



# West Virginia Developmental Disabilities Council

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## WV Developmental Disabilities Council I/DD Waiver Application Comments April 1, 2020

The WV Developmental Disabilities Council appreciates the opportunity to review and submit the following comments on the proposed application to the Centers for Medicare and Medicaid Services (CMS), outlining the services to be provided for the next five years through the I/DD Waiver program.

### Major Proposed Changes

- **One significant change to which you did not call attention on the change sheet is the prohibition of the billing of respite services while the caregiver works.** The Council strongly disagrees with this. When services were cut five years ago, many caregivers were worried about how they would be able to continue to work outside the home. At that time, they were encouraged by the Bureau for Medical Services (BMS) to consider using respite hours to help in that regard **despite being cut by 58%!** The previous application lists one of the uses for respite may be to “support the person who receives services while the primary caregiver works outside the home.” Now it is being specifically prohibited. What is the intent behind this abrupt reversal? Has the Bureau considered what the affects may be on working families? If so, what recommendations does the Bureau have for how families might now maintain employment?
- What assurances, if any, exist that Waiver recipients under 21 years of age will be able to access occupational, physical, speech, and dietary therapies, that are currently Waiver services, through EPSDT or State Plan services? Are any of the criteria for accessing services through one of these programs different than what has been used by the Waiver program? Are the service limits the same as the Waiver or different?
- What assurances, if any, exist that the requirement for agency-owned passenger van usage be transitioned to Non-Emergency Medical Transportation (NEMT) will not result in a loss of services for Waiver

recipients who use this mode of transportation? Please clarify whether or not all transportation trips for agency-owned passenger vans are being transitioned to NEMT. (Vans and trips are still listed in Non-medical Transportation on the application.) It is our understanding that the use of NEMT is for trips that are medically necessary. Will all the services for which Members typically travel by agency van be covered under NEMT? Is it anticipated that behavioral health providers would encounter any barriers to becoming transportation providers through LogistiCare (the coordinator of NEMT services)? If providers do not provide transportation through NEMT, what safety and accessibility assurances exist for individuals who call LogistiCare and are assigned a driver they do not know (and who does not know them)? What has the history been this past year regarding availability, timeliness, accessibility? While the Council supports the use of natural supports, regularly relying on friends and neighbors for transportation for which they are not paid requires vulnerable individuals to take advantage of those friendships and is not appropriate.

- The Council has advocated for the change to Case Management billing from hourly increments to monthly fees for many years and is pleased to see this change.
- If Participant Directed Goods and Services (PDGS) are to be restricted to the top ten requested and approved items, per limited stakeholder input, will there be a process by which Waiver recipients can request an exception for unique needs? Once again, the Council strongly disagrees with the prohibition on using PDGS for iPads, tablets, etc., that assist individuals with communication and provides other opportunities for learning and accessing their environments.
- The Council is pleased to see a restriction placed on the use of cameras in Waiver recipient's bedrooms and bathrooms. A Member's right to privacy and to be treated with dignity and respect is of utmost importance.
- The Council is hesitant to endorse the removal of caseload limits for case managers. Moving to a new system of case management is a big change for the State. What, if any, assurances will be in place to assure caseloads will be reasonable and manageable? Time will tell if the move to "conflict free case management" is truly without conflict and is otherwise effective.

## Other Comments

- There is a discrepancy in the experience required for Service Support Facilitators in the following section:  
Appendix B. Participant Access and Eligibility  
B-6: Evaluation/Reevaluation of Level of Care  
f. Process for Level of Care Evaluation/Reevaluation – states the Utilization Management Contractor (UMC) employs Service Support Facilitators to conduct re-evaluations for program members and lists the qualifications as a bachelor’s degree and at least one year of experience with the “disability population.”  
h. Qualifications of Individuals who Perform Reevaluations - lists the requirements as a bachelor’s degree and a minimum 2 years’ experience with the “WV I/DD Waiver program service members with I/DD.” The minimum qualifications should be consistently identified as those listed in section “h.”
- There are inconsistencies in the language around Electronic Visit Verification (EVV) in these sections:  
Appendix C: Participant Services  
C-1/C-3: Service Specification  
Some services say the employee will be subject to the use of EVV, and others say the employee may be subject to its use. What will be the criteria for those employees who may be subject to EVV to become subject to it?
- In the category of Day Habilitation, a statement has been added to indicate transportation to and from the service is not a component part of the services and the cost of transportation is not included in the rate paid to the provider. Is the cost of transportation currently included in the day habilitation rate?
- In the category of Home-Based Agency Person-Centered Support (PCS), what is the meaning of the statement “Foster care providers who provide this service are not reimbursed for foster care services at the time they are working as a Home-Based PCS worker?” Does this mean Specialized Family Care providers or traditional foster care providers? Is this intended for a provider who is providing waiver services to a child for whom they are also the foster care provider, or for anyone who works for a behavioral

healthcare agency providing PCS services and who also happens to be a foster care provider? Does WV law prohibit families who agree to become foster care providers from receiving the subsidy if they are also employed? (This also applies to Respite services.)

- In the same category, it appears the maximum annual units of service for a child under 18 has been decreased by 20 units (7,300 instead of the current 7,320). We presume this is an error since elsewhere in the application the number of units has not changed.
- Also, in the same category, since home-based agency person centered support (PCS) is being added as a participant-directed service, will budgets be increased to accommodate the higher rate of reimbursement required (\$5.45 vs. \$2.74) for those who choose this option?
- In the category of Prevocational services, two years of volunteer work has been added. We presume the work site mentioned means the facility-based day habilitation site. In the category of Job Development, the ability to volunteer for up to one year to practice skills has been removed. The Council is aware that some Members were previously being paid for work they did at these sites as they learned the job skills, although we are not certain whether the service being provided was Prevocational services or Job Development services. Is it the intent of this program that these Members continue to work for free? No matter the setting, volunteering to work for two years at any site is taking advantage of the people served. Those of us who are not served by this program can freely choose to volunteer our time and talents at a place of our choosing, and for as many years as we like. Individuals who receive services through this program do not have those same opportunities and are often not able to make those same choices. Why would an employer hire an individual and pay them at least minimum wage, knowing they can receive their services free for two years?
- The Council continues to have strong objections to Pre-vocational services being located in facility-based day habilitation sites or other human service settings. Learning and demonstrating the competencies learned in a variety of community work settings would optimize the attainment of the outcomes identified in the service description. Learning and practicing in a facility will not enhance, and in fact will create barriers to the desired adaptive



competency learning for Members, particularly those who have intellectual disabilities.

- In the same category, and in other employment related categories, the Council is pleased to see services can now be accessed in the summer by those 18 or older who are still attending public school. This is more typical of opportunities given to other young people.
- In the categories of Job Development and Supported Employment, the Council would like to see stronger qualifications/training requirements for individuals who provide these services. We still advocate for a separate set of qualifications and a separate billing code at a higher rate to set these services apart from personal care services, to acknowledge the specific skill sets necessary to do the work successfully, and to reimburse skilled workers accordingly. Two relevant national organizations, APSE and ANCOR, provide appropriate training and certification for supported employment professionals.
- In the category of Participant-Directed Goods and Services (PDGS), the Council continues to object to the inclusion of Environmental Accessibility Adaptations (EAA) in the total funds (\$1,000) allotted per year. When the self-directed option was being planned in WV, PDGS was a special category for self-direction which would allow individuals to have the ability to purchase items which would increase their independence or otherwise improve their lives. The combination of this service with EAA, ensures that people will not be able to take full advantage of either opportunity. This does not meet the original intent as envisioned when self-direction was planned.
- In the category of Behavior Support Professional (BSP), the Council heard the Bureau's presentations on its plan to combine BSP services and believed the analysis on which it was based to be limited and faulty. Nonetheless, the Council does not have a strong opinion either way on whether there should be various levels of BSP service. The Council does object to the weakening of the credentials required to provide this service. After considerable time and effort was spent developing Positive Behavior Support (PBS) curriculum and credentialing for providers, those requirements have been removed. An "approved curriculum" is mentioned as a requirement for

providers with a four-year degree, but no mention is made of what that curriculum will be, and years of experience have been lowered in each educational level. For those who have an MA or MS degree, no requirement for PBS training or a PBS endorsement is mentioned. These changes will not improve the quality of the services provided. Keep the current PBS training and experience requirements.