



IDAHO COUNCIL ON
DEVELOPMENTAL
DISABILITIES

Brad Little, Governor
Danielle "DR" Reff, Chair
Christine Pisani, Executive Director

March 18, 2024

Chairman VanOrden
Senate Health and Welfare Committee
Statehouse
Boise, ID 83720

Dear Chairman, VanOrden and Members of the Committee:

The Council on Developmental Disabilities is authorized by federal and state law to monitor service systems and policies and to advocate for improved services that enable Idahoans with intellectual and developmental disabilities to live meaningful lives, included in their home communities. The Council is comprised of 23 volunteers appointed by the Governor, the majority of whom are adults with intellectual and developmental disabilities and family members.

The Council opposes House Bill 398. This bill directly impacts the Medicaid waivers and Idaho's state plan services that provide long term services and supports, medical, dental, and behavioral health services to more than 24,791 children with disabilities; 17,904 adults with disabilities; and 27,941 seniors through coordinated Medicare/Medicaid plan.

I am here to share our main concerns. First, it is unclear how the bill will be implemented. There are a number of questions related to how the legislature will respond to short timelines, waiver and plan amendments throughout the year, and federal requirements. Second, we are concerned about the impact on essential services Idahoans rely upon due to delays in processing waiver applications or state plan amendments.

With the passage of this legislation, the Division of Medicaid will be required to receive legislative approval through statute each time an existing Medicaid waiver is up for renewal or amendment. Each Medicaid waiver is up for renewal every five years or when the Centers for Medicare and Medicaid require compliance language to be added to any of the waivers or state plan services.

The process to renew or amend a waiver or submit a state plan amendment requires the Division of Medicaid to undergo considerable public input before submission to the Centers for Medicare and Medicaid or CMS. The required public comment process includes the Division of Medicaid posting the waiver application or state plan documentation on the Department of Health and Welfare's website, notifying stakeholders through e-mail communication and ensuring that the public is aware beyond typical stakeholders, and hosting multiple webinars and public hearings to collect comments.

Once the public comment period is closed the Division conducts analysis of all comments received which may influence the final application submitted. CMS requires all waiver renewals to be submitted six months prior to their implementation date with the public comment period having been completed. Details of the public comments collected, and outreach conducted along with the states responses to the public comments are included with the application.

Does this mean that the Division of Medicaid comes before the legislature to gain approval before the required public comment period? Is this proposed as a new bill? What if through the course of public comment or CMS review Idaho is required to make changes to the application? How will that work with this legislation? Will the legislature call a special session to approve the final application? Given the timeframes of the legislative sessions, waiver renewal timeframes, the public comment period and CMS direction influencing the final outcome, Idaho could be waiting up to two or more years to get anything implemented or make needed changes to our waivers and amendments. A delay of two years will impact essential services.

The 1115 Behavioral Health Transformation waiver is up for renewal next March of 2025, which means it to be submitted to CMS in October 2024 due to the six-month submittal requirement for CMS. Many of the legislature's actions and appropriations require a state plan amendment or waiver to effectuate, including some changes to reimbursement for providers. This will mean there may be more than a year lapse before the changes can be implemented.

Medicaid would have had to present the renewal application for the 1115 Behavioral Health Transformation waiver this session in order to gain legislative approval to pursue the application and move forward with the public comment period. Will a special session be called for the presentation of this waiver renewal? If this waiver renewal application is delayed it will impact Medicaid's

ability to pay for adults who need inpatient psychiatric care and payments for residential substance use disorder services. Parents and spouses as paid caregivers are also included in this waiver application.

What happens if CMS directs Medicaid to add specific language to come into compliance with federal regulations? What will be the process for statutory authority in these situations where inaction could lead to loss of federal funding.

Is the legislature prepared to take the requisite time to review the waiver and state plan documents in order for the Division of Medicaid to maintain compliance and still be able to submit the required documentation in a timely way as to not jeopardize Idaho's funding to support children, seniors, and people with disabilities in Idaho. Will training be provided to the legislative body to ensure their understanding of complex Medicaid waivers and Federal Medicaid policy requirements. Who will provide this training?

The Idaho Council on Developmental Disabilities is available to help legislators understand the impact of waivers or the lack thereof to the disability community, however we are struggling with what problem currently exists that this proposed legislation will resolve. Adding unnecessary steps to an already complicated process will only lead to service delays and harm to people that are in most need of support, including adults with intellectual and developmental disabilities.

I appreciate your consideration of the Council's comments on House Bill 398.

Sincerely,



Christine Pisani
Executive Director