

**INFORMATION BRIEF**

**Research Department**  
**Minnesota House of Representatives**  
600 State Office Building  
St. Paul, MN 55155

Danyell Punelli, Legislative Analyst  
651-296-5058

June 2010

---

# Medicaid Home- and Community-Based Waiver Programs

This publication provides background information on the Medicaid home- and community-based waiver programs and provides details on the five Minnesota-specific waivers.

---

## Contents

What is a Home- and Community-Based Waiver?.....	2
Historical Background .....	2
How Does a State Receive a Waiver?.....	2
Minnesota’s Waivers .....	3
What are the Eligibility Requirements for an Individual to Receive Services Under a Waiver Program?.....	3
Who Administers the Home- and Community-Based Waiver Programs? .....	5
Services Provided.....	5
Funding .....	6
Cost-Effectiveness of Community HCBS Waivers to Institutional Service Options.....	7
Recent Programmatic Changes .....	8
Recent Legislative Actions .....	8
Potential Legislative Issues.....	9
Glossary .....	10

## **What is a Home- and Community-Based Waiver?**

Home- and community-based waivers allow for federal Medicaid reimbursement for certain services provided to the chronically ill, disabled, and elderly, which are not otherwise covered under the Medicaid program in the state plan.

Home- and community-based waiver services (HCBS) help people remain in their homes and communities, rather than be institutionalized. These waivers allow Minnesota (1) an alternative to placing Medicaid-eligible individuals in hospitals, nursing facilities, or intermediate care facilities for the developmentally disabled (ICF/DD) and (2) provide services that are not covered, or are limited, under the traditional Medicaid program.

## **Historical Background**

Medicaid, or Medical Assistance (MA) as it is called in Minnesota, is a joint federal-state health care program that provides necessary medical services for low-income families, children, pregnant women, and people who are elderly (65 or older) or have disabilities.

Prior to 1981, the only comprehensive long-term care that was reimbursed by Medicaid was care in an institutional setting, such as a nursing facility, hospital, or an ICF/DD.

Medicaid home- and community-based waivers were established under section 1915(c) of the federal Social Security Act of 1981. The waivers were intended to correct a bias toward institutional care in the Medicaid program. They allow states to offer a broad range of home- and community-based services to people who may otherwise be institutionalized.

In addition, in 1999, the U.S. Supreme Court ruled in *Olmstead vs. L.C.* that states have an obligation to ensure that people with disabilities are not forced to remain institutionalized when a more integrated setting is appropriate and the affected people do not object to the community placement. The court also indicated that states should have comprehensive, effective working plans for placing qualified people in less restrictive settings. This ruling prompted states, including Minnesota, to review their policies and practices and to determine whether they were most effectively supporting the relocation and diversion of people from institutional settings.

## **How Does a State Receive a Waiver?**

In order to participate in and receive federal reimbursement for home- and community-based Medicaid expenditures, states must make special application to the federal Department of Health and Human Services (DHHS), seeking approval for each home- and community-based waiver program. Each state must assure the DHHS that it will protect each consumer's health and welfare and assure the consumer's right to choose HCBS or services in an institutional setting. States must also assure that the expenditures under the home- and community-based waiver program, on average, will not exceed the cost of care for the identical population if they would have been in an institution.

## Minnesota's Waivers

Minnesota has been authorized by the DHHS to provide HCBS to people with developmental disabilities (DD) or a related condition since 1984. Since its introduction in 1984, the home- and community-based waiver programs have been the primary means of support for Minnesota's shift from institutional to HCBS. This shift from institutional care to HCBS both saves money and is preferred by the vast majority of people involved.

Minnesota currently administers the following five home- and community-based waiver programs:

- *Developmental Disabilities (DD) Waiver.* This waiver is for people with developmental disabilities or a related condition who need the level of care provided at an ICF/DD.
- *Community Alternative Care (CAC) Waiver.* This waiver is for people who have a chronic illness and need the level of care provided at a hospital.
- *Community Alternatives for Disabled Individuals (CADI) Waiver.* This waiver is for people who have a disability and require the level of care provided in a nursing home.
- *Traumatic Brain Injury (TBI) Waiver.* This waiver is for people with a traumatic or acquired brain injury who need the level of care provided in a nursing home or neurobehavioral hospital.
- *Elderly Waiver.* This waiver is for people who are over 65 years old and need the level of care provided at a nursing facility.

## What are the Eligibility Requirements for an Individual to Receive Services Under a Waiver Program?

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible. Minnesotans with disabilities or chronic illnesses who require a certain level of care may qualify for the Minnesota home and community-based waiver programs.

To meet the requirements for the DD waiver a person must meet all of the following conditions:

- meet the ICF/DD level of care requirements
- have a developmental disability or a related condition, as determined by the assessment process
- require a 24-hour plan of care
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the **CAC waiver**, a person must meet all of the following conditions:

- require the level of care provided in a hospital
- be certified disabled by the Social Security Administration or the State Medical Review Team (SMRT)
- be under age 65 at the time of opening to the waiver
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the CADI waiver a person must meet all of the following conditions:

- require the level of care provided in a nursing facility
- be certified disabled by the Social Security Administration or the SMRT
- be under age 65 at the time of opening to the waiver
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the TBI waiver a person must meet all of the following conditions:

- meet nursing facility level of care or neurobehavioral hospital level of care requirements
- be certified disabled by the Social Security Administration or the SMRT
- be under age 65 at the time of opening to the waiver
- have a diagnosis of brain injury or related neurological condition that is not congenital and resulted in significant cognitive and significant behavioral impairment
- be able to function at a level that allows participation in rehabilitation
- have an assessed need for a service that is only available through the TBI waiver

To meet the requirements for the elderly waiver, a person must meet all of the following conditions:

- require the level of care provided in a nursing facility
- be 65 years or older
- choose to reside in the community

- have an assessed need for supports and services over and above those available through the MA state plan

## **Who Administers the Home- and Community-Based Waiver Programs?**

The federal Centers for Medicare and Medicaid Services administers Medicaid nationwide, providing funding, approving state plans, and ensuring compliance with federal regulations. In Minnesota, the Department of Human Services (DHS) oversees the MA program, including the waivers and the distribution of funding to counties. The lead agencies (counties, tribes, and health plans) administer the MA program locally, including the waiver programs, and develop individualized service plans with recipients.

## **Services Provided**

The home- and community-based waiver programs provide a variety of support services that assist people to live in the community instead of going into or staying in an institutional setting. Available support services include the following:

- assistive technology
- caregiver training and education
- case management
- consumer-directed community supports
- behavior programming by professionals
- day training and habilitation services
- home-delivered meals
- modifications to home or vehicle
- homemaking and chore services
- independent living skills training
- specialized supplies and equipment
- transportation services
- respite care
- certified community residential services (assisted living, foster care, residential care)
- extended MA home care services, including therapies
- transitional services
- supported employment services

**Participation in Minnesota’s Home- and Community-Based Waiver Programs**

<b>Waiver Program</b>	<b>FY 2007 Recipients</b>	<b>FY 2008 Recipients</b>	<b>FY 2009 Recipients</b>	<b>FY 2010 Recipients</b>
DD Waiver	14,615	14,495	14,713	14,998
CAC Waiver	317	365	393	425
CADI Waiver	12,872	14,939	16,929	18,308
TBI Waiver	1,453	1,538	1,588	1,644
Elderly Waiver	25,604	26,313	27,959	29,549
<b>Total</b>	<b>54,861</b>	<b>57,650</b>	<b>61,582</b>	<b>64,924</b>

Source: Minnesota Department of Human Services, February 2010 Forecast

There is a very high demand for some of the home- and community-based waiver programs. As of November 23, 2009, there were 3,858 people waiting for the DD waiver in Minnesota. It is important to note that 3,440 of these individuals live with their immediate family or an extended family member. These individuals may be receiving MA home care services, family support grants, consumer support grants, day training and habilitation services, or other publicly funded assistance as they wait for an available DD waiver slot. Currently, there are 340 individuals on the waiting list residing in an ICF/DD facility. The number of people served in the waiver programs is determined by DHS. DHS allocates “slots” to counties. If a county determines that it is able to serve more people than the slots it has available under the DD waiver, the county can do so, as long as the county stays within its waiver budget.

**Funding**

As with Minnesota’s other MA services, the waiver programs receive half of their funding from the federal government and half from the state general fund. However, for the period October 1, 2008, through December 31, 2010, the American Recovery and Reinvestment Act has provided Minnesota with a higher federal MA percentage. The amount allocated to these programs on a per-recipient basis cannot be greater than the amount that would have been spent if the recipient had been institutionalized.

**Expenditures and Average Recipient Costs for Waivered Programs**

<b>Waiver Program</b>	<b>FY 2007 Expenditures (in 000s)</b>	<b>FY 2007 Average Cost per Recipient</b>	<b>FY 2008 Expenditures (in 000s)</b>	<b>FY 2008 Average Cost per Recipient</b>	<b>FY 2009 Expenditures (in 000s)</b>	<b>FY 2009 Average Cost per Recipient</b>	<b>FY 2010 Expenditures (in 000s)</b>	<b>FY 2010 Average Cost per Recipient</b>
DD	\$901,432	\$61,679	\$925,199	\$63,828	\$962,218	\$65,397	\$996,660	\$66,452
CAC	13,204	41,653	16,976	46,530	19,296	49,082	20,950	49,277
CADI	218,234	16,954	285,223	19,093	361,453	21,351	419,840	22,932
TBI	78,456	53,995	86,932	56,517	95,423	60,105	100,491	61,140
Elderly	226,728	13,464	256,246	13,956	282,622	14,376	303,654	14,568
<b>Total</b>	<b>\$1,438,054</b>		<b>\$1,570,576</b>		<b>\$1,721,012</b>		<b>\$1,841,595</b>	

Source: Minnesota Departments of Finance and Human Services, February 2010 Forecast  
 Note: Expenditures represent state and federal funding.

## Cost-Effectiveness of Community HCBS Waivers to Institutional Service Options

The Center for Medicare and Medicaid Services (CMS) requires HCBS waivers to maintain cost neutrality with institutional care, meaning on average, the HCBS waiver programs must cost no more than it would cost for the same population to receive institutional care. The table below compares the HCBS waiver cost to institutional costs to demonstrate the cost-effectiveness of the disability waivers, using the annual reports, called 372 Reports, submitted by DHS to CMS.

**Comparison of Annual per Capita Medicaid Costs for an HCBS Waiver Population and a Corresponding Institutional Population<sup>1</sup>**

HCBS Waiver	Level of Care	HCBS Waiver Costs (in thousands)			Institutional Costs (in thousands)			Savings (in thousands) HCBS Waiver over Institutional
		Waiver Services	State Plan Services	Total Waiver	Institutional	State Plan Services	Total Institutional	
CAC	Hospital	\$44,598	\$128,249	\$172,847	\$322,978	\$294,553	\$617,531	\$444,684
CADI	Nursing Facility	17,539	17,031	34,570	47,604	6,583	54,187	19,617
DD	Intermediate Care Facility (ICF/DD)	61,730	6,608	68,338	86,524	5,253	91,777	23,439
TBI	Nursing Facility and Hospital	58,056	14,645	72,701	121,170	19,560	140,730	68,029

Source: Centers for Medicare and Medicaid Services 372 Reports

The 372 comparison periods are:

CAC: 04/01/07 to 03/31/08

CADI: 10/01/06 to 09/30/07

DD: 07/01/06 to 06/30/07

TBI: 04/01/07 to 03/31/08

<sup>1</sup> These numbers were used when comparing with Medical Assistance forecasts and include home care costs.

## **Recent Programmatic Changes**

DHS worked with DHHS in 2004 to amend the MA waiver plans to include a consumer-directed community supports option in all five of the home- and community-based waiver programs. As of April 1, 2005, consumer-directed community supports are available as a statewide service in all five waiver programs. Prior to that time, the consumer-directed community supports were only an option within the DD waiver program. Consumer-directed community supports is a service option that gives persons more flexibility and responsibility for directing their services and supports.

DHS has been working on creating and implementing a new comprehensive needs assessment called Minnesota COMPASS. The 2009 Legislature approved funding for DHS to implement Minnesota COMPASS beginning January 2011. Minnesota COMPASS is a set of standards and protocol to assess the needs of persons for long-term care services, including HCBS. DHS currently uses a variety of assessment and screening documents to determine if persons are eligible for long-term care services. The implementation of Minnesota COMPASS is intended to increase efficiency and reduce duplication of paperwork.

Beginning July 1, 2011, the nursing facility level of care criteria for public payment of long-term care will change due to 2009 legislative changes, becoming more stringent. This change will affect the most independent people who would receive publicly funded nursing facility services or long-term care services in the community through programs such as the elderly waiver, CADI, or TBI. An alternative for some individuals aged 65 years or older whose eligibility for MA is affected by this change will be available through the essential community supports program.

## **Recent Legislative Actions**

Due to budget constraints, for the past several years the legislature has placed limits on caseload growth for the CADI and TBI waivers and limits on allocations within the DD waiver.

Beginning July 1, 2006, the legislature required elderly waiver services to be covered statewide through managed care organizations under the prepaid MA program. The Commissioner of Human Services was authorized to develop a schedule to phase in implementation of these waiver services. This statewide implementation was completed in 2009. Currently, approximately 93 percent of elderly waiver participants receive services through managed care organizations. The remaining seven percent receive services through a fee-for-service model, due to various exclusions.

The 2009 Legislature required the Commissioner of Human Services to consult with a variety of disability service providers, advocates, counties, and families to develop a single set of standards governing services for people with disabilities receiving HCBS. The standards must enable optimum consumer choice, be consumer driven, be based on quality assurance and individual outcomes, and maximize federal financial participation among other goals. The commissioner must provide a report to the legislature by January 15, 2012.



The 2009 Legislature also required the Commissioner of Human Services to consult with a variety of stakeholders to update the common service menu for HCBS. Currently, service menus or options vary across the HCBS waiver programs. When completed, the common service menu will go across all waiver programs. DHS will simplify service options by having the same service description, service eligibility criteria, and provider qualifications.

The 2010 Legislature directed the Commissioner of Human Services to consult with certain stakeholders experienced in using and providing services through the consumer-directed community supports option on the identification of data to be used in future development of an individualized budget methodology for HCBS for individuals with disabilities under the new comprehensive assessment (Minnesota COMPASS).

The 2010 Legislature also required the Commissioner of Human Services to provide specific recommendations and language for proposed legislation by February 1, 2011, to redesign case management services for persons with disabilities, including persons receiving HCBS.

### **Potential Legislative Issues**

Due to ongoing budget constraints, the legislature will most likely continue to look for ways to contain the growth in these programs or make budget reductions.

In addition, there may be some legislative action necessary related to some of the work currently being completed by the Commissioner of Human Services related to the development of a single set of standards, common service menu update, development of an individualized budget methodology for HCBS for individuals with disabilities, and the redesign of case management services.

## **Glossary**

**CAC:** Community Alternative Care waiver

**CADI:** Community Alternatives for Disabled Individuals waiver

**CMS:** Center for Medicare and Medicaid Services

**DD:** Developmental Disabilities waiver

**DHHS:** Federal Department of Health and Human Services

**Department of Human Services (DHS):** Minnesota Department of Human Services

**HCBS:** Home- and Community-Based Services

**ICF/DD:** Intermediate Care Facility for persons with developmental disabilities

**MA:** Medical Assistance (Minnesota's Medicaid program)

**Minnesota COMPASS:** A new comprehensive needs assessment for determining the needs of persons for long-term care services. It will be implemented in January 2011.

**SMRT:** State Medical Review Team

**TBI:** Traumatic Brain Injury waiver

*For more information about assistance programs, visit the health and human services area of our web site, [www.house.leg.state.mn.us/hrd/hrd.htm](http://www.house.leg.state.mn.us/hrd/hrd.htm).*