DEVELOPMENTS IN AGING AND DISABILITY POLICY: A NATIONAL PERSPECTIVE
PART II

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June 3, 2019
Agenda

- NASUAD Overview;
- HCBS Settings;
- Electronic Visit Verification
- CMS and State Initiatives on Health and Welfare;
- HCBS Quality Initiatives; and
- Person-Centered Planning.
NASUAD Overview

- National Association that represents state agencies providing LTSS and other services and supports to Older Adults and People with Disabilities
  - 56 members (50 states, DC, 5 territories)
- Led by a board of directors comprised of state agency officials
- Provides direct technical assistance, research, regulatory and policy analysis to states
- Facilitates state-to-state information sharing via teleconferences/webinars, e-mail surveys, policy committees, and national conferences
- Educates and advocates for state agency interests in front of Congress and the Federal Government
Applies to Medicaid HCBS delivered through 1915(c) and 1115 waivers and 1915(i) and 1915(k) state plan options
- PACE programs are not included in the rule

Designed to promote full access to benefits of community living in the most integrated setting appropriate

Mandates conflict-free assessments and case management services

Mandates a person-centered planning process and plan for services

Establishes mandatory requirements that define an HCBS setting
General requirements focus on individual choice, autonomy and integration into the broader community.

Additional requirements for Provider controlled settings

Settings that are not HCBS include: Nursing Homes, IMDs, ICF/IDs and Hospitals

Settings that are presumed not to be HCBS and subject to CMS heightened scrutiny review include:

- Settings in a publicly or privately-owned facility providing inpatient treatment
- Settings on grounds of, or adjacent to, a public institution
- Settings with the effect of isolating individuals from the broader community of non-Medicaid individuals

State compliance process: states must submit transition plans to describe how their systems will come into compliance

- CMS provides initial approval when the state finishes review and plan for compliance of state law, licensure requirements, regulation, and policy is complete;
- CMS provides final approval when state finishes assessment and plan for compliance of all settings serving individuals receiving Medicaid-funded HCBS.
Settings rule deadline – extended to March 17th, 2022.

New CMS Guidance: March 22, 2019

- Clarifies the third prong of settings that isolate to focus on the experience of the individual and their opportunities for community integration;
- Provides additional clarification on rural settings, settings that do not receive Medicaid funding, and the processes for states and providers to come into compliance with the rule;

As of May 21, 2019, 45 States have initial STP approval:

- States that don’t have initial approval: IL, ME, MA, NV, NJ, TX
- 13 States have initial and final STP approval: AK, AR, DC, DE, ID, KY, MN, ND, OK, OR, TN, WA, WY
The 21st Century CURES Act mandates that state Medicaid programs have electronic visit verification for:
- Personal care services by 2019 2020;
- Home health services by 2023.

Six data elements required as part of EVV:
- Type of service performed;
- Individual receiving the service;
- Date of the service;
- Location of service delivery;
- Individual providing the service;
- Time the service begins and ends.

If a state does not have the system in place, they receive a decrease in FMAP:
- Begins at 0.25% and grows to 1% over time;
- Does not apply to all Medicaid services – FMAP only cut for the noncompliant services
  - Despite this, FY16 spending on personal care services was $14 billion in the 34 states with data available
  - Even this modest penalty could result in tens of millions of dollars lost in a state
Challenging timeline:

- The one year delay alleviated the immediate concerns, but there are ongoing challenges with procurement, design, and installation;
- States may receive a 1 year reprieve from the FMAP cut if they made a “good faith effort” and experienced “unavoidable delays”:
  - CMS released a form that states can use to apply for a reprieve with on May 30, 2019
  - States can begin to request the exemption on July 1, 2019
- States must submit an Advance Planning Document to secure approval for increased federal funding to implement EVV or else fund it at lower match rates:
  - 34 states had submitted APDs as of May 28, 2019
- Competitive procurements and potential appeals will be lengthy, and there are questions about sufficient vendor capacity;
Current Status

- Implementation across the country varies greatly:
  - Several states, such as TN, KS, CT, OH, OK, and FL had EVV operational, in many cases before the CURES Act passed
    - Even those with operational systems had to make changes and/or expand to include additional populations or collect additional data points to meet the CURES act requirements

- Concerns from stakeholder/advocacy groups regarding:
  - Maintaining flexibilities inherent in self-direction
  - Privacy/autonomy
  - Impact on direct-care workforce

- Various workgroups, including CMS EVV collaborative & NASUAD EVV Committee, are working to share information and address implementation issues
Health and Welfare in Medicaid

Federal Health and Welfare Investigations and Findings:

- OIG & GAO reports highlighting gaps in Medicaid HCBS monitoring systems:
  - OIG:
    - https://oig.hhs.gov/oas/reports/region1/11400002.asp
    - https://oig.hhs.gov/oas/reports/region1/11400008.asp
    - https://oig.hhs.gov/oas/reports/region1/11600001.asp

- Joint report from ACL/OIG/OCR on promising practices

Basic Takeaways: more must be done to monitor, remediate, and prevent critical incidents in order to protect health and welfare of HCBS participants
CMS Response: Developed “Special Review Teams”
- Three-year initiative to improve health and welfare protections for HCBS participants;
- Contract with IBM/Watson health group;
- Provide technical assistance, including on-site visits, to help improve policy and practice;
- Collect and disseminate best practices from around the country.

Stated goal is to visit all 51 states & DC; however, resource constraints may not allow this to occur.

Four criteria are used to prioritize states for the assistance:
- One or more HCBS programs are due for renewal in the following year;
- One or more promising practices have been identified;
- On-site technical assistance has been requested by the state;
- Challenges in monitoring beneficiary health and welfare have been identified.
In HCBS, quality/outcomes measures are often person-based and focus on survey reported data and include:

- Quality of life measures
- Access to care
- Member satisfaction

Other measures look at institutional vs. HCBS placements, timeliness of care plans, and adverse incidents such as falls.

Several entities are working to develop and strengthen HCBS quality measures:

- CMS - HCBS CAHPS;
- NASUAD - NCI-AD;
- NASDDDS - NCI;
- ACL – Research Center on Outcomes Measures; and
- MLTSS Health Plan Association.
Key Takeaways and Next Steps

- **Quality measurement in LTSS is hard**
  - The person-centered nature of programs makes measuring the value and outcomes nebulous;

- Ongoing development of measures likely to continue through the future:
  - Some standardization may occur but much will remain state-driven;

- **Next Steps:**
  - CMS has established a workgroup with states to identify and improve quality measurement activities within Medicaid HCBS programs;
  - Core set of measures may be expanded to include some LTSS measures: [https://www.medicaid.gov/medicaid/quality-of-care/performance-measurement/adult-core-set/index.html](https://www.medicaid.gov/medicaid/quality-of-care/performance-measurement/adult-core-set/index.html)
Person-Centered Planning

- The HCBS final rule established additional requirements regarding person-centered plans in Medicaid programs.
- Other entities, such as ACL, are focused on improving person-centered practices too:
  - ACL’s No Wrong Door initiative emphasizes person-centered practices.
- ACL awarded a grant to establish the National Center on Advancing Person-Centered Practices and Systems: https://ncapps.acl.gov/
  - Goal is to provide technical assistance, resources, and learning collaboratives to improve practices across the country.
  - 15 states were selected to receive technical assistance through the NCAPPS: AL, CO, CT, GA, HI, ID, KY, MT, ND, OH, OR, PA, TX, UT, VA.
Goal/Vision:

- Build the capacity of disability community organizations to contract with integrated care and other health sector entities

- Improve the ability of disability networks to act as active stakeholders in the development and implementation of integrated systems within their state

http://www.hcbsbusinessacumen.org/
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