

# STATE OF COLORADO



**Colorado Department of Human Services**

*people who help people*

**VETERANS AND DISABILITY SERVICES**  
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Bill Ritter, Jr.  
Governor

Karen L. Beye  
Executive Director

August 17, 2009

Dear Family Member,

The system that provides services to Colorado's citizens with developmental disabilities is undergoing a time of tremendous change. The Division for Developmental Disabilities (DDD) is committed to a transparent system that provides as much information to the community as possible during this transition time. The purpose of this letter is to communicate to stakeholders why changes are necessary to the Home and Community Based Services Supported Living Services (HCBS-SLS) waiver and to describe what those changes are.

Since 2005, DDD has been in the process of making changes to all of its HCBS Waivers in order to come into compliance with requirements of the Centers for Medicare and Medicaid (CMS), the funding source for these programs. DDD, along with the Department of Health Care Policy and Financing (HCPF), participated with other stakeholders on the Governor's CMS Waiver Steering Committee to develop waiver changes. Committee meeting minutes and the work plan are posted on DDD's website at [http://www.cdhs.state.co.us/ddd/ComprehensiveWaiverReform\\_MeetingMinutes.htm](http://www.cdhs.state.co.us/ddd/ComprehensiveWaiverReform_MeetingMinutes.htm) and were regularly updated throughout the 18 months the Committee met. Changes were discussed in the DDD's Policy Advisory Committee meetings, CCB Executive Director's meetings, and at several public meetings. Waiver renewal application drafts were made available on the website and distributed to stakeholders for comment. DDD and the system navigated the changes to the HCBS Comprehensive Services Waiver in January 2009.

As of July 1, 2009, DDD is implementing the HCBS-SLS Waiver changes.

On April 27, 2009, I sent a letter to families about changes to the HCBS-SLS Waiver and we provided responses to the many "Frequently Asked Questions." That letter can be read on DDD's website at <http://www.cdhs.state.co.us/ddd/WhatsNew.htm>. Still, the number of people involved in the changes to the HCBS-SLS waiver and the force of the impact is so wide reaching, I think it's important to continue an all out effort towards keeping the line of communication open.

In that regard, an abbreviated explanation of why changes to the HCBS-SLS waiver were necessary follows.

### **Changes to the HCBS-SLS Waiver**

Colorado's Home and Community Based Services waivers are funded by the Centers for Medicare and Medicaid Services (CMS) using Medicaid funds to match with state funds.

In order to get the funds, the Medicaid single state agency, the Department of Health Care Policy and Financing (HCPF), enters into a contract with CMS. This contract is also called the waiver agreement. In the waiver agreement, Colorado agrees to pay its share of the cost of services in order to collect the Medicaid share of funds. Colorado also agrees to follow all the federal rules for program operations. HCPF then enters into a contract with the Department of Human Services, Division for Developmental Disabilities (DDD) to operate the waiver agreements.

CMS and HCPF have oversight responsibility for effective and efficient delivery of services through the waiver. In November 2004, CMS conducted an audit of Colorado's HCBS waivers and found the state was not in compliance with federal regulations. Since that time, DDD and HCPF have made significant changes to bring the waivers into compliance and assure continued federal funding for service delivery. The summary below describes those changes.

#### **1. Informed Choice**

People enrolled in the waivers and their families now receive information that allows them to make an informed choice about whether they want to receive services in an institution or in the community. They receive information about all qualified Medicaid providers who are available and willing to provide the services and supports identified in their Service Plans so they can choose their providers.

#### **2. Audit Trail**

A clear audit trail is established that will be reviewed by CMS, HCPF and DDD during field audits. The audit trail includes documentation that clearly shows each person receiving services is a member of the target population and meets the level of care needed to be eligible for services. "Target population" means the person is a member of a group of people who have a developmental disability and a.) is in need of 24/7 care for the HCBS-DD waiver, or b.) does not need 24/7 care but needs service and supports to live safely in the community for the HCBS-SLS waiver. The level of care is determined by an assessment using the Uniform Long Term Care (ULTC) 100.2 form. Additionally, the Supports Intensity Scale (SIS), plus additional factors, is used to identify the services and supports a person needs. The audit trail shows the need for each service as recorded on the person's Service Plan and the number of units of service needed. Additionally, each payment made for services delivered shows the name of the person receiving services, the number of units of service delivered for the person, the date of service was delivered, the amount paid for each service delivered and the name of the provider who received payment for the service delivery.

#### **3. The Service Plan**

Each person's Service Plan identifies the amount, scope and duration of services based upon the needs identified using the ULTC 100.2 assessment and the Supports Intensity Scale. The Service Plan is developed each year to reflect the full range of a person's service needs and includes Medicaid and non-Medicaid services and supports necessary to allow the person to live in the community. The Service Plan identifies the natural supports available for the person and any third party resources that must pay

for services before Medicaid can pay. Medicaid is the payer of last resort for all services identified in the Service Plan.

HCPF developed a uniform Service Plan for all waivers that is accessed by case managers through the Benefits Utilization System (BUS). The developmental disabilities system has an additional optional section in the Service Plan that identifies needs specific to people with developmental disabilities receiving services through DHS/DDD.

#### **4. Provider Reimbursement**

Providers submit claims for services by the date and individual type of services provided. Since each of the waiver services is paid in this manner, providers no longer have the flexibility to use funds for a greater variety of services or in an amount beyond that specified in the waiver. DHS/DDD changed the way that reimbursement is made so that payment is made only when the dates, type and units of services provided for each person are shown on the claim. Only qualified providers enrolled with Medicaid can receive direct payment.

#### **5. Portability of Waiver Resources**

An enrolled person retains enrollment in the waiver and is eligible to receive waiver services wherever he or she moves in the state, though service delivery depends on having a provider available and willing to provide the services. Enrollment and the availability of services is no longer restricted by geographical areas. Qualified providers are free to provide services in any geographic service area.

#### **6. Transparency**

Individuals/guardians are informed about and provided upon request:

- a. Information about the benefits available in the waiver
- b. A listing of qualified Medicaid providers within the state
- c. A copy of their ULTC 100.2 assessment form, the Supports Intensity Scale form and other assessment documents.
- d. An explanation of how service and support needs were identified
- e. An explanation about those services and supports needs that will be met through the Service Plan
- f. A copy of their Service Plan, and
- g. A copy of the dispute resolution process.

#### **7. Preventing Conflicts of Interest**

In the developmental disabilities system, the potential for a conflict of interest arises when the same agency that determines eligibility for a person also develops the person's Service Plan and then provides the services. Another potential for conflict of interest exists when the agency that provides quality assurance for a service provider is also the service provider. New processes are in place and others are still being developed to prevent or lessen the potential for conflict of interest, or the appearance of conflict of interest, among case management agencies, administrative agencies and providers.

## **8. Uniform Rate Setting Methodology**

DDD must use a uniform rate setting methodology to set rates for all Medicaid providers within the state. Rates for Day Habilitation and Supported Employment are paid to providers according a person's level of support. Support needs are identified with a consistent and uniform assessment process, using the Supports Intensity Scale (SIS) and a safety risk factor. The SIS score, combined with the community safety risk factor, is linked to one of six levels of service delivery. Each level is then related to a rate that is paid to the provider to deliver the services. The new rate methodology benefits people because they know what needs are identified for them, how those needs translate to a support level and how the support level relates to the rate paid to a provider to deliver the support. SLS providers were paid using the new uniform rate setting methodology beginning July 1, 2009.

## **Changes to Targeted Case Management**

The way that DDD reimburses for Targeted Case Management (TCM) for people enrolled in the HCBS waivers or for Medicaid eligible children enrolled in Early Intervention Services has changed. TCM was previously reimbursed as a single payment per month for each person receiving services. As of July 1, 2009, TCM is reimbursed using a 15-minute unit of service. The description of the TCM service is included below to help you know about the kind of assistance available to you from your Targeted Case Manager.

**TCM Services** consist of facilitating enrollment; locating, coordinating, and monitoring needed developmental disabilities services; and coordinating with other non-developmental disabilities funded services, such as medical, social, educational, and other services to ensure non-duplication of services and monitor the effective and efficient provision of services across multiple funding sources. A description of the major activities under TCM follows.

### **1. Assessments**

Comprehensive assessment and periodic reassessment of individual needs to determine the need for any medical, educational, social or other services.

- Create a record of the person's history
- Identify the person's needs and complete related documentation; gather information from other sources such as family members, medical providers, social workers, and educators (if necessary), to form a complete assessment of the person.

### **2. Service Plan Development**

Develop and periodically revise the Service Plan and DD Section or other components of an Individualized Plan.

- Review and use information collected through the assessment
- Specify the goals and actions to address the medical, social, educational, and other services needed by the person
- Include activities such as ensuring the active participation of the person, and working with the person (or the person's authorized health care decision maker) and others to develop those goals
- Identify a course of action to respond to the assessed needs of the person.

### **Service and Support Coordination**

Coordinate the services being provided as identified in the Service Plan to ensure continuity of service provision.

### **Monitoring**

Monitor and follow-up activities: activities and contacts that are necessary to ensure the Service Plan is implemented and adequately addresses the person's needs, which may be with the person, family members, providers, or other entities or individuals. Monitoring is conducted as frequently as necessary, and includes at least one annual monitoring to determine whether the following conditions are met:

- Services are being provided in accordance with the person's Service Plan
- Services in the Service Plan are adequate to assure the person's health and safety, and
- Identifying whether needs or status of the person have changed, and if so, making necessary adjustments in the Service Plan and service arrangements with providers.

### **Other TCM Services**

Targeted Case Management provides a case manager for an individual to meet with face-to-face for assistance. They can advocate for services, provide counsel, notification of intended actions, help with transfers and talk to providers for and with the person receiving services. They can help families understand the waiver changes and work with the person receiving services to navigate the new waiver requirements. The case manager is the key to identifying and coordinating the services a person needs to live safely in the community.

In closing, I want you to know I recognize the difficult and sometimes life changing impact these changes have for some of you and your family members. While only some people are losing services in comparison to all the people being served, the change is no less difficult when you are one of those who have experienced changes that result in fewer services. I would like to encourage you to continue working with the CCBs to have your service needs met. They are an excellent resource with a long-term commitment to the well being of people with developmental disabilities and are the local experts for service delivery and delivery options. The ARCs continue their work on behalf of people with developmental disabilities and can act as a resource as well as the many other active and fine agencies and associations in Colorado who care for the interests of people with developmental disabilities. These agencies and organizations have wide-ranging networks and may have knowledge of and access to assistance beyond what the DDD system can offer.

Many school districts have after school and summer programs that help families with children who need assistance. County and municipal recreation centers, as well as the YMCA and other faith-based centers, provide scholarships and sliding fee scales for people in need. Be sure to understand your Medicaid, CHP+ and private insurance benefits in order to access services available through their benefits. And know that DDD is working to implement Family Caregiver and Consumer Directed Attendant Support as quickly as possible.

These are difficult times for the DDD system in Colorado. I assure you that my staff and I are

Page 6  
Family Members  
August 17, 2009

committed to communicating openly and continuing to seek out the best available and attainable alternatives for services to people with developmental disabilities in the state of Colorado.

Sincerely,

A handwritten signature in cursive script that reads "Sharon S. Jacksi". The signature is written in black ink and is positioned below the word "Sincerely,".

Sharon S. Jacksi, Ph. D.