



## **COMMUNITY PATHWAYS WAIVER FEEDBACK**

**October 28, 2014**

The Maryland Developmental Disabilities Council provides the following comments on the Developmental Disabilities Administration's Community Pathways waiver. Our comments include specific recommendations for improving access to needed services under the waiver, as well as issues that should be addressed to improve the administration of community supports and services. Wherever possible, we have provided background information that informs the recommendations.

Overall, improvements should result in:

- Increased flexibility to meet people's needs in the ways they want;
- People, including those with the most intense support needs, receiving what they require to remain in the community;
- Better results when transitioning from school to adult supports and services;
- Innovation, flexibility, policies and rates that better support Employment First;
- More integrated alternatives to day programs and sheltered workshops;
- Greater ease in self-directing services and more people choosing to self-direct all, or part, of their supports;
- Clear roles and responsibilities;
- All resource coordinators, support brokers and regional office staff encouraging people to explore the most integrated options available and appropriate to their needs and wishes; and
- Consistency within and among regions.

Detailed recommendations follow.

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### **AT & Adaptive Equipment**

A recent addition to the waiver was the requirement that DDA must preauthorize for these services (to align with DDA's current policy). This adds a layer of bureaucracy, additional time to access this service and is unnecessary. The reasons for AT and/or adaptive equipment are already required to be in the person's Individualized Plan (IP) and individuals and organizations who provide these services are already required to be certified.

1. Remove preauthorization requirement for AT and Adaptive Equipment.

## Community Residential Habilitation

2. Individuals who communicate through sign language must be provided DSPs who sign or be provided a sign language interpreter. It is preferable to have DSPs who sign. Some individuals have been denied this. When an individual requires staff with higher qualifications, such as the ability to sign, providers should be paid a rate that is sufficient to attract and retain the necessary staff. This is analogous to providing a person who uses a wheelchair a fully accessible home environment and accessible transportation.
3. The waiver and DDA policies and rate structures should allow and support creative, individualized approaches to meeting people's needs when they have atypical work schedules and are not out of their home the entire day. Residential service providers need more support and guidance to accomplish this.
4. Replace archaic terminology – alternative living unit (ALU) – with more appropriate, current terminology. It is important to retain a distinction with group homes, even if that terminology also changes, to avoid a movement toward larger groups of people living together.

## Day Habilitation, Supported Employment, Community Learning Services & Employment Discovery and Customization

### Issue 1

Currently, a day is comprised of one unit of service and payment may be made for one unit of service per day. Even though the waiver allows an individuals' service plan to include Day Habilitation, Supported Employment, Community Learning Services and Employment Discovery and Customization, the payment system does not allow two services in the same day.

Many individuals want a combination of work and community activities, often in the same day. This is especially true for people who only work 1-2 hours a day. For instance, if an individual works 2 hours a day in the community, that individual may need or desire several hours of Community Learning Services or Day Habilitation Services. Currently, providers cannot bill for both services and cannot bill for Supported Employment under this scenario since the individual is not engaged in Supported Employment activities for at least 4 hours.

Many people who work do not want to return to a segregated setting for the balance of the day. A change in the billing unit to a half day would provide more flexible, customized services. It could also be a more appropriate, integrated option for individuals who currently attend Day Habilitation programs and want community-based services. Implementation of half day billing could lead to less reliance on day habilitation programs.

The current system of day services is attendance based – not outcome based and needs to be redesigned to come into compliance with the new HCBS rule. Individuals should be able to choose “*day services*” that are no longer “*day-long*,” i.e., participants should not be required to attend a program “6-hours per day, Monday through Friday” or attend activities that are not beneficial or of interest.

Specifically, the HCBS rule states the person centered service plan must...” Prevent the provision of unnecessary or inappropriate services and supports.”

For example, not all individuals choose, tolerate or need a full day of services, but in order to bill for it, providers currently need to provide at least 4 hours. It would be more person-centered to be able to bill for smaller increments such as hourly billing. Then, individuals can choose the service and the duration that meets their needs day to day or week to week.

5. Change Day Habilitation, Supported Employment, Community Learning Services & Employment Discovery and Customization billing units to half a day to allow participants to receive two different services on the same day. This change would have the added benefit of making a clear distinction for providers that access Division of Rehabilitation Services (DORS) funding for the individuals they support. Many providers have concerns regarding double dipping. A change would allow providers bill DDA for one unit per day and bill DORS for the other portion of the day.
6. Develop a flexible Service Funding Plan and funding mechanisms (through a pilot) that would allow individuals to create “built to order” schedules that address their needs and interests. Determine if changes to the waiver are necessary to allow DDA to test innovative approaches.
7. If a person volunteers independently in a community setting, but the only service an agency provides is transportation to/from, the agency can no longer bill for that under Supported Employment. There needs to be clearer guidance around these scenarios.

## **Issue 2**

Because the staffing ratio expectations are much lower in community settings, the reimbursement rate should be higher for community-based than facility-based services.

8. Reimburse Supported Employment, Community Learning and Employment Discovery and Customization Services at a higher rate.

## **Issue 3**

A critical issue impacting Employment First across the State is transportation. A person’s ability to access the community is the foundation of inclusion and employment. The costs of transportation vary significantly based on location. Some providers can easily arrange public transportation. Their cost is primarily consumed with coordination, while others have no access whatsoever to public transportation and must absorb the cost of vehicles, vehicle insurance, vehicle maintenance, gas and the cost of staff to provide the transportation. There are significant variations in the cost to providers; however, the reimbursement is currently the same.

9. The transportation rate should be unbundled from the administrative rates for Day Habilitation, Supported Employment, Community Learning Services & Employment Discovery and Customization and moved to the separate transportation waiver service. At a minimum, the rate should be transparent and developed based on actual costs at a regional/local level. It should be a standalone service that is paid directly to the transportation provider.

## Issue 4

Issues related to Community Learning Services (CLS) are a combination of underutilization and challenges to implementation. If done correctly, CLS could lead to less reliance on day habilitation programs.

Few people are accessing Community Learning Services. Reasons for underutilization could be 1) funding does not allow splitting a day into one or more services, 2) inadequate rates, 3) staffing ratios, and 4) lack of training and technical assistance for providers to support organizational change away from facility-based day programs. Another reason for the underutilization of CLS is that individuals and families are unaware or do not understand this option.

Additionally, CLS are being interpreted by DDA only as services that lead to employment or services provided for retirement. In fact, CLS is also intended to support individuals to be involved in activities in integrated community settings that improve their communication, social skills, and health.

CLS compliment people who are working. For example, a person can work 3 days a week receiving supported employment services and 2 days of CLS with the benefit of not having to return to a segregated setting. Additional clarity is needed to dispel the interpretation that CLS must lead to employment.

In addition to changes to unit billing noted above:

10. Consistently apply CLS across the State. Promulgate regulations, with stakeholder input before they are published, and provide clear written guidance to DDA staff and providers.
11. Delete “that lead to or increase employment” in the definition of CLS:
  - C. Community learning services ~~that lead to or increase employment~~ may include:
    - 1) Self-determination or self-advocacy training;
    - 2) Workshops and classes;
    - 3) Peer mentoring;
    - 4) Volunteer activities; and
    - 5) Activities that promote health and socialization.
12. DDA, providers, and especially resource coordinators, must better educate and inform individuals and families about CLS.

## Issue 5

Several providers have Project SEARCH programs designed for adults with developmental disabilities. Project SEARCH is a business led, one year program that takes place entirely at the workplace. Total workplace immersion facilitates a seamless combination of classroom instruction, career exploration, and hands-on training through worksite rotations. Interns are not paid.

In the current waiver, it is unclear how providers are to bill for supports to interns. Supported employment is not an option because it requires that a person must be working for wages. Employment Discovery and Customization isn't an option because services are limited to six months. CLS and Day

Habilitation allow volunteering; however, interns are not volunteering. They are receiving practical experience.

13. Develop a definition for internship and add it as a service to Employment Discovery and Customization. Allow internships to be for one year, without DDA approval.

*Suggested Definition: Internship - an official or formal program that provides practical supervised experience on a temporary basis for individuals who are gaining experience to learn an occupation in a business. An internship must be in an integrated setting in the general workforce. A DDA licensee cannot serve as a placement for an intern.*

14. Make changes to waiver language (noted in bold/underscore):

*C. Employment Discovery and Customization services include but are not limited to the following:*

*8) Broad career exploration and self-discovery resulting in targeted employment opportunities including activities such as job shadowing, **internships**, **informational** interviews and other integrated worksite based opportunities; and*

*Specify applicable (if any) limits on the amount, frequency, or duration of this service:*

- A. **With the exception of internships**, Employment Discovery and Customization services may be provided for up to a 6 month period. Additional increments may be authorized by the DDA.
- B. **Employment Discovery & Customization services may be provided to individuals in internships up to one year.**

## Issue 6

Resource Coordinators are a first point of contact for information about and consideration of different services and supports. They play a key role in implementing the Employment First policy, yet too often they are either not knowledgeable about employment for people with a range of needs or don't consider it a viable option.

15. Expectations and competencies around this issue must be raised.

## Issue 7

As individuals get jobs or lose jobs, the system needs to be easy for individuals to use. For instance, an individual is working part-time, but their schedule varies week to week. They should not be held to a rigid 'number of days per week' for each service. It should flow according to their schedule.

16. Make the Request for Service Change and Service Funding Change processes more responsive and flexible to meet individual needs.

## Issue 8

Medical Day Care (MDC) includes a variety of services, including "Activity Programs," yet this service is not defined.

17. Define what Activity Programs are. The definition should include maximum community integration, consistent with the new HCBS rule.

### **Environmental Accessibility Adaptations**

18. How was the \$17,500 cap established? Is it appropriate for the majority of needs? DDA should assess utilization data and survey resource coordination regarding unmet needs. Not only is meeting accessibility needs an appropriate use of funds, raising the cap – if data justifies that – could lead to less reliance on more costly service for some people.

### **Family and Individual Support Services**

19. Family and Individual Support Services were designed to be flexible, adaptable, and individualized. In order for FISS to continue to provide services in the intended manner, it needs to be clearly distinguishable from other services. The waiver differentiates FISS from other services; however, there seems to be confusion among providers about families accessing these services. Some providers believe that a family cannot receive two different services in a day. For example, assistance locating and accessing education and respite. In addition, while transportation was moved to a stand-alone waiver service, mobility and travel training remain in the list of services for FISS. More clarity is needed and better guidance should be provided.
20. DDA should allow approval of certain state-only funded supports that are essential, especially to address emergency situations such as utility cut-off. Stakeholders should be convened to provide input to assist DDA in establishing reasonable guidelines and limitations. (see similar recommendation under Personal Supports)
21. Include “Individual Directed Goods and Services” for all waiver participants, not just those that self-direct. Those are the services that continue to allow for flexibility and the meeting of unique needs. This denies needed goods and services to people who cannot self-direct. When this was previously recommended, DDA noted it was a CMS requirement to limit “goods and services to individuals with self-directed budgets.” Confirmation is needed.
22. There are goods and services that are not specifically disallowed in the waiver, however, providers report that DDA denies these even when there is a demonstrated need. Examples include: tutoring and books for school, camp, out of pocket medical expenses, and rent and utilities under appropriate circumstances. These services should be allowed and approved when needed.
23. Add Support Coordination as an allowable service to help people effectively link all the different supports and services they need and provide for continuity of service (when over and above what resource coordination can provide). For some families, this is the support they most need and for many years it was a specifically defined and allowable FISS service.
24. Add employment supports as an allowable service. Some people utilize FISS for employment supports that are flexible and cost-effective and meet their needs better than Supported Employment. (This recommendation was made during the waiver application process and DDA indicated that further exploration was needed).

## **Personal Supports/CSLA**

25. Personal Supports should not be artificially capped at 82 hours. This serves to steer people with greater support needs to more traditional service models.
26. DDA should allow approval of certain state-only funded supports that are essential. For example, temporary rent subsidy while an individual awaits permanent housing voucher. Guidelines should be established, with stakeholder input, to clearly define allowable state-only funded services and under what circumstances they would be approved. In some situations, providing limited state-only funded support would cost the state less than having the person transition to more costly, more traditional services. Not to mention the result being more desired and appropriate for the individual.
27. Allow coverage of tutoring and books for school under appropriate circumstances.
28. Include on-call support as a coverable service.
29. With stakeholder input, review and revise if necessary the policy and criteria for family members to be paid employees to ensure competencies and avoidance of conflict of interest.
30. Clarify if personal support at a job site includes a job coach and more intensive job support.

## **Respite**

31. The waiver allows for participants self-directing services to utilize a family member, who does not reside on the property, to provide respite services under certain circumstances. The same provisions should be allowed for people not self-directing services. People unable to self-direct services have no access to this option.

## **Shared Living**

32. "Shared Living may include companionship support, mentoring, a host family, supported living, paid roommate(s), and support that the person needs with day-to-day activities."  
Clarify what is meant by "host family"  
Clarify "supported living" versus "support that the person need with day-to-day activities"

## **Self-Directed Services**

### **Issues/Concerns Reported to the Council**

#### **Resource Coordination:**

- There is a lack of adequate information, understanding and awareness of self-directed services. It has been reported that some RCs have conveyed that they don't know much if anything about self-directed services;
- Individuals/families are sometimes steered away from self-directed services because it takes more time; and

- When people self-directing their services need more services or their planning becomes more complex, some RCs are steering them to traditional services rather than figuring out how to make self-direction work.

Self-directed services used to be among the quickest services to initiate but now take much longer (by some accounts what used to take about 6 weeks now takes many months). Reasons cited include not enough staff at DDA regional offices and more burdensome rules. Some people initially involved in SD services are switching to traditional services either because the approval process is significantly delayed or too cumbersome.

33. Staff benefits should be covered in self-directed services like they are in traditional service models. This can be a significant barrier to making self-directed services work. It is unclear as to whether it is a DDA policy to disallow these costs because there has been inconsistent approval across regions.
34. Allow coverage of an inexpensive fax/scanner/printer when individuals/families need it to transmit forms cost-effectively and efficiently to the fiscal intermediary agency, resource coordination, and/or support broker (e.g., budget modification, personnel paperwork). Without this, funds are used for staff salary and travel to pick up the forms. This is more costly and diverts staff hours to administrative functions
35. Streamline the annual service funding plan update. Now required to re-review and re-submit; not required of traditional service types. With the process in place for an annual IP and budget modifications and plan modifications as needed, would a year-end reconciliation or an update instead of an approval process be more efficient and timely yet still ensure accountability?
36. Eliminate the requirement that DDA approve modifications to plans and budgets when the change does not impact the original purpose or intended outcome already approved by DDA. For example, DDA approval is required to move funds among categories within the same budget line-item (even when the approved line-item total is not being exceeded). For example, shifting funds designated for mileage reimbursement to paying for a taxi or paratransit and shifting funds designated for vendors to pay for staff to provide the same service. Waiting for DDA approval can result in a needed support being unnecessarily delayed or not provided, particularly near the end of the fiscal year when approvals are not/cannot be processed quickly.
37. Is there a reasonable purpose for requiring sub-accounts within a line item? If not, alter this policy so accountability is accomplished by approving an amount for each line item with a notation of what a line-item includes without specifically allocating amounts to each sub-item. Fiscal reporting would include details on actual expenditures within each line if needed.
38. Eliminate/reduce regional discrepancies; particularly Central Regional Office compared to the other regions. It has been reported that Central Regional Office typically takes months longer to process requests and what it will approve differs. Some perceptions are that CMRO uses its own interpretations.
39. There is a need for more highly qualified support brokers. A six hour training is not adequate to ensure necessary competencies in person-centered planning, choice, self-direction, rights, etc. Strengthen training and assessment.

40. Conduct a thorough analysis to identify and eliminate unnecessary administrative burden on the individual/family, support broker, and resource coordinator. Convert as many processes as possible to online functions. Administrative burden affects the amount of time focused on addressing needs and wishes in the individual's person centered plan.
41. Consistently communicate policy and programmatic changes that impact self-directed services to individuals/families, resource coordinators and support brokers. Include rationale so support brokers can assist individuals/families to understand and comply. Some support brokers report that they do not consistently receive information from DDA like the formal memos traditional providers receive.

### **Transportation**

42. Raise the \$1400 cap on transportation services. Transportation services are expensive and essential. A little more than \$100/month is insufficient. For many people without access to mass transit or paratransit, this would amount to barely one trip, if that.
43. Include parking expenses as part of the service.

### **Over-Arching**

44. Each region of the state has different practices. There needs to be consistency among regions, with written guidelines accessible to everyone.
45. Billing and payment systems are outdated and do not allow agility and flexibility in serving individuals in a person-centered manner.
46. Review the roles and responsibilities of different entities involved in a person's life through DDA: [Resource coordinators, support brokers, providers, DDA regional office]
  - Is each entity's role clearly defined and differentiated?
  - Is there duplication and are there gaps?
  - Is the amount of time allocated and reimbursement adequate to allow the role to be performed in a way that has meaningful impact on the individuals served?
  - Ultimately, after ensuring health and safety who focuses on helping the individual have the life they want, not just through supports provided through DDA ?