

Legislative Presentation - 16-0310-1806 – Children’s Habilitative Support Services

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 will now present docket 16-0310-1806 that begins on page 1175 of your Pending Rules Review Book. This is the companion docket mentioned in my previous presentation.

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

In my previous presentation I discussed moving children’s intervention services out of the approved 1915(c) children’s waivers and into the State Plan – that is, out of IDAPA 16.03.10 and into IDAPA 16.03.09. In this presentation, I will describe the deletions and restructuring in IDAPA 16.03.10 that were required in order to accomplish this change.

In my previous presentation I explained how services covered in the State Plan must be made available to any Medicaid participant that has a need for the service, and how Section 1915(c) of the Social Security Act allows the Centers for Medicare and Medicaid Services (CMS) to waive this requirement so states can deliver home and community-based services (not otherwise available under the State Plan) to a targeted population.

Similarly, Section 1915(i) of the Social Security Act provides states the option to offer home and community-based services through the State Plan to a targeted population but does not require the more stringent institutional level of care determination needed for a 1915(c) waiver. That is, 1915(i) State Plan Option Benefit services may be offered to a specific population (like individuals with a developmental disability diagnosis), while State Plan services must be made available to any Medicaid participant. Additionally, children are assigned a budget based upon identified level of need. The assigned budget is utilized to pay for services under the 1915(i) State Plan Option Benefit. The 1915(i) State Plan Option Benefit support services are described in IDAPA 16.03.10.

As indicated in my previous presentation, CMS directed states to move intervention services for children with autism spectrum disorder from a 1915(c) waiver into the State Plan. The majority of the changes required by this federal mandate were made in docket 16-0309-1803. This companion docket addresses rule changes needed to delete obsolete 1915(c) waiver language and to clarify support services offered through the 1915(i) State Plan Option Benefit which cannot be offered as part of the State Plan. This ensures children previously accessing support services through the 1915(c) children’s waivers (which have now expired) can continue to access those services through the 1915(i) State Plan Option Benefit.

Specifically, the 1915(i) support services were revised, as follows:

Respite: Certain restrictions to this service were removed to allow Respite to be provided while an unpaid care giver is receiving Family Education, and to allow an independent provider (who is related to the child participant) to provide respite to a sibling group.

Family Education: Certain restrictions to this service were removed to allow Family Education to be provided to anyone who participates in caring for the eligible child participant to help them better meet the needs of the participant.

Community-Based Supports: The name of this service was changed to eliminate potential confusion with Habilitation Intervention Services – the service that was moved into the State Plan

The Family-Directed Community Supports option, commonly referred to as Family-Directed Services, continues to be available through the 1915(i) authority.

Without these changes, the Department would not be able to ensure children who qualified for the now-expired 1915(c) children’s waivers would be able to continue to receive those services offered in the 1915(i) State Plan Option Benefit.

PUBLIC INVOLVEMENT

This docket, 16-0310-1806, is a companion docket to the one I presented previously, 16-0309-1803. Because the changes in these two dockets are dependent upon one another, the stakeholder engagement was the same. In the interest of time, I would like to ask the committee if they would like me to repeat the details of the stakeholder engagement process or continue with the remainder of my presentation?

- [If no, move to “Fiscal Impact” section of presentation.]
- [If yes, repeat the following:

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

As with the previous docket, 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. Deletions in this docket, together with additions in the companion docket I previously presented, 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.