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# 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.

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## Home- and Community-Based Waivers

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.

### Procedures for States to Receive Waivers

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. The 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 Access for Disability Inclusion (CADI) Waiver.* This waiver is for people who have a disability and require the level of care provided in a nursing home.
- *Brain Injury (BI) 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.

## **Eligibility Requirements for Individuals to Receive Services**

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible and choose to receive services in the community. Each waiver program also has additional criteria to be eligible for services, as listed below.

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 going on 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 going on 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 BI 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 going on 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 BI 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

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

## **Administration and Operation of the Waiver Programs**

The federal Centers for Medicare and Medicaid Services administers Medicaid nationwide, provides funding, approves state plans, and ensures 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:

- adult companion
- adult day care
- family training and counseling
- housing access coordination
- night supervision
- assistive technology
- caregiver living expenses
- 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 and therapies
- 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

(Not all services are available on every waiver program.)

## Participation in Waiver Programs

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 serve more people as long as it stays within its waiver budget.

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

Waiver Program	FY 2013 Recipients	FY 2014 Recipients	FY 2015 Recipients	FY 2016 Recipients
DD Waiver	16,289	16,456	16,772	17,435
CAC Waiver	434	429	442	467
CADI Waiver	19,443	20,287	21,303	24,357
BI Waiver	1,480	1,496	1,471	1,486
Elderly Waiver	31,259	31,500	31,624	32,170
Total	68,905	70,168	71,612	75,915

Source: Minnesota Department of Human Services, February 2016 Forecast  
 Note: FY 2016 numbers are estimates.

There is a very high demand for some of the home- and community-based waiver programs. As of April 1, 2016, there were 3,051 people waiting for the DD waiver and as of July 1, 2016, there were seven people waiting for the CAC, CADI, or BI waiver in Minnesota. It is important to note that 3,331 of the individuals on the DD waiver waiting list 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 100 individuals on the DD waiting list residing in an ICF/DD facility.

## 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. 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**

Waiver Program	FY 2013 Expenditures (in 000s)	FY 2013 Average Cost per Recipient	FY 2014 Expenditures (in 000s)	FY 2014 Average Cost per Recipient	FY 2015 Expenditures (in 000s)	FY 2015 Average Cost per Recipient	FY 2016 Expenditures (in 000s)	FY 2016 Average Cost per Recipient
DD	\$1,030,805	\$63,282	\$1,085,847	\$65,985	\$1,218,313	\$72,640	\$1,247,781	\$71,566
CAC	23,738	54,696	26,518	61,813	30,985	70,102	32,691	70,036
CADI	513,941	26,433	576,201	28,402	675,085	31,690	739,809	30,374
BI	95,633	64,617	98,517	65,854	104,367	70,950	102,141	68,716
Elderly	249,857	9,693	317,568	12,221	303,951	11,719	355,237	13,689
Total	\$1,913,974		\$2,104,651		\$2,332,701		\$2,477,659	

Source: Minnesota Management and Budget and Department of Human Services, February 2016 Forecast

Note: Expenditures represent state and federal funding. FY 2016 expenditures and average cost per recipient are estimates.

Elderly waiver numbers are for managed care only and do not include fee-for-service.

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

The Centers 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. DHS is not required to collect this data for the elderly waiver. The table below shows the BI waiver provides the largest per capita savings over institutional costs for corresponding populations.

**Comparison of Annual per Capita Medicaid Costs for an HCBS Waiver Population and a Corresponding Institutional Population**

HCBS Waiver	Level of Care	HCBS Waiver Costs			Institutional Costs			Comparison of Institutional Costs to HCBS Waiver Costs
		Waiver Services	State Plan Services	Total Waiver	Institutional	State Plan Services	Total Institutional	
DD	Intermediate Care Facility (ICF/DD)	\$65,749	\$8,119	\$73,868	\$107,721	\$5,981	\$113,702	\$39,834
CAC	Hospital	60,610	115,427	176,037	250,996	28,184	279,180	103,143
CADI	Nursing Facility	29,201	16,479	45,680	48,866	14,374	63,240	17,560
BI	Nursing Facility and Hospital	65,193	11,672	76,865	201,890	25,249	227,139	150,274

Source: FY 2014 Centers for Medicare and Medicaid Services 372 Reports

The 372 comparison periods are:

- DD: 07/01/13 to 06/30/14
- CAC: 04/01/13 to 03/31/14
- CADI: 10/01/13 to 09/30/14
- BI: 04/01/13 to 03/31/14

## **Recent Changes to Waiver Programs**

### **Recent Programmatic Changes**

In 2013, DHS created and implemented a new web-based application that is comprehensive and integrates assessment and support planning for people who need long-term care services and supports called MnCHOICES. MnCHOICES is for people of all ages who have any type of disability or need for long-term care services and supports. The MnCHOICES assessments replaced a variety of long-term care assessment processes and forms. MnCHOICES is intended to increase consistency and equity in accessing a variety of HCBS, including waivers, reduce the need for multiple assessments, and streamline support plan development.

A new service called individual community living support was added to the elderly waiver in 2013. This service gives seniors living in their own home a coordinated package of services from a single provider of their choice as an alternative to assisted living and other services that require the individual to live in a certain place. This saves the state money by diverting elderly waiver participants from assisted living services.

Beginning January 1, 2015, the nursing facility level-of-care criteria for public payment of long-term care became more stringent due to 2009 legislative changes. This change affected the most independent people who received publicly funded nursing facility services or long-term care services in the community through programs such as the elderly waiver, CADI, or BI. Some people aged 65 years or older that are no longer eligible for the elderly waiver may be eligible for assistance from the essential community support program instead. The essential community supports program provides up to \$424 per month for essential services needed to live in the community.

### **Recent Legislative Actions**

Due to budget constraints, since July 1, 2003, the legislature has at times placed limits on caseload growth for the CADI waiver and limits on allocations within the DD and BI waivers.

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 81 percent of elderly waiver participants receive services through managed care organizations. The remaining 19 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 stakeholders to update the common service menu for HCBS. Additional services have been added to the waivers incrementally as the waivers have gone through the federal renewal process, but some work remains to be done to achieve a common service menu. 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 2013 Legislature modified the HCBS waiver programs, as follows:

- modified statewide priorities for persons on the waiting lists for the DD, CAC, CADI, and BI waivers
- enacted statewide HCBS waiver provider standards. As a result, waiver services and systems are more consistent throughout the state since the standards became effective January 1, 2014. The county and tribal waiver provider contract-based system was eliminated and replaced with new licensure standards. Many of the changes were required by the federal DHHS.
- enacted a disability waiver rate system in order to comply with federal requirements for uniform rate determination methods and standards for the four disability waivers. The disability waiver rate system became effective January 1, 2014.
- required the Commissioner of Human Services to provide specific recommendations and language for proposed legislation by February 1, 2014, to redesign case management services for persons with disabilities, including persons receiving HCBS
- directed the Commissioner of Human Services to develop (1) HCBS performance-based incentive payments by April 1, 2014; (2) a state-administered safety net for disability waiver recipients whose costs increase above an identified threshold; (3) a shared living model option for disability waiver recipients; and (4) recommendations for a HCBS report card and report to the legislature by August 1, 2014

The 2014 Legislature modified the HCBS waiver provider standards and disability waiver rate system, directed the Commissioner of Human Services to promulgate rules governing the use of positive support strategies by August 31, 2015, and provided a 5 percent rate increase to HCBS providers.

The 2015 Legislature modified the HCBS waiver provider standards, modified how DHS and counties manage HCBS waiver allocations, and modified the disability waiver rate system.

The 2016 Legislature modified the disability waiver rate system.

## **Potential Legislative Issues**

The legislature may continue to consider changes to reduce service delivery costs.

There may be some legislative action necessary to implement the Olmstead Sub-Cabinet's Olmstead Plan to improve the availability of community-based services for people with disabilities. The Minnesota Olmstead Sub-Cabinet was created by executive order in January 2013. The Sub-Cabinet was charged with developing and implementing a comprehensive Minnesota Olmstead Plan that supports freedom of choice and opportunity for people with disabilities (for more information see <http://www.dhs.state.mn.us/main/groups/olmstead/documents/pub/dhs-287592.pdf>).

Legislative changes that may be needed as new systems are implemented include:

- modifying the disability waiver rates as the system is implemented;
- modifying HCBS waiver provider standards; or
- changing provider licensure fees.

## **Glossary**

**BI:** Brain Injury waiver

**CAC:** Community Alternative Care waiver

**CADI:** Community Access for Disability Inclusion

**CMS:** Centers 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)

**MnCHOICES:** A comprehensive web-based application that integrates assessment and support planning for people who need long-term care services and supports

**SMRT:** State Medical Review Team

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