medication assessment is needed and when nurse completes the HRST
- ✓ Requests to offer as self-direction service



# *Input Themes*

## ➤ Remote Monitoring

- ✓ Requests to offer as self-direction service
- ✓ Suggest to change the word “surveillance” to “support”
- ✓ Consider Facetime for people in the community and at work
- ✓ Consider renting versus purchasing equipment
- ✓ Service may not be cost neutral if initial cost for installation, equipment, and monitoring services are included
- ✓ Standard protocol to obtain informed consent will be needed



# *Input Themes*

## ➤ Respite

- ✓ Guidelines will be needed on hourly versus daily rate
- ✓ Suggestion to increase service limits
- ✓ Request to share information of qualified providers
- ✓ Clarification and guidance is needed related to:
  - the relationship of Respite versus Personal Supports versus Community First Choice
  - DDA certified camps
- ✓ Support family members and person residing in the same home to provide services if approved by the DDA



# *Input Themes*

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## ➤ Transition Services

- ✓ Offer services for people moving out of parents house or becoming homeless



# *Input Themes*

## ➤ Transportation Services

- ✓ Suggestion to increase limits to \$5000
- ✓ Request to add administrative fee to cover provider cost and overhead
- ✓ Comment to remove out of state limitation
- ✓ Request to use to go to medical appointments and other test



# Support Services

Current	→ Amendment #2 Proposal	→ Renewal Proposal
Assistive Technology and Adaptive Equipment	Assistive Technology and Services	Assistive Technology and Services
Behavioral Support Services	Behavioral Assessment	Behavioral Assessment
	Behavioral Consultation	Behavioral Consultation
	Brief Support Implementation Services	Brief Support Implementation Services
Environmental Accessibility Adaptation	Environmental Modification	Environmental Modification
Environmental Assessment	Environmental Assessment	Environmental Assessment
Live-In Caregiver Rent	Live-In Caregiver Rent	Live-In Caregiver Rent



# Support Services

Current	Amendment #2 Proposal	Renewal Proposal
	Nurse Consultation	Nurse Consultation
	Nurse Health Case Management	Nurse Health Case Management
	Nurse Case Management and Delegation Services	Nurse Case Management and Delegation Services
	Short Term and Intermittent Nursing Services	<i>(Covered under Maryland Medicaid Home Health)</i>
Personal Supports	Community Personal Supports	Home Supports
	Remote Monitoring	Remote Monitoring
Respite	Respite	Respite
Transition Services	Transition Services	Transition Services
Transportation Services	Transportation Services	Transportation Services
Vehicle Modification	Vehicle Modification	Vehicle Modification



# 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



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