Community First Choice Option and Balancing Incentive Payments Program

June 3, 2011
Friday Morning Collaborative

With support from The SCAN Foundation, NCOA leads a coalition of national aging and disability organizations working to protect and strengthen Home and Community-Based Services.

For more information about The SCAN Foundation visit: www.TheSCANFoundation.org
Friday Morning Collaborative

- AARP
- Alliance for Retired Americans
- American Network of Community Options and Resources
- Association of University Centers on Disabilities
- Alzheimer’s Association
- Balezon Center for Mental Health Law
- Easter Seals
- Families USA
- Jewish Federations of North America
- Leading Age
- Lutheran Services in America
- National Alliance for Caregiving
- National Association of Area Agencies on Aging
- National Association for Home Care and Hospice
- National Committee to Preserve Social Security and Medicare
- National Council on Aging
- National Council on Independent Living
- National Consumer Voice for Quality Long-Term Care
- National Disability Rights Network
- National Senior Citizens Law Center
- Paralyzed Veterans of America
- Paraprofessional Healthcare Institute
- Service Employees International Union
- The Arc/United Cerebral Palsy
- United Spinal Association
- Volunteers of America
Webinar Overview

- Introduction
  - Joe Caldwell, National Council on Aging

- Speakers
  - Effie George, Jodie Anthony, Kenya Cantwell (CMS Disabled and Elderly Health Programs)
  - Bruce Darling (Center for Disability Rights and ADAPT)
  - Anna Rich (National Senior Citizens Law Center)
  - Elizabeth Royal (SEIU)

- Questions and Answers
  - 15 - 20 minutes

- Closing Remarks
All Lines Will Be Muted During the Call
To Ask A Question Use the Chat Feature
Slides and Materials Will Be Available

Everyone who registered for the webinar will receive a follow up e-mail with:

- Link to archived recording
- Link to power point
Community First Choice
1915(k) State Plan Option

Disabled and Elderly Health Programs Group
Division of Benefits & Coverage
June 3, 2011
Community First Choice (CFC) Key Features

• Section 2401 of the ACA added a new section 1915(k) to the Social Security Act

• State option to provide “person-centered” home and community-based attendant services and supports

• Effective October 1, 2011

• Provided on a Statewide basis
Who May Receive CFC services?

- Must be eligible for medical assistance under the State plan

- Income up to 150% of FPL, or if greater, meet an institutional level of care.
Services

• Attendant services and supports to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance, supervision, or cueing.
Services (continued)

• Allows for the purchase of back-up systems or mechanisms (such as the use of beepers or other electronic devices) to ensure continuity of services and supports.

• The State must develop and offer a voluntary training to individuals on how to select, manage and dismiss attendants.
Services (continued)

State Options

Permissible Services & Supports

• Allows for transition costs such as security deposits for an apartment or utilities, purchasing bedding, basic kitchen supplies, and other necessities required for transition from an institution.

• Allows for the provision of services that increase independence or substitute for human assistance to the extent that expenditures would have been made for the human assistance.
Excluded Services

• Room and board
• Special education and related services provided under IDEA and vocational rehab
• Assistive technology devices and assistive technology services (other than those used as back-up systems)
• Medical supplies and equipment
• Home modifications
Beneficiary Focus

• Utilizes a person-centered plan
• Allows for the provision of services to be self-directed under either an agency-provider model or a traditional self-directed model with a service budget that may include:
  – vouchers
  – direct cash payments
  – use of a financial management entity to assist in obtaining services
State Incentives and Requirements

• FMAP increase of 6%
• Collaborate with a Development and Implementation Council that includes a majority of members with disabilities, elderly individuals, and their representatives.
• Establish and maintain a comprehensive continuous quality assurance system specifically for this service.
• Collect and report information for Federal oversight and the completion of a Federal evaluation.
Maintenance of Expenditures

• Maintenance of existing programs – For the first full fiscal year in which the state plan amendment is implemented, the state must maintain or exceed the level of expenditures for services provided under the state plan, waivers or demonstrations.
CMS Requirements

• CMS is required by 12/31/15 to conduct an evaluation in order to determine:
  – the effectiveness of this provision in allowing individuals to lead an independent life to the maximum extent possible,
  – the impact on physical and emotional health of individuals receiving these services
  – a comparative analysis of the costs of services provided under Community First Choice and those provided in an institution.

• An interim report of this evaluation is due to Congress by 12/31/13.
Community First Choice
Resources

• Regulation published as NPRM February 25, 2011 (comment period ended April 26, 2011).

CMS Contacts:
• Regional Office Representative
• CMS Central Office:
  • Jodie Anthony, 410-786-5903, jodie.anthony@cms.hhs.gov
  • Kenya Cantwell, 410-786-1025, kenya.cantwell@cms.hhs.gov
Balancing Incentive Payments Program (BIPP)
Section 10202 of the Affordable Care Act

Effie R. George, Ph.D.

Disabled and Elderly Health Programs Group
Division of Community Systems Transformation
Balancing Incentive Payments Program (BIPP) Overview:

- Section 10202 of Affordable Care Act
- Provides incentives for states to increase % of Medicaid LTSS spending on HCBS
- Focus on states with less balanced systems
- <50% of Medicaid LTC $ on HCBS -- +2% FMAP
- <25% of Medicaid LTC $ on HCBS -- +5% FMAP
- Community-based LTSS eligible for increased FMAP
BIPP Requirements

By the end of the BIPP period (Sept. 30, 2015), participating states must:

• Increase HCBS spending to 50 or 25% of total Medicaid LTSS spending
• Create a —No Wrong Door—Single Point of Entry system for LTSS (NWD)
• Develop/implement a Core Standardized Assessment Instrument
• Implement Conflict Free Case Management
No Wrong Door System

“Development of a statewide system to enable consumers to access all long-term services and supports through an agency, organization, coordinated network, or portal…and that shall provide information regarding the availability of such services, how to apply for such services, referral services for services and supports otherwise available in the community, and determinations of financial and functional eligibility…or assistance with assessment processes for financial and functional eligibility”
“Development of core standardized assessment instruments for determining eligibility for non-institutionally-based long-term services and supports…which shall be used in a uniform manner throughout the State, to determine a beneficiary's needs for training, support services, medical care, transportation, and other services, and develop an individual service plan to address such needs.”
“Conflict-free case management services to develop a service plan, arrange for services and supports, support the beneficiary (and, if appropriate, the beneficiary's caregivers) in directing the provision of services and supports for the beneficiary, and conduct ongoing monitoring to assure that services and supports are delivered to meet the beneficiary's needs and achieve intended outcomes.”
Questions?

Contact

Effie George
Division of Community Systems Transformation
Disabled & Elderly Health Programs Group

effie.george@cms.hhs.gov
Community Organizing and Advocacy in New York to get the state to select the Community First Choice Option
# NYS Medicaid by the Numbers

## Aging and Disabled

<table>
<thead>
<tr>
<th></th>
<th>Spending Amount</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Institutional LTSS Spending</td>
<td>7.61 Million</td>
<td>62.68%</td>
</tr>
<tr>
<td>Community Based LTSS Spending</td>
<td>4.53 Million</td>
<td>37.32%</td>
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<tr>
<td>Total LTSS Spending</td>
<td>12.14 Million</td>
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## Developmental Disabilities

<table>
<thead>
<tr>
<th></th>
<th>Spending Amount</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Institutional LTSS Spending</td>
<td>3.11 Million</td>
<td>39.84%</td>
</tr>
<tr>
<td>Community Based LTSS Spending</td>
<td>4.70 Million</td>
<td>60.16%</td>
</tr>
<tr>
<td>Total LTSS Spending</td>
<td>7.81 Million</td>
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</table>

2009 Spending Data from Thompson Reuters (formerly Medstat)

Note: Although NYS Medicaid spending for community based LTSS for persons with developmental disabilities is predominantly “community”, the vast majority of folks live in congregate settings previously classified as ICFs.
Comparing NYS Per Capita Spending on Nursing Facilities

Comparing Three Year Trend in Per Capita Nursing Facility Spending in the Three States with the Highest Spending Levels

<table>
<thead>
<tr>
<th>Year</th>
<th>New York</th>
<th>Connecticut</th>
<th>Pennsylvania</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>$311.13</td>
<td>$312.70</td>
<td>$286.05</td>
</tr>
<tr>
<td>2008</td>
<td>$351.99</td>
<td>$354.67</td>
<td>$312.70</td>
</tr>
<tr>
<td>2009</td>
<td>$389.88</td>
<td>$352.40</td>
<td>$286.05</td>
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</tbody>
</table>
Incoming Governor Cuomo

New York’s incoming Governor faces a $10 billion shortfall, but advocates see potential in this crisis.

“We have the highest [Medicaid] rate in the nation, and that’s just not sustainable…I want to bring in the people who are actually doing business with the State and say, ‘Guys, we can’t afford it anymore. We have to reduce the amount we spend on Medicaid. Let’s redesign the program together, otherwise, I’m just going to have to cut off the top, and that’s not the best way to do it.’”

-Governor-elect Andrew Cuomo, October 25, 2010
Proposals to reduce New York State spending and promote the independence and integration of seniors and people with disabilities

A policy report prepared by the Center for Disability Rights and the New York Association on Independent Living

www.cdrnys.org/budgetpaper
Disability Rights Proposals that Save Money and Make Sense

Five Year Savings

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Savings</th>
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</thead>
<tbody>
<tr>
<td>Move people from institutions to community-based settings</td>
<td>$252.4 M</td>
</tr>
<tr>
<td>Transition from a medical model to a consumer directed model for providing long term services and supports</td>
<td>$353.1 M</td>
</tr>
<tr>
<td>Take advantage of federal health reform initiatives that address Medicaid's institutional bias</td>
<td>$403.7 M</td>
</tr>
<tr>
<td><strong>TOTAL SAVINGS</strong></td>
<td><strong>$1.009 B</strong></td>
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Community First Choice Option

• New York could convert the bulk of its Personal Care Program into CFC to secure the additional 6% FMAP

• Implementation would EXPAND services and eliminate the DD waiting list but the increased costs would reduce the “savings”

• Even so, at full implementation, CFCO generates an extra $90 Million in FMAP each year and nearly $400 Million over 5 years!
New York State Medicaid Redesign Team (MRT)

- Governor convenes a Medicaid Redesign Team
- 27 members representing providers and unions with 1 “consumer” representative (Medicaid Matter New York)
- NO Medicaid recipient serves on the team
- $3 Billion Target for Medicaid Savings
Pitching Our Proposals

• Featured our proposals at the New York Association on Independent Living (NYAIL) Lobby Day

• Sent copies to all MRT members

• Mobilized local people to present our proposals at regional forums

• Presented our proposals to the Governor’s Executive Staff, the Department of Health and Division of Budget
List of Proposals reviewed and scored by New York’s Medicaid Redesign Team

NONE!
The MRT Plan

• The MRT was scheduled to have a two-day meeting to review the final redesign plan

• At lunch on the first day, the MRT is informed that they will vote at 4 PM

• The MRT approves eliminating the Personal Care entitlement by incorporating it into managed care under an 1115 waiver

• The MRT never discussed, much less endorsed, selecting the Community First Choice Option
The MRT Plan

Some “constituency” groups got major trade-offs for endorsing the MRT Plan

• Hospitals secure an indemnity fund for birth-related neurological injuries

• SEIU secures living wage requirements

• Nursing facilities are not included in the initial roll-out of managed care
The Disability Rights Response

• Built on a Lobby Day already planned by the Consumer Directed Personal Assistance Association of New York State (CDPAANYS)

• Our lobbyist schedules a pre-meeting with key Governor’s staff for that day and explains that “a lot” of folks would be coming to Albany

• Working with other partners (including ADAPT, NYAIL, and DIA) we mobilize 250 people from all across NYS to come to Albany
Defending Our Freedom in Albany!
SUCCESS!

The Lieutenant Governor addresses the group and announces that:

- Long awaited regulations for consumer directed services will be released within a month

- New York State will select the Community First Choice Option
Next Steps

Almost immediately, the administration issues a press release endorsing the Community First Choice Option

Within weeks, the state solicits applications for individuals to serve on the Development and Implementation Council
http://www.health.state.ny.us/facilities/long_term_care/solicitation_community_first_choice_options.htm
Keys to Our Advocacy

• Working in coalition, key partners include:
  Centers for Independent Living
  The New York Association on Independent Living
  Consumer Directed Personal Assistance Association
  ADAPT and DIA
  State Independent Living Council

• Be clear on what you want

• Get the word out!
  (IL Advocacy Network, list-serves, social media)
Keys to Our Advocacy

• Educating our members about the issue

• Turning self-interest (and fear) into ACTION

• Respect different approaches and use all of our advocacy tools/strategies

• Involving representatives from all key groups on the Leadership Team
But I can’t do math!

The policy analysis we did WAS complex, but was NOT the major reason we succeeded…

You don’t have to do it yourself!
Advocates can demand that the state do the analysis and prove to them that implementing the Community First Choice Option would not be cost effective!
LSNC Training

Community First Choice Option: California’s Experience

June 3, 2010

Anna Rich

National Senior Citizens Law Center
NSCLC makes the law work to ensure the health and economic security of low-income older adults as well as their continued access to the courts. We accomplish our goals through advocacy, litigation, and the education and counseling of local advocates.
California’s In-Home Supportive Services (IHSS) Program

• Largest personal care program in the nation, serves 436K + consumers.
• Long history: attendant care began in 1950s; IHSS established in 1979.
• Funding sources:
  • Personal care services state plan option.
  • 1915(j) option, incl. spouse and parent providers, advance pay, and restaurant meal allowance.
  • “Residual” program with state-only funds.
California’s In-Home Supportive Services (IHSS) Program

Eligibility:

• 65 or older; or
• Blind; or
• Meet Social Security definition of disabled.

• California residents living “at home.”

• Unable to perform services themselves and “cannot safely remain in their homes or abodes of their own choosing unless these services are provided.” --Cal. W & I Code 12300(a)
Available to all Medicaid recipients, including:

- SSI-linked Medicaid.
- Aged & Disabled FPL program (2011 income limit is $1,138/$1,536)
- 250% Working Disabled program
- Medically Needy (IHSS expenses count toward spenddown)
- HCBS waiver participants
California’s IHSS Program

- **Paramedical Services:**
  - E.g., administration of medications, tube feedings, injections, other activities requiring judgment based on training by licensed health professional.

- **Domestic services:**
  - E.g., cleaning floors, kitchen, bathroom, garbage, changing bed.

- **Related Services:**
  - E.g., meal preparation, laundry, food shopping.

- **Heavy cleaning.**
California’s IHSS Program

- **Personal services:**
  E.g., respiration assistance, bowel and bladder care, feeding, bathing, dressing, repositioning, ambulation.

- **Accompaniment services.**

- **Protective supervision** to prevent people with a mental impairment or mental illness from hurting themselves or others.

- **Yard hazard abatement.**

- **Teaching/demonstration.**
California’s Budget Crisis

- $25.4 billion budget deficit in January 2011.
- IHSS: $486.2 million on the chopping block (including extra across-the-board cuts, elimination of domestic and related services for those living with others).
California’s IHSS Coalition

• Consumer representatives and advocates (Protection & Advocacy groups, Independent Living Centers, other disability rights groups, AARP, other senior groups, legal services, individual consumer activists)

• Worker representatives (unions (SEIU, UDW), individual provider activists)

• Program administrators (county representatives, Public Authorities)
Coalition Messaging

• Californians take care of our seniors and people with disabilities.
• Home care is a budget solution, not a budget problem.
• We can find ways to save money and get more federal dollars without hurting people.
• [http://www.ihsscoalition.org/talkingpoints.htm](http://www.ihsscoalition.org/talkingpoints.htm)
CFCO Proposal

- Adopt CFCO for increased federal match.
- IHSS already includes:
  - Statewideness.
  - Consumer direction, including hiring, supervision, and firing of providers.
  - Broad range of ADLs and IADLs.
  - In-home assessments.
CFCO for California

• Legislation directed state to explore CFCO.

• CMS’ release of draft regulations gave Dept. of Finance go-ahead to score $121 million in savings.

• Avoided need for drastic cuts in IHSS, including the across-the-board cuts and cuts to domestic and related services.
Anna Rich
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(510) 663-1055, ext. 305

Keep informed of NSCLC’s advocacy efforts and receive substantive information and alerts by joining our networks online at http://www.nsclc.org/front-page/join-or-donate-to.nsclc.
Protecting the Rights of Low-Income Older Adults
The Balancing Incentives Payment Program

Opportunities for States and Advocates

Elizabeth Royal
Policy Coordinator for Long Term Care
SEIU
What is the Balancing Incentives Payment Program (BIPP)?

- Section §10202 of PPACA

- Program for states that devote less than 50% of their Medicaid long term care expenditures to HCBS;

- Designed to increase access to HCBS;

- $3 billion, 4 year grant program;

- States selected will receive an enhanced federal reimbursement rate for all HCBS covered under their Medicaid programs during the “balancing incentive period” of October 1, 2011 through September 30, 2015.
Enhanced Federal Match

- Payments based on state expenditures for the non-institutional services;

- All payments must be used to fund new and expanded Medicaid non-institutional long-term services;

- States that devote less than 25 percent of Medicaid long-term care dollars to HCBS are eligible for a 5 percentage point FMAP increase;

- States with spending of at least 25 percent but less than 50 percent are eligible for a 2 percentage point FMAP increase;
Eligibility

To be eligible, states:

- Must devote less than 50% of total Medicaid LTC spending to non-institutional services and supports;

- Must use the additional funds they receive for new or expanded HCBS services;

- May not make more restrictive their eligibility requirements for HCBS services than their requirements are as of December 31, 2010;

- Must meet certain structural and eligibility requirements.
**Requirements**

- Maintain eligibility levels for all non-institutional Medicaid services that were in effect December 31, 2010;

- Depending on level of eligibility, must meet expenditure percentage targets;

- Within six months of the submission of their applications, “structural changes” to their LTSS systems that include:
  - No-wrong door single entry point system” that will enable consumers to gain access to all long-term services through a single point;
  - "Conflict-free" case management to develop individual service plans and to arrange for and conduct ongoing monitoring of services;
  - Core standardized assessment instrument to be used statewide to determine eligibility and appropriate services.

- Data collection including services and quality data and outcomes measures.
What do states have to do to apply?

- State Medicaid Director letter out soon with guidance on eligibility and implementation;

- States must submit an application with a budget and plan for increasing Medicaid HCBS spending to a target percentage by September 30, 2015.
What does this mean in real terms?

- Opportunities to improve access to HCBS using new money that has to go to services;
- Opportunities to improve state infrastructure;
- Increased federal funding for new HCBS services . . .
### Potential $ ESTIMATES!!!!!

<table>
<thead>
<tr>
<th>State</th>
<th>FMAP Bump Under BIPP</th>
<th>Additional FMAP $ (2010-2014)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td>2%</td>
<td>$58,658,168</td>
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<tr>
<td>Montana</td>
<td>2%</td>
<td>$17,164,696</td>
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<tr>
<td>Idaho</td>
<td>2%</td>
<td>$20,802,275</td>
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<td>Missouri</td>
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<td>$139,972,083</td>
</tr>
<tr>
<td>Maryland</td>
<td>2%</td>
<td>$84,941,401</td>
</tr>
</tbody>
</table>
Possible Barriers

- Structural changes and data collection;
- Program is only for 4 years;
- Limited $, smaller, less populated states need to get in now.
Ways to overcome barriers

- Help states ID where they may have trouble meeting best practices (6 months?);
- Get involved with creation of 4 year budget and plan that states have to submit;
- MFP grants for infrastructure changes;
- Engage with other stakeholders.
To Ask A Question Please Use the Chat Function
Continue the Conversation Online

Join to discuss what you learned today!

www.NCOACrossroads.org/HCBS

- New online community!
- Join advocates nationwide to protect HCBS
- Easily share ideas and resources
- Access additional information and materials on block grants and spending caps.
- Access archives of previous webinars on state budgets and cost-effectiveness of HCBS.
Thank You

- You will receive a follow up e-mail next week with links to the archived recording of the webinar and additional resources.

- Please share with other advocates in your state.

- Please complete a short survey to give us feedback and suggestions for future webinars.