Report to the Legislature

Conversion of the Medicaid Personal Care Program

Third Engrossed Substitute House Bill 2127
Section 205(F) and Section 206(8)

December 2012

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Washington State Department of Social & Health Services

Executive Summary

Purpose

Third Engrossed Substitute House Bill 2127 (3ESHB2127, the current appropriations bill) requires the Department to assess the feasibility of converting in-home services currently provided by the Medicaid Personal Care (MPC) program to self-directed services within an individualized budget under the Home and Community-Based Services Medicaid option provided by Section 1915(i) of the Social Security Act. Identical language is included in both Section 205(f) of 3ESHB2127 that appropriates MPC funding for people with developmental disabilities, and Section 206(8) that appropriates MPC funding for people with needs related to long-term care. That language is as follows:

> *"The department shall provide the legislature with a report by December 5,2012, on the feasibility of converting the Medicaid personal care program for in-home adults to a Medicaid program as found in Section 1915(i) of the federal social security act that utilizes the option for self-direction of individualized budgets."*

Conclusion

It is premature to determine the feasibility of such a conversion for several key reasons:

1. The relevant federal regulations are undergoing revision and have not been finalized.

2. Washington's current payment system, SSPS, cannot provide the level of financial management support that is required to support individualized budgets. Washington will be replacing SSPS with a system that is more capable of such support, but the timing is yet unknown.

3. Due to the uncertainty of the above two items, the feasibility analysis called for in this report is better served in conjunction with the broader-scoped feasibility analysis (targeted for 2013) involving the 1915(i) option that is required by HB1738. Furthermore, once the federal regulations are finalized and the State has moved forward to implement the Phase Two Electronic Payment System of ProviderOne there will be more certainty and an increased ability to provide the support the financial management supports necessary for individualized budgets.

Washington State's Current System

The Medicaid Personal Care Program in Washington State

The Medicaid Personal Care (MPC) program provides a personal-care benefit to children and adults who have functional limitations and have an unmet need in performing personal care tasks (activities such as bathing, personal hygiene, self-medication, toileting, and dressing). Individuals can choose to receive services in their own homes from either an individual provider selected and supervised by the care recipient, or by a home care agency that hires and supervises the worker or in a licensed residential setting including a boarding home or adult family home. The benefit is provided as an authorization for a number of hours of paid assistance for in-home and a daily rate for residential settings up to a maximum that varies depending on the care recipient's level of disability. The MPC program is an optional state Medicaid plan service.

Self-Direction under the New Freedom Waiver in Washington State

Washington allows self-direction of Home and Community-Based Services (HCBS) in-home services within an individualized budget in its New Freedom Home and Community-Based Services Waiver. New Freedom has been available since 2006 and currently has an enrollment of over 700 people. The value of the individual budgets in New Freedom is determined by converting the number of hours of care the individual would be authorized to receive into an equivalent dollar value, with some additional minor adjustments. The array of services under New Freedom is broadly defined to support care plans that meet the unique needs of individual participants. All services must address needs identified in the assessment. On average, recipients' spend 80% to 85% of their benefit on personal care, with the remaining going toward goods and services that support their health and ability to accomplish daily tasks as independently as possible.

Federal Options

1915(i) Medicaid Home and Community-Based Services Option[1]

Section 1915(i) of the Social Security Act provides another option for states to provide HCBS, including personal care, under the state Medicaid plan. States can use 1915(i) to provide a single Medicaid benefit package that incorporates services that otherwise would only be available through HCBS waivers (such as Washington's COPES or multiple developmental disabilities HCBS waivers) or demonstration projects. Under

[1] The services are specifically listed in section 1915(c)(4)(B) of the Act

1915(i)(1), states have broad freedom to design a HCBS benefit package that can include services such as:

Homemaker services	Services related to chronic mental illness
Home health aide services	Personal care services
Adult day health services	Habilitation services
Respite care	

Subject to federal approval, states may also propose additional services as part of the 1915(i) HCBS benefit. States have more management flexibility under 1915(i) than under other Medicaid sources of funding for HCBS. For example:

1. States may serve individuals who have lower levels of disability than is required to qualify for care.

2. States are not required to demonstrate cost neutrality in comparison with the cost for equivalent levels of institutional services.

3. The benefit may be targeted to specific populations.

4. A full array of HCBS can be offered to individuals with mental health and substance use disorders.

5. States can tighten needs-based criteria for eligibility and can tighten service requirements if enrollment and/or costs exceed projections.

Like other Medicaid state plan options, however, 1915(i) services must be provided statewide and states cannot limit the number of eligible people who are served.

Self-Direction of HCBS services[2]

A State may choose to offer recipients the ability to "self-direct" their HCBS services, which means the services (within the limits of the overall benefit) are planned and purchased under the direction and control of the eligible beneficiary or their representative, including determination of the amount, duration, scope, provider, and location. In Washington's in-home personal care program, care recipients currently have the option to self-direct care by individual providers (IP's). Care recipients hire and supervise the IP, determine how many hours each IP works within the overall level

[2]Proposed Rules §441.674(c)

of authorized hours, and determine which tasks they will perform and the priority given to each.

Self-Direction of HCBS Services within and Individualized budget[3]

States have the option under several Medicaid authorities to allow service recipients to self-direct services within a benefit defined by an individualized budget rather than by a specified number of service hours or daily rates. HCBS benefit levels in Washington are usually defined through authorization of a specified number of hours or units of care or a daily rate for residential services. With an individualized budget approach, service recipients are free to determine the amount, duration, scope, provider, and location of each service from a menu of what is available within their benefit package, as long as the overall cost does not exceed the amount of their individualized budget. Recipients work with an individual care consultant to plan how best to utilize their budget taking the individual's service needs and preferences into account.

The amount of an individualized budget is based on the dollar value of the services and supports in the benefit package. To establish individualized levels, federal rules require that states 1) describe the method for calculating the dollar values of individual budgets based on reliable costs and service utilization, 2) define a process for making adjustments to the budget when changes in participants' person-centered service plans occur and 3) define a procedure to evaluate participants' expenditures.

Financial Management Support[4]

When states choose the option to allow self-direction within an individualized budget they must also provide financial management support (FMS) to recipients that will:

1. Manage Federal, State, and local employment tax, labor, worker's compensation, insurance, and other requirements that apply when the individual functions as the employer of service providers.

2. Function as employer of record when the individual elects to exercise supervisory responsibility without employment responsibility.

3. Make financial transactions on behalf of the individual.

[3]Proposed Rules §441.674(d)
[4]Proposed Rules §441.674(e)(2)(i)-(iv)

4. Maintain separate accounts for each individual's budget and provide periodic reports of expenditures against that budget in a manner understandable to the recipient.

Washington State's New Freedom waiver as compared to 1915(i) options

Washington State's New Freedom operates with several distinctions that are significant in determining how a similar approach would work under the 1915(i) HCBS option. These are as follows:

1. As a waiver service, enrollment can be limited. Enrollment in a 1915(i) option cannot be limited.

2. New Freedom is only available in King and Pierce counties, a 1915(i) option would need to be available statewide.

3. The state's current payment system, SSPS, is not sufficiently robust to provide the necessary level of Financial Management Support. Additional FMS services for New Freedom are purchased separately and financed by a 5% reduction in the dollar value of each individual's budget.

Related Policy Discussions

It is important to note that the 1915(i) federal regulations are currently under revision based on changes made by the Affordable Care Act. The most significant issue in the draft regulations is a proposed re-definition of home and community-based service settings that could significantly impact Washington's models of HCBS delivery. Additionally, the pending regulations may affect how "informal" supports are accounted for in the assessment process that determines the benefit levels. Depending on how these issues are addressed in the final regulations they may significantly affect program design and cost.

Review of the feasibility of using the flexibility offered by the 1915(i) HCBS option is an important feature of the legislatively required report on the implementation of coordinated purchasing required of the Department and Health Care Authority by HB1738. The HB1738 implementation report will recommend exploration of the feasibility of using the 1915(i) option as the vehicle for more integrated funding and

delivery of mental health, chemical dependency, and long-term services and supports, which include the MPC in-home personal care that is the subject of this report. That feasibility analysis is much broader than the one called for in this report and includes the potential for refinancing a group of core services using 1915(i) and modifying the HCBS waivers to provide supplemental, non-duplicative wrap-around supports. It also includes review of the potential for refinancing personal care under another Medicaid option, 1915(k) Community First Choice. This option provides a higher level of federal match. That broader feasibility analysis will also include review of how self-direction within individual budgets can be used.

Analysis

It is premature to determine the feasibility of such a conversion for several key reasons:

1. The relevant federal regulations are undergoing revision and have not been finalized.

2. Washington will be replacing SSPS with a system that is more capable of such support, but timing for this remains unknown.

3. Due to the uncertainty of the above two items, the feasibility analysis called for in this report is better served in conjunction with the broader-scoped feasibility analysis (targeted for 2013) involving the 1915(i) option that is required by HB1738. Furthermore, once the federal regulations are finalized and the State has moved forward to implement the Phase Electronic Payment System of ProviderOne there will be more certainty and an increased ability to support the financial management necessary under 1915(i).