Medicaid Waivers
Understanding and Acting on Medicaid Policy
Agenda

- Introduction
- Waiver Summary
- Waiver Process
- Q/A
Introduction

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Medicaid Waiver
Summary
Familiarize Yourself with State Medicaid Waivers
Importance of Understanding the Waiver Process

• A state’s decision to write a waiver can be based on budget needs, federal priorities, or advocacy at the local, state or federal level.

• Advocates have often played a critical role in shaping priorities:
  • Money Follows the Person
  • Community First Choice Option

• Under the current administration, waiver priorities could shift towards programs that place added restrictions on Medicaid
  • Work-requirements
  • Premium/Cost sharing (see HIP 2.0)

• Once you understand the public input process, you can effectively push for or against changes in your state’s Medicaid system.
Brief Background on Medicaid

• Created in 1965
• Administered at state level but guided by state and federal regulation.
• Funded through a combination of state and federal dollars (FMAP or ‘federal match’).
• Largest U.S. health care plan for low income individuals, including people with disabilities and children
Why Do Waivers Exist? How Are They Created?

• Waivers exist as a way for states to customize their Medicaid program.
• They are called ‘waivers’ because, when approved, they have the power to waive federal requirements around things like:
  • eligibility,
  • comparability of services; and
  • statewidedness.
• States can apply for waivers that tackle one issue (e.g., home and community based services) or a broad goal (e.g., shifting from fee-for-service to Medicaid managed care).
• While states can begin the process of writing a waiver, they must work with Centers for Medicare and Medicaid Services (CMS) before it is approved.
An Incomplete List of Waivers

- **Section 1915(c)**: Home and Community-Based Services
- **Section 1915(i)**: Community First Choice Waiver
- **Section 1915(k)**: Medicaid Demonstration Waivers
- **Section 1115**: State Innovation Waivers
- **Section 1332**
1915(c) Home & Community Based Services Waiver

- Allows states to provide services to those who qualify for institutional levels of care
- Targets home and community-based services to specific populations based on age or diagnosis
1915(i) Home & Community Based Services

- Created through the Affordable Care Act (ACA)
- Allows states to offer Home and Community Based Services as a part of the Medicaid state plan instead of through a waiver.
  - Saves money in the long run
  - Services cannot be limited by number of participants
- Expanded coverable services to include:
  - any of the HCBS permitted under section 1915(c) HCBS waivers,
  - certain services for individuals with mental health and substance use disorders; and,
  - other services requested by a state and approved by the Secretary of Health and Human Services.
1915(k) Community First Choice Waiver

- 6% increase in matching federal dollars (FMAP) for HCBS provided under State Plan
- No time limit or expiration date
- Statewide eligibility
- Applied in 5 states
- Oregon example:
  - Coverage for nursing home benefits
  - Those with income below 150% poverty line are eligible
  - Eligible for 1915(c), receive one service/month
  - All must meet institutional level of care
Section 1115 Medicaid Demonstration Waivers

• Allow broad changes to Medicaid policy, that can apply to large geographic regions and populations
• Can expand Medicaid eligibility, provide new services, and change the way services are coordinated
Section 1332 State Innovation Waivers

• Allow states to experiment with different health care coverage models
• Option created as part of Affordable Care Act
• Once approved lasts five years, requires renewal
• 1332 waivers can be used to eliminate or adjust elements in the Affordable Care Act.
  • Individual and employer coverage mandates
  • Insurance coverage pricing that takes into account health status
Importance of Engagement

• Being informed and engaging in the drafting and public commenting processes ensures your voice is heard.
• Keeping up-to-date on your state’s waiver processes allows you to give your input on the services that you need.
  • Support waivers that expand care
  • Fight against waivers that reduce care
• Part of any successful engagement strategy includes connecting with those in power BEFORE waivers get written and changes get made
• Rely on your national coalitions to guide opportunities for engagement
Waiver Process

How to Get Involved in Waiver Creation and Approval
Medicaid Waiver Timeline

1. Waiver proposed
2. Draft created
3. Public Notice posted
   - 30-day Public Notice Period
4. Waiver proposal reviewed by CMS
5. CMS accepts or rejects waiver
6. Waiver policies implemented
Who Decides a Waiver is Needed?

• The single state Medicaid agency
  • Practical reasons
  • To address a systemic need
  • Can be politically driven
  • Only they have the *authority* to request the waiver

• Grassroots/advocacy organizations
  • Address a concern
  • Address a gap in service
  • Empower beneficiaries

• Elected officials
Signs that a New Proposal is Near

• Your state should have some form of a Medicaid Advisory Committee
  • Attend their meetings to stay up to date on new developments
• The media will sometimes report that a new type of waiver is becoming popular across the states
  • They tend to spread like wildfire
• Keep an eye on health policy websites (NHHeLP, disability rights sites, Justice in Aging, Empire Justice)
• Build relationships with staff of your single state Medicaid agency!
Key Players

• Single State Medicaid Agency
  • For IL, the Dept. of Healthcare and Family Services oversees Medicaid and the waiver drafting
• Federal Centers for Medicare and Medicaid Services negotiates contents and grants or denies approval.
• Ask state legislator to hold subject matter hearing about proposed waiver
What are Public Notices?

• Public Notices announce the draft of a new Medicaid waiver
• Contain:
  • key details of waiver proposal
  • where to get copy of the whole thing
  • relevant contact information
  • instructions on how to provide feedback with deadline
Where are Public Notices Posted?

• Agency website, state’s administrative record or newspaper, must disseminate
  • For IL, some posted on IL Dept. for Healthcare and Family Services website; it is also important to watch the Illinois Register, which is published every Friday
• Found on the Medicaid.gov website under “Comment or View Pending Demonstration.”
What is the Public Commenting Period?

• After a Public Notice is posted for the state, there is a 30 day comment period for the waiver
  • Comprehensive description
• Anybody can comment on waivers, not just advocacy organizations or large companies
• Commenting on waivers is important as not all Medicaid waivers provide additional services, many reduce or eliminate services
• State must hold at least 2 public hearings—separate dates and locations
• IF negotiations with CMS change the waiver significantly, then CMS may order another comment period.
What is the Public Commenting Period? Feds

• 30 day comment period begins when CMS decides it has a complete application
• Post on CMS website how to comment
• Will review and publish all comments
• Also posted final waiver and complete administrative record for each waiver application
• Not limited to commenting on your state’s waiver.
What to Include in Comments

• Comments can be used to seek new information, and share information or opinions
• Comments which are preferred by CMS:
  • Cite evidence
  • Are directly related to the specific proposal on Public Notice
  • Focus on the why
• Can propose new language, edits, or deletions
• Can merely comment on whole or parts
• Useful to say what you like as well as what you do not like
What to Include in Comments

- Headcount matters
- Sign-ons are good too
- Okay to copy good things from others’ comments
- Specificity is powerful
- Assert yourself/your agency’s interest in the waiver and why your voice is valuable.
25 Years of Breaking Down Barriers to Health and Well-being

Introduction

Waiver Process

Q/A

Best time to intervene is during drafting process

Waiver proposed

Draft created

Public Notice posted
- 30-day Public Notice Period

Waiver proposal reviewed by CMS

CMS accepts or rejects waiver

Waiver policies implemented
Other Ways to Provide Input

• If you cannot post a comment:
  • Your voice still matters!
  • Tell your story to relevant organization leaders
    • Often write formal comments as representatives of a lobby
  • Refer to next slide for contacts that are directly involved in writing or approving waivers
  • Submit editorials and stories to local media; use social media
  • Ask your local representatives to hold a town hall near you
  • Partner with other advocates/organizations
    • more voices = more impact
Networking to Approve Waivers

• Find the phone number and contact information of writers of the waiver
• Identify your state’s Medicaid agency department and Medicaid director:
  • List includes agencies and directors: http://medicaiddirectors.org/about/medicaid-directors/
• Cultivate personal connections with key decision makers; stay in touch with them
• Cultivate relationships at CMS
• Cultivate relationships with advocacy groups you align with
• Keep all of your materials on the waiver process in one place
• It can be very handy to maintain a timeline of developments
• Any related communications from state agencies or policymakers are important to keep
Reasons for Waiver Rejection

- CMS rejects Ohio’s 1115 Waiver
- CMS on Illinois’ first go-round at a 1115 waiver
# Resources

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<th>IL HFS Director</th>
<th>National Health Law Program (NHeLP)</th>
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<tr>
<td>Felicia Norwood</td>
<td><a href="http://www.healthlaw.org">www.healthlaw.org</a></td>
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## Introduction

## Waiver Process

## Q/A
Discussion

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