

Home and Community Based Services (HCBS) and the Centers for Medicare & Medicaid Services' (CMS) Final Rule

Board of Directors' Training

July 8, 2021

Presenters

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Overview

- History
- Federal Programs:
 - Home and Community-Based Services (HCBS) Waiver Program
 - Targeted Case Management Program
 - Early Start Program
- Philosophical Issues

History

- Prior to the 1970s, people with developmental disabilities were placed in institutions and separated from their families; or, they remained at home without community-based services.
- In the 1970s, smaller homes were developed to serve those with medical needs in the community. These homes were funded by Medicaid.

History (continued)

- Federal funds were then made available to states under specific waivers so that children and adults could be in the community and prevent institutional placement.
- The term “waiver” is used because certain requirements are waived to support the delivery of services in the community.

History (continued)

- With waivers, families could keep their children at home and receive the needed medical services through institutional deeming.
- Institutional deeming allows a child to receive Medi-Cal (regardless of parental income).

Flow of Federal Funds to California and Regional Centers

Centers for Medicare & Medicaid Services (CMS) (Federal)

Health and Human Services Agency (HHS) (State)

Department of Developmental Services (DDS) (State)

Regional Centers (Local)

Bringing HCBS Funds to California

- California receives the statutory minimum of 50% federal reimbursement on HCBS billable services. The Federal Medical Assistance Percentages (FMAP) statutory maximum is 83%.
- FMAP was increased during COVID-19.

Regional Center and State Operated Residential System Federal Medical Assistance Percentages (FMAP) (Dollars in Billions)

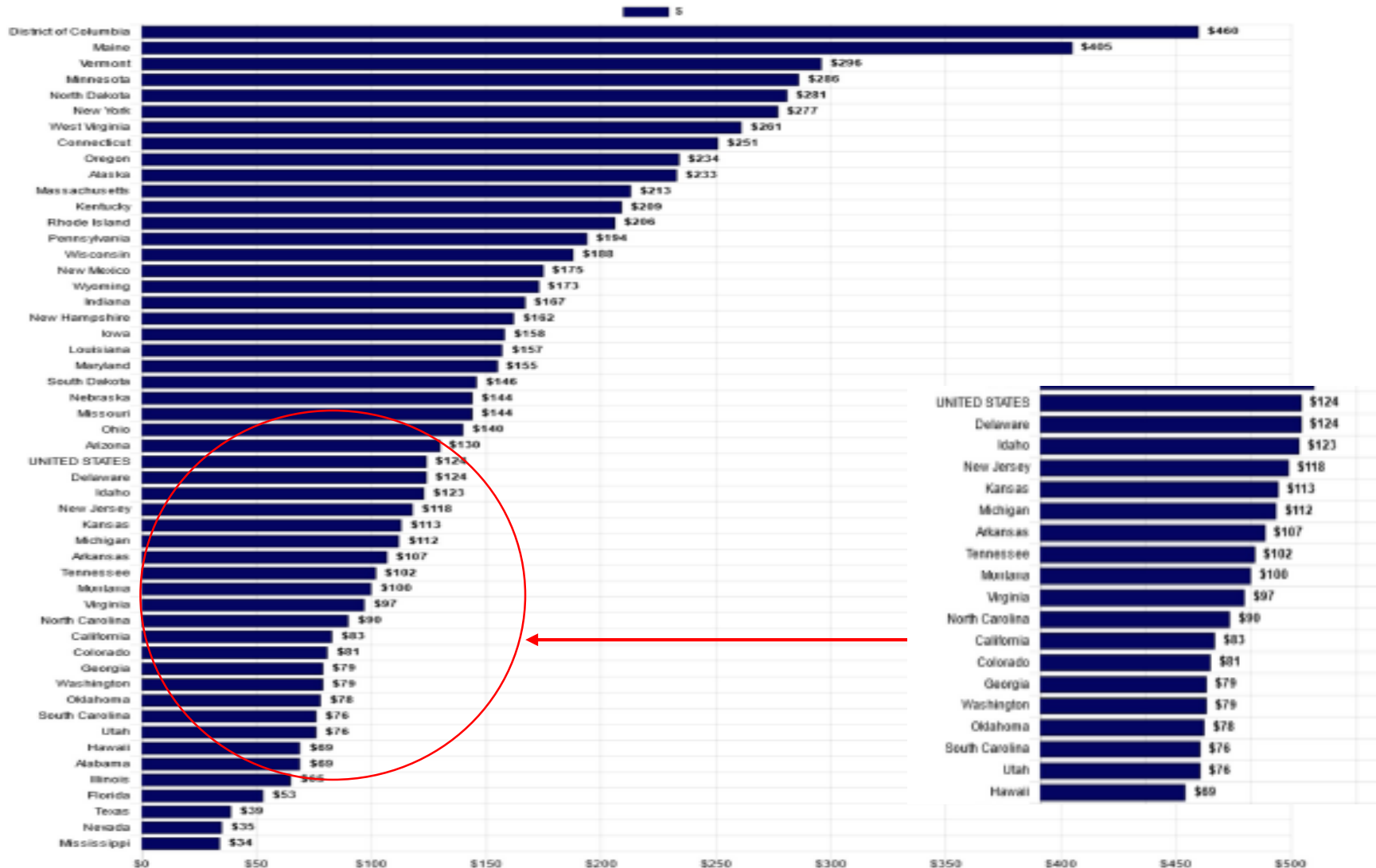
FMAP, \$3.9, 40%

| Category | Total | FMAP | California General Fund | FMAP % of Total |
|-----------------------------|--------------|--------------|-------------------------|-----------------|
| State Operated Residential | \$0.5 | \$0.1 | \$0.4 | 18% |
| Regional Centers Operations | \$0.9 | \$0.3 | \$0.6 | 33% |
| Regional Centers POS | \$8.3 | \$3.5 | \$4.8 | 42% |
| Total | \$9.7 | \$3.9 | \$5.9 | 40% |

California General Fund, \$5.9, 60%

HOME AND COMMUNITY BASED (HCBS) WAIVER FEDERAL-STATE SPENDING PER CAPITA (CITIZEN OF GENERAL POPULATION)

Showing data from Fiscal Year 2017. Dollar amounts are in 2017 dollars.



Home and Community-Based Services (HCBS) Waiver Program in California

- In California, the HCBS waiver program provides funding for services and supports provided through regional centers.
- HCBS waiver participants have access to the same array of services and supports that are available to all regional center persons served.

HCBS Eligibility


- Individual served/family must choose to enroll
- Must have Medi-Cal / may apply for institutional deeming
- Must have an eligible service, e.g., day program, respite, daycare, behavioral services
- Live in eligible residential setting
- Evaluation of each individual's level of care is based on his/her ability to perform activities of daily living and community participation

HCBS Eligibility (continued)

- Person must have substantial limitations in his/her adaptive functioning which would qualify for the level of care provided in an Intermediate Care Facility for the Developmentally Disabled (ICF/DD), Intermediate Care Facility for the Developmentally Disabled-Habilitative (ICF/DDH), or Intermediate Care Facility for the Developmentally Disabled-Nursing (ICF/DD-N).
- Person cannot live in an ICF/DD, ICF/DD-H or ICF/DD-N.

HCBS Eligibility (continued)

- The Client Development Evaluation Report (CDER) helps to identify the qualifying conditions that affect the person's adaptive functioning and community participation.
- The individual served must have a minimum of two qualifying conditions in any one area or a combination of areas (daily living skills, emotional, social and medical).



In Virtual Chart, the CDER* is
coded for Medicaid Waiver
qualifiers

* Client Development Evaluation Report

CDER

EVALUATION ELEMENT

A. SKILLS DEMONSTRATED IN DAILY LIFE

- | | | |
|----------------------------------|-------|---|
| 1. Using Hands | 5 | Uses fingers of both hands to manipulate objects |
| Rolling and Sitting | (1-7) | 9 Assumes and maintains sitting position independently |
| Crawling and Standing | (1-4) | 6 Stands well alone, balances well for at least five minutes |
| 2. Walking | (1-3) | 5 Walks alone at least twenty (20) feet with good balance |
| 3. Using a Wheelchair | (1-3) | N Question does not apply, e.g., does not use a wheelchair on a regular basis |
| 4. Taking Prescription Meds. | (1-3) | N Question does not apply, e.g., does not take medication or resides in a facility where self-medicating is not permitted |
| 5. Eating | (1-3) | 4 Eats with at least one utensil, with spillage |
| 6. Toileting | (1-4) | 5 Toilets independently; does not require assistance |
| 7. Bladder and Bowel Control | 5 | Complete control of bladder and bowel |
| 7a. Bladder Control | (1-3) | 5 Complete control of bladder |
| 7b. Bowel Control | (1-3) | 5 Complete control of bowel |
| 8. Personal Care | 3 | Performs personal care activities, but needs assistance (MW Qualifier) |
| 8a. Personal Care at Residence | (1-4) | 3 Performs personal care activities at residence, but needs assistance (MW Qualifier) |
| 8b. Personal Care at Day Program | (1-4) | N Question does not apply |
| 9. Dressing | (1-4) | 3 Dresses self, but needs assistance (MW Qualifier) |
| 10. Safety Awareness | (1-3) | 4 Requires someone nearby to avoid injury/harm in unfamiliar settings only |

CDER

B. CHALLENGING BEHAVIORS

- | | | |
|--------------------------------|-------|--|
| 15. Disruptive Social Behavior | (1-3) | ⁴ Disruptive behavior interferes with social participation less than once a month |
| Smearing Feces | (1-4) | ⁵ Never smears feces |
| 16. Aggressive Social Behavior | (1-3) | ⁴ The individual has not caused injury within the past 12 months, but physical aggression occurs less than once a month |
| 17. Self-Injurious Behavior | (1-4) | ⁵ Self-injurious behavior never occurs |
| PICA | (1-4) | ⁵ Never swallows inedible objects |
| 18. Destruction of Property | (1-2) | ⁵ Intentional destruction of property never occurs |
| 19. Running or Wandering Away | (1-4) | ⁵ Running/wandering away never occurs |
| 20. Emotional Outbursts | (1-3) | ² Outburst occur at least once a week, but do not typically require intervention (MW Qualifier) |



Medicaid Waiver Qualifiers Flow into IPP

Portion of IPP

SUMMARY OF SERVICES AND BENEFITS

REGIONAL CENTER FUNDED SERVICES

Service Provider: Lighthouse Behavioral Solutions (PM2835)

Phone Number: 657-223-3986

Service Provided: Behavior Analyst 1:1T

1:1-8HRS/WK;CONSULTATION-6HRS/MO

SUPERVISION-6HRS/MO

REPORT-3HRS

\$1,479 per month Dates of Service: 02/01/2021 to 07/31/2021

IPP Section(s): BEHAVIORAL HEALTH

MW Qualifiers Addressed: Personal Care - Residence, Dressing, Emotional Outbursts



HCBS Enrollment in California

| | |
|--------------------------|---------|
| ■ Regional center system | 142,047 |
| ■ RCOC | 8,419 |

Other Waivers

Targeted Case Management Program

- Federal funding for service coordination activities performed to assist individuals with developmental disabilities in coordinating medical, social, educational, and other services.

Other Waivers

Early Start Program

- Part C of the Individuals with Disabilities Education Act (IDEA) provides funding for children with developmental delays, disabilities, or conditions which place children at high risk of disabilities from birth to 36 months.
- The Department of Developmental Services (DDS) is the state's lead agency for preparing the annual grant application and for receiving and administering the federal funds.

Philosophical Issues

- The philosophical issues are how to best provide persons served full access to the benefits of community living and offer them services and supports in the most integrated settings of their choosing.

CMS Final Rule

- Programs need to provide service recipients full access to the benefits of community living
- Ensures individuals' rights of privacy, dignity, and respect, and freedom from coercion and restraint
- Services and supports to focus on the nature and quality of individuals' experiences, by optimizing autonomy and independence in making life choices
- Programs must be in compliance by **March 2023**

A Change of Mindset

- Avoid defining what “is not” a setting, i.e., location, physical environment/characteristics, specific vendor
- Define setting by the overall experience and quality, as defined by the person served:
 - Person-Centered
 - Where a person lives
 - Where a person works



Adult Day Service Settings

- Site-based vs. community-based
- Opportunities for community integration
- Opportunities to form natural relationships
- Services and activities based on needs, preferences, abilities, and interests of persons served
- Competitive Integrated
- Not Work Activity Programs (workshops)



Home Settings

- Services directed and planned by person served
- Services and activities based on needs, preferences, abilities, and interests of persons served
- Opportunities for community integration
- Control of personal resources



Home Settings (continued)

- Home-like settings developed for the persons served:
 - Residency agreement
 - Protection from immediate eviction
 - Right to privacy in sleeping: door locks, choice of roommate or no roommate, furnishing and decorating
 - Setting daily schedules
 - Access to shared areas, including needed accommodations
 - Visitors: inside and outside of home
 - Access to food

Person-Centered Planning

- Directed by the persons served and people they choose
- Includes needs, preferences, interests, and abilities of persons served
- Includes goals, along with plan to achieve goals
- Includes options



Person-Centered Planning (continued)

- Much more than a report
- Involves Person-Centered Thinking
- Involves Person-Centered Practices
- Training for vendors and family members of persons served provided by RCOC





Final Rule Compliance



- DDS provides special funding for vendors to come into compliance with the Final Rule
- DDS approved \$460,746 of RCOC's vendors' concepts for 2020-21
- Virtual site assessments have commenced

Regional Center of Orange County Approved Concepts

| PROVIDER | SERVICE CODE | VENDOR NUMBER | 20/21 APPROVED FUNDING | COMMENT |
|----------------------------------|---------------------------------|--|------------------------|--|
| AOC Residential Care | 113 | HM1393 | \$60,000 | May fund up to the approved amount for vehicles ² to increase opportunities for participants in need of accessible transportation. |
| Gilbert Care Homes | 915 | HM0481 HM0482 HM0483 HM0484 HM0694 HM0881 | \$192,880 | May fund up to the approved amount for vehicles ² to increase opportunities for participants in need of accessible transportation. Funds may also be used for training ³ that helps to implement sustainable person-centered practices at the program. |
| Gratitude Residential Care | 915 | HM1394 | \$60,000 | May fund up to the approved amount for vehicles ² to increase opportunities for participants in need of accessible transportation. |
| Rosie Hall Family Home - Artesia | 915 | HM1992 | \$66,000 | May fund up to the approved amount for vehicles ² to increase opportunities for participants in need of accessible transportation. Funds may also be used for the addition of a ramp to support accessibility for residents that are aging in place. |
| Vocational Visions | 055 063 505 510 950 | PM2401 PM0522 PM0109 H22820 HM1252 HM0371 HM0372 H13609 | \$81,866 | May fund up to the approved amount for staff positions ¹ to establish program-wide opportunities for employment and community integration plans for all participants. |

Questions?

Part Two of Training

POS Expenditures Update – The Claims vs. The Facts

- RCOC responds professionally and objectively to every service request.
- The fair hearing process keeps RCOC accountable for meeting needs and following the Lanterman Act.
- NCI provides objective data to ascertain whether stated concerns are widespread and require broad action, or isolated and merit targeted action only.
- RCOC has taken, and continues to take, targeted action to try to partner more collaboratively with these 22 families.
- RCOC is taking broader action to prevent misunderstandings and enhance experiences for all families.