

Legislative Presentation - 16-0309-1803 – Children’s Habilitation Intervention Services

INTRODUCTION

Mr. Chairman/Madam Chair, members of the Committee, thank you for the opportunity to come before you today. My name is Michael Case and I am a Policy Program Manager for the Division of Medicaid within the Department of Health and Welfare. I am here today to present two companion dockets related to children’s intervention services and supports. At this time, I will present docket 16-0309-1803 that begins on page 1145 of your Pending Rules Review Book.

The Department would like the committee to approve these pending rules as final which were implemented as temporary rules with an effective date of July 1, 2019.

DESCRIPTION

During this presentation I will be referring to the State Plan and to 1915(c) waivers. The State Plan is our agreement with the Centers for Medicare and Medicaid Services (CMS) about Medicaid eligibility, medically necessary services and supplies, provider payment, and federal financing. Federal law requires that services included in the State Plan must be made available to any Medicaid participant that has a need for the service. These services are included in the State Plan Basic Plan Benefits described in IDAPA 16.03.09.

However, section 1915(c) of the Social Security Act allows CMS to waive this requirement. With an approved 1915(c) waiver, a state may provide home and community-based services (not otherwise available under the State Plan) to a targeted population. These waiver services are described in IDAPA 16.03.10.

In 2014, CMS issued an Informational Bulletin directing states to move intervention services for children with autism spectrum disorder from a Home and Community-Based 1915(c) waiver into the State Plan. These rules are being revised to comply with this mandate.

Prior to July 2019, Idaho’s approved 1915(c) children’s waivers targeted children with a developmental disability who also qualify for an institutional level of care because of identified functional and/or behavioral limitations. Because Idaho Statute includes autism in its definition of developmental disabilities, children with autism spectrum disorder received intervention services under the same 1915(c) waivers as children with other developmental disabilities.

All children receiving 1915(c) waiver services were assigned a budget to purchase all supports and services needed by the child, including intervention services. The amount and frequency of intervention services may have been decided more by the child’s

budget than by the child's need. That is, they may have chosen to forego needed intervention services for less costly supports to stay within budget.

Given the mandate, the inclusion of autism in Idaho's statutory definition of developmental disability, and the Department's desire to ensure all Medicaid eligible children with an identified need were able to access intervention services, the Department chose to (i) move all children's intervention services (not just those for children with autism spectrum disorder) out of the 1915(c) waivers, (ii) cover the intervention services as State Plan Basic Plan Benefits, and allow the 1915(c) children's waivers to expire on June 30, 2019. To align Idaho's Administrative rules with these coverage changes, the descriptions of intervention services were moved from IDAPA 16.03.10 (where waiver services are described) into IDAPA 16.03.09 where State Plan Basic Plan Benefits are described.

Specifically, children's habilitation intervention services are medically necessary therapeutic techniques based on applied behavior analysis. These services include Habilitative Skill Building, Behavioral Intervention, Interdisciplinary Training, and Crisis Intervention. The revised rule provides for these services to be delivered in both evidence-based and evidence-informed service delivery models.

Additionally, a tiered provider reimbursement structure was also created to improve access and service quality. Under this structure, existing providers may continue to provide services, and all existing and new provider types are able to seek reimbursement in accordance with their credential. This structure also allows for the addition of an independent provider type. The Department believes these changes will create an environment that maintains existing providers, allows for professional growth within the field, and encourages recruitment of new providers.

Without these changes, the Department would not be able to offer intervention services to children under the State Plan and is not able to revert back to offering those services under the 1915(c) waiver because they have expired.

PUBLIC INVOLVEMENT

The Department conducted extensive stakeholder engagement for more than four years. Prior to drafting the initial rule changes, the Department formed a Children's Enhancement Project Team. Workgroups composed of Department staff, participant families, community professionals, community providers, school-based service providers, advocacy groups, and other interested stakeholders were established. These workgroups included a Clinical Advisory Group, a Provider Advisory Group, two Family Advisory Groups – Traditional and Family Directed – and a Fiscal Workgroup. Meetings were held at least monthly to discuss needed changes, conduct research, and suggest language for revised or new rules.

Based on the work of the advisory groups, draft rule language was prepared and presented to stakeholders in May of 2018. The Department published a Notice of Negotiated Rulemaking in the July 2018 Administrative Bulletin and held nine (9) public meetings to gather feedback. Based on the feedback received during those meetings, the Department chose to continue the negotiation process.

The draft rule was revised and then presented to stakeholders, section by section. Between September 2018 and March 2019, the Childrens Enhancement Project Team traveled to each region of the state each month and presented a section of the revised rule, sought feedback, and responded to questions. Rule language was then revised based on stakeholder input, and a new section of rule was presented the next month. Once all sections were reviewed, a full draft was compiled and presented to stakeholders across the state.

A Notice of Temporary and Proposed Rulemaking was published in the July 2019 Administrative Bulletin, and the Temporary Rule went into effect July 1, 2019. The Public Hearing for the Proposed Rule was held July 17, 2019. Feedback was received and updates were made, resulting in the pending rule before you.

FISCAL IMPACT

Because these rules were implemented as temporary rules, the fiscal impact analysis was completed, and the cost increase was requested for Medicaid's 2020 Budget and approved for funding by the 2019 Legislature.

CONCLUSION

RED TAPE REDUCTION STATEMENT

In accordance with the Red Tape Reduction Act, efforts were made to simplify language and remove redundancies during the drafting of these rules. Additions in this docket, together with deletions in the companion docket I will be presenting, have resulted in a decrease of 738 words overall, including the reduction of 48 restrictive words.

I ask you approve this Pending rule as final.

Mr. Chairman/Madam Chair, members of the Committee, this concludes my presentation. Thank you for your time. I stand for questions.