



127 Route 206, Suite 18, Hamilton, New Jersey 08610
Email: Lowell@abcdnj.org

Phone: 609-581-8375 Fax: 609-581-8512
www.abcdnj.org

Medicaid Home and Community Based Services Waivers for People with Developmental Disability in New Jersey

What is a Medicaid Home and Community Based Services Waiver?

Home and Community Based Services waivers (HCBS) (also known as 1915 (c) waivers) allow States to waive portions of federal Medicaid requirements to provide flexibility to develop and implement community-based services as alternative to institutional settings such as nursing homes and Intermediate Care Facilities for the Mentally retarded (ICF-MR). HCBS waiver programs may serve seniors and people with disabilities.

New Jersey has seven HCBS waivers targeted to specific population groups, including the Community Care Waiver (CCW) which provides home and community-based services to individuals with developmental disabilities. The CCW allows New Jersey the flexibility to develop and implement community alternatives to placing Medicaid eligible individuals in the State's Developmental Centers and is the principal funding source for community services for people with developmental disabilities.

What is Federal Funding for the HCBS Waiver?

States may receive matching federal funds to provide services in the home or community if they meet certain requirements. To receive approval for the waiver, states must demonstrate to CMS that the program is "cost neutral" as defined by a CMS formula and provide assurances for the health and safety of individuals in community settings.

The amount of total federal outlays for Medicaid has no set limit (cap); rather the federal government must match whatever the State decides to provide, within the federal statutory limits, for eligible beneficiaries.

The portion of the Medicaid program which is paid by the federal government, known as Federal Financial participation (FFP) is determined annually for each State by a formula that compares the State's average per capita income level with the national average.

New Jersey's FFP rate is 50%. That means for every dollar New Jersey puts in, the federal government matches a dollar for eligible beneficiaries.

Technically, the State spends the full amount of funds for waiver services and then requests reimbursement from the federal government for half of the funds.

Why is New Jersey now receiving more in federal revenues from the CCW?

Governor McGreevey's Administration was the first to acknowledge that New Jersey was not maximizing its Federal revenue from the Community Care Waiver. The McGreevey Administration's review demonstrated that the State was not receiving its full federal revenues under the current Community Care Waiver nor was it applying for other available dollars under HCBS waivers for services to people with developmental disabilities.

Acting Governor Codey and his Administration are continuing that work to determine what services are not being claimed for federal money under the current waiver. Through this work, the Administration will receive additional federal money for these services.

However, over the past several months, the leadership in the Assembly and the Senate, based on initial reports of the State Auditor, has expressed their view that additional federal revenues from the current federal waiver for people with developmental disabilities can and should be maximized. Estimates by the leadership have ranged from \$18 million to as high as \$65 million in additional federal revenues that could be maximized in the current waiver.

How much in Federal revenues is coming into New Jersey for the Community Care Waiver (CCW)?

Over the past decade, New Jersey has received, on average, \$132.6 million in federal revenues from the CCW. Over the past several years, due to efforts of the McGreevey and Codey Administrations that amount has increased to \$188.3 million (actual SFY'04).

However, in FY'05, the State had to include in its supplemental appropriation \$17.373 million to rectify a federal CCW claiming shortfall. In addition, for the past six fiscal years, the State has over-estimated the amount of federal revenue that it will receive by an average of \$21 million. (See Spread sheet on CCW Federal Waiver Funds by Budget Year)

What additional efforts are being taken to expand the federal CCW?

New Jersey has begun conversations with the federal Centers for Medicare and Medicaid Services (CMS) to develop a residential waiver similar to our current Community Care Waiver, a support services waiver and a waiver for medically fragile children. A concept paper has been drafted by the Department and sent to CMS for review. However, it has not been shared with DD community stakeholders.

It is our understanding that there are no discussions of a family support waiver, even though the State could net millions of federal dollars and increase services to families.

Currently, New Jersey spends between \$37-39 million of State-only money on Family Support. New Jersey ranks 37th in the nation for funding provided to individuals living at home with their family. New Jersey is one of only a dozen states which receive NO federal family support dollars. New Jersey could use some of the State funds it already allocates for Family Support to receive the federal match through a waiver.

However, a portion of the State-only funds must be maintained to ensure continued flexibility for families. For example, the cash subsidy program under Family Support is not reimbursable by the federal government because federal Medicaid law does not allow cash payments to be made to or on behalf of beneficiaries. Since cash subsidy programs are not reimbursable from the federal government, the \$10 million currently used by Family Support for cash subsidies must be set aside as State only funds.

New Jersey's State Senate has unanimously passed a bill, S, 2455, requiring the Department of Human Services to apply for all federal HCBS waivers. The bill also requires the Department to report to the Assembly and Senate Health and Human Services Committees on efforts to gain approval of the waiver(s). Once the waiver is approved, the Department must provide information on the numbers of people to be served, the numbers of individuals in State-only funded services and impediments to expanding existing waivers. This bill has been referred to the Assembly Health and Human Services Committee, which we believe will take up the bill during the Lame Duck Session.

Another bill, S2652, was introduced to require the Department of Health and Senior Services to apply for a federal HCBS waiver for Early Intervention Services. To see a synopsis of both those bills, go to www.abcdnj.org/pdfpubs/LANJune05.pdf, which is ABCD's Legislative and Administrative Notes.

New Jersey has been moving forward on a new approach to self-directed services called *Real Life Choices*. ABCD supports this new approach as part of a broad array of community services for people with developmental disabilities. It is still unclear though whether all services under Real Life Choices are reimbursable through the current Community Care Waiver.

In this time of state fiscal constraints, New Jersey should do everything possible to ensure that all federal funds are maximized by ensuring that all possible services are reimbursed through a federal HCBS waiver. It has been more than two years since a plan was developed by the Division to begin to maximize federal revenues and ensure that there are additional dollars for services. It was years before that the Developmental Disabilities communities began urging the Department to move forward on maximizing its federal dollars. This delay in movement on applying for all federal monies to expand services for people with developmental disabilities makes legislation S2455 necessary.