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Ohio AAAA Conference

Ohio Department of Medicaid LTSS Update

October 18, 2023

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Agenda

- HCBS White Paper
- Settings rule
- Home Health/Waiver Nursing/PDN Update
- Appendix K/Caregiver Rule
- Questions?

HCBS Budget White Paper

Policy Initiatives

- In addition to rate increases, there were a number of policy initiatives the department proposed as part of the budget
  - Self-Direction
  - Waiver Alignment
  - New Services
- These are summarized in our HCBS Budget White Paper
- This policy work will occur *after* implementation of rate increases
  - Some policy initiatives are targeted for a July 1, 2024 implementation; others may take longer.

Adding Self-Direction to the Ohio Home Care Waiver (OHCW)

- Purpose & goals:
  - » Greater alignment of waivers
  - » Addressing workforce challenges
  - » Adding more choice to consumers

- Improving the enrollment process for self-direction
  - » Feedback received from many stakeholders that process does not work well today
  - » Utilization of self-direction comparatively
  - » Conceptually difference from current reality

Waiver Alignment

- Waiver alignment
  - » Previous work has been completed to align OHCW and PASSPORT going into MyCare however more work is needed

- Adding both remote monitoring and vehicle modification to nursing facility level of care waivers (NF-LOC)
  - » DD LOC waivers already offer these services
  - » Many consumers have asked for these options

New Service

- Structured Family Caregiving
  - » Is a newer waiver service that some states like Massachusetts, Missouri, Georgia, Indiana, & South Dakota have adopted
  - » Can be very popular with consumers and families in some states
  - » One way to describe is an agency with choice self-directed model with a very strong caregiver focus (CMS does not consider self-direction)

Settings Rule

What is the Settings Rule?

- The HCBS Settings Rule is a federal administrative rule promulgated by the CMS in 2014.
- The Settings Rule applies to all HCBS waivers and the 1915(i)-state plan option.
- CMS has stated the intent is fourfold:
  - » to provide individuals utilizing HCBS waivers full access to benefits of community living; and
  - » the opportunity to receive services in the most integrated setting appropriate; and
  - » to enhance the quality of HCBS; and
  - » provide protections to HCBS waiver participants.

Applying the Settings Rule: Types of Providers

- For the purposes of applying the Settings Rule there are three distinct types of providers:
  - » **Presumed Home and Community Based.** The Settings Rule still applies to these providers but CMS assumes these providers meet the rule.
  - » **Provider Owned and Controlled.** These providers the state has to review and make sure they meet the Settings Rule by the March 17, 2023 deadline.
  - » **Presumed Institutional**. These are a subset of provider owned and controlled providers. If the state believes these providers meet the Settings Rule requirement, then the state has to submit to CMS documentation showing why these settings are home and community-based and not institutional. CMS makes the final decision (not the state) through a process called Heightened Scrutiny.

Where Are We Now

- March 17 Deadline
- May 11 End of PHE
- Corrective Action Plan
- Ongoing Compliance
- CMS Visits

Restrictions requiring person-centered service plan updates

- Food
- Locked doors or no key
- Visitors
- Schedule and activities
- Roommate/housemate
- Shared bedroom
- Decorations or furnishings

Rate Increases: Home Health/Waiver Nursing/PDN Update

Processes for Implementing Rate Increases

Top Priorities

- Allowance to continue paid family caregiver waiver services.
- Obtain **Centers for Medicare & Medicaid Services (CMS) approval by January 1, 2024** for new rate increases to prevent a gap.
- Non-waiver and state plan service rate increases -- ***target effective date January 1, 2024.***

Waivers

- "Targeted waiver renewal" + rate increases and paid family caregiver (all waivers).
  - Paid family caregiver (all waivers) - Appendix K expires January 1, 2024.
    - **Rule for paid family caregiver** is in the works.
  - Target: rate increases go into effect January 1, 2024. These will be a package of rules.

August 29 – federally required notice (30 days prior to filing waiver).

September 30– submit waivers to CMS (begins 90-day CMS review clock).

October 17 – last day to file **Rates Rules.**

January 1, 2024– CMS approvals needed.

January 1, 2024 – rate changes become effective.

State plan:

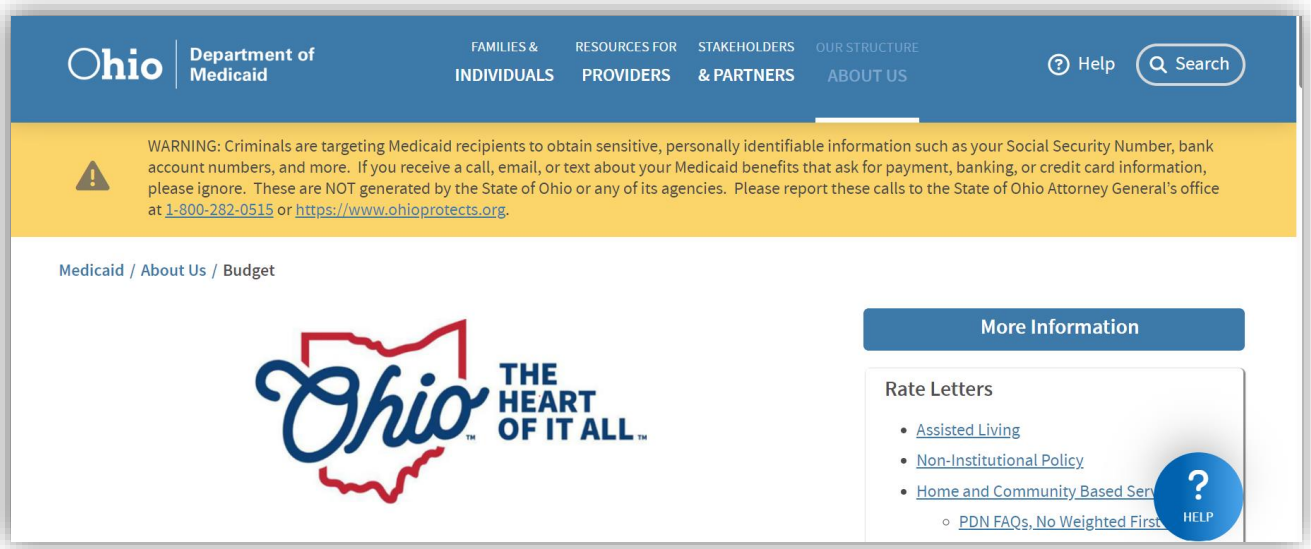
- Public notice and rule making/JCARR process.
- SPA for state plan approval no later than January 1, 2024

UPDATE! Rules have been original filed with JCARR.

Remember: Fee-for-service and managed care plan payers.

PDN/Waiver Nursing/Home Health

- As part of our rate increase work, and in response to stakeholder feedback, ODM will be removing the weighted first hour for PDN/personal care aide (PCA) services in the OHCW **only**.
- An FAQ on this policy change is available on the budget page of our website
- Below link has proposed rates: ERF199677.pdf (ohio.gov)
- For additional questions please email us at: HCBSPolicy@Medicaid.gov



Home Health/Waiver Nursing for Agency RN Comparison with PDN

	Home Health RN	Average Hourly Rate	PDN RN	Average Hourly Rate
Hour One	$68.44	$68.44	$51.68	$51.68
Hour Two	$105.44 = (68.44 + (9.25*4))	$52.72	$103.36 = (51.68 + (12.92*4))	$51.68
Hour Three	$142.44 = (68.44 + (9.25*8))	$47.48	$153.84 = (51.68 + (12.92*8))	$51.68
Hour Four	$179.44 = (68.44 + (9.25*12))	$44.86	$206.72 = (51.68 + (12.92*12))	$51.68
Hour Five	N/A	N/A	$258.40 = (51.68 + (12.92*16))	$51.68
Hour Six	N/A	N/A	$310.08 = (51.68 + (12.92*20))	$51.68
Hour Seven	N/A	N/A	$361.76 = (51.68 + (12.92*24))	$51.68
Hour Eight	N/A	N/A	$413.44 + (51.68 + (12.92*28))	$51.68

Appendix K/Caregiver Rule

Our goal:

To strengthen & preserve Ohioans' access to home and community-based services

How we do that:

Focus on those who provide direct care and services to individuals, while working to address workforce shortages

State of Ohio Initiatives to Address Appendix K Unwinding

ODM has completed or is in the process of completing multiple initiatives to accomplish this goal, including:

Stakeholder Engagement

- Webinars to share updates on the State of Ohio's Appendix K work and solicit feedback from the public on potential changes
- Ohio Department of Medicaid (ODM) Appendix K email inbox and subscriber list
- Communications materials (e.g., Status Summary, public notices, etc.)

Parents as Paid Caregivers Rule

- Developed and drafted new rule to address direct care worker needs and workforce shortages.
- Hosted webinar to share draft of rule with key stakeholders
- Solicited feedback from public and took into consideration as updates were made

Feedback

FEEDBACK TOPIC:
GENERAL

- Opposition to the state setting any limitation on parents of minor children, spouses, and other relatives with legal decision-making authority.

STATE REVIEW OF FEEDBACK

- ✓ The rule draft and language was restructured and refined throughout the public engagement period to clarify, eliminate, and enhance language to better reflect stakeholder preferences.
- ✓ CMS requires the state to develop and oversee certain assurances and oversight strategies for allowing parents of minor children, spouses, and other relatives with legal decision-making authorities to receive Medicaid payment for waiver service provision.

Feedback

FEEDBACK TOPIC: CONTACT & VISIT REQUIREMENTS	STATE REVIEW OF FEEDBACK
• Requirements for parents of minor children to actively seek and/or have a significant change in employment status.	✓ Removed.

Feedback

FEEDBACK TOPIC:
EXTRAORDINARY CARE TOOL

- Opposition to requiring use of an ODM approved extraordinary care tool.
- Request to align extraordinary care tool developmental stages with other developmental stages contained in other tools already available.

STATE REVIEW OF FEEDBACK

- ✓ A standardized assessment tool allows the state to train on and assure the same standard across all waiver programs.
- ✓ Many tools are publicly available, all with similar but different standards. Assuring standardized assessment criteria is implemented across the waiver delivery system is the responsibility of the state and is being implemented through the developed state-specific assessment tool.
- ✓ CMS does require the state only reimburse for extraordinary care for parents of minor children and spouses.

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Ohio Extraordinary Care Instrument

Individual's Name: _____ **Assessor's Name:** _____

Date of Birth: _____ **Date Completed:** _____

Instructions

Use the scale below to assign a value that indicates the greatest level of support needed by the individual to meet each need or prevent unsafe behavior. Please note that there is an age range presumed as not applicable for some needs. For those needs, score as a (0).

Only one value may be assigned for each need.

Refer to *Ohio Extraordinary Care Instrument — Definitions* for additional instructions.

Rating Scale

Independent or N/A (0)
Requires Assistive Device (1)
Sometimes Requires Physical/Verbal Support (2)
Always Requires Physical/Verbal Support (3)

Need	Score	Need	Score
Turning/Positioning *Enter (0) for ages birth - 9 months*		Ambulation *Enter (0) for ages birth - 18 months*	
Transfer Assistance *Enter (0) for ages birth - 18 months*		Behavioral Health *Enter (0) for ages 0-4 years*	
Bathing *Enter (0) for ages 0-5 years*		Oral Hygiene *Enter (0) for ages 0-5 years*	
Dressing *Enter (0) for ages 0-5 years*		Toileting *Enter (0) for ages 0-5 years*	
Hair, Nail, and/or Skin Care *Enter (0) for ages 0-10 years*		Communication *Enter (0) for ages 0-16 years*	
Basic Purchases *Enter (0) for ages 0-16 years*		Basic Meal Preparation *Enter (0) for ages 0-16 years*	
Basic Household Chores *Enter (0) for ages 0-16 years*		Laundry *Enter (0) for ages 0-16 years*	
Accessing Transportation *Enter (0) for ages 0-16 years*		Managing Personal Funds *Enter (0) for ages 0-16 years*	
Cognition *Enter (0) for ages 0-16 years*		Medication Administration *Enter (0) for ages 0-18 years*	
Feeding Assistance		Seizure Protocol	
Respiratory/Pulmonary Care		Catheter or Ostomy Care	

Ohio Extraordinary Care Instrument Results

If the individual scores a (3) in *at least three* of the items above,
then the individual meets the standard of extraordinary care as defined by OAC 5160-XX-XX.
A score of (2) or more in the Behavioral Health section indicates that referral to additional behavioral health resources should be considered by the assessor.

Is The Behavioral Health Score At Least (2) Or Higher?		**Are There At Least Three Ratings Of (3) For The Items Listed Above?**	
Is The Individual Being Considered For Additional Behavioral Health Resources?		**Does The Individual Meet The Standard Of Extraordinary Care As Defined By OAC 5160-XX-XX?**	

Extraordinary Tool Rating Scale

| What is needed to score a three on the tool |

- Always Requires Physical or Verbal Support
  - This should be scored if the individual requires hands-on assistance or verbal direction from another person each time the need must be met
  - This could include hands-on support or verbal direction from another person to use an assistive device

Feedback

FEEDBACK TOPIC: APPEAL RIGHTS	STATE REVIEW OF FEEDBACK
• Opposition to a decision by ODM, ODA, DODD, or their designee related to whether someone qualifies under this rule to serve as a provider or a direct care worker for an individual is not subject to notice and appeal rights under division 5101:6 of the Administrative Code.	✓ Federal requirements for issuance of individual appeals do not apply to provider limitations of certification requirements. However, ODA, ODM, and DODD will enhance current grievance and oversight processes to ensure constituent concerns regarding CMA/SSA application of the rule allowances are monitored and addressed. ✓ For DODD operated waivers, Persons served, families, or guardians can request that DODD's Medicaid Technical Assistance Team review any HCBS service issue.

Feedback

FEEDBACK TOPIC: MAXIMUM 40 HOURS

- Opposition to maximum hours per week limitations:
  - » Parents of minor children and spouse.
  - » Other relatives with legal decision-making authority.

STATE REVIEW OF FEEDBACK

- ✓ Effective January 1, 2024, there will be a maximum 40 hour limitation. However, there will also be an exception process through DODD and ODM.
- ✓ The 40 hour per week limitation may be further be limited if the total number of hours on the person-center service plan does not equal 40 hours a week.
- ✓ Depending on specific program rule, there may have been authorities prior to the pandemic that may have existed. Those authorities will move forward.

Feedback

FEEDBACK TOPIC: MEDICAID BILLING STANDARDS

STATE REVIEW OF FEEDBACK

- General Medicaid billing standards:
  - » Prohibition of direct service worker providing care to non-Medicaid authorized individuals while billing for waiver services.
  - » Prohibition of a direct service worker receiving payment or compensation for non-Medicaid service provision while billing for waiver authorized services

✓ Limitations are general Medicaid requirements. Language has been modified throughout the public input process to better reflect the limitation, in a broad sense.

Feedback

FEEDBACK TOPIC: CONTACT & VISIT REQUIREMENTS

- Care Management/Services and Supports Administrator contact and visit requirements:
  - » Parents of minor children and spouse.
  - » Other relatives with legal decision-making authority.

STATE REVIEW OF FEEDBACK

- ✓ Language refined for parents of minor children and spouse to clarify intent.
- ✓ Requirement made broader, allowing contact and visit schedule to be set by PCSP for other relatives with legal decision-making authority.

Questions?