

Federal Perspectives

VOLUME 16, NUMBER 10
OCTOBER 2009

Baucus Releases Finance Committee Health

Senate Finance Committee Chairman Max Baucus (D-MT) last month introduced the America's Healthy Future Act, the Finance Committee's long-awaited health care reform bill. The release of the Chairman's Mark capped a long process of bipartisan talks shepherded by Baucus in an attempt to craft a bill that achieves Democratic objectives but could still gain Republican votes.

Unfortunately, at the time of its release, the bill had no Republican support. Although Finance Committee white papers issued at the end of 2008 included a series of long term supports and services reform, the Baucus bill as first released, in an attempt to reign in costs, contained nothing directly affecting long-term care. The \$856 billion dollar package also did not include a public option. The Finance Committee began voting on the Chairman's Mark in late September.

The bill is essentially a mix of individual mandates, government subsidies, and the creation of a health exchange, along with insurance reforms like eliminating pre-existing conditions clauses. The Chairman's Mark would also standardize Medicaid eligibility for all parents, children, pregnant women and childless adults at or below 133% of the Federal Poverty Level (FPL), or \$30,000 a



Senator Max Baucus

year for a family of four (\$14,400 for an individual), beginning in 2014. Individuals between 100% of FPL and 133% of FPL would be given the choice of enrolling in either Medicaid or in a private health insurance plan offered through a health insurance exchange. The federal government would provide additional funding to states for services for newly eligible Medicaid beneficiaries. The Chairman's Mark would also guarantee prescription drug benefits to all Medicaid beneficiaries.

The bill also includes provisions for two competitive demonstration grant programs that would benefit the direct care workforce. One program would provide eligible low-income people financial and supportive assistance when receiving education and training for health care jobs affected by labor shortages, which would include direct-care positions. The second program aims to develop a set of core training competencies and certification programs for personal and home care aides. The Chairman's Mark includes a total of \$425 million in funding over five years for these competitive demonstration grant programs designed to help sustain the health professions workforce.

FMI: The full text of the America's Health Future Act is available at http://finance.senate.gov/sitepages/leg/LEG_2009/091609Americas_Healthy_Future_Act.pdf.

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Schumer Proposes Community Choice Amendment to Finance's Health Care Bill



Senator
Charles Schumer

Senator Charles Schumer (D-NY) has submitted an amendment to include the Community First Choice Option (CFCO) in Medicaid in the Finance Committee's health care reform bill. The amendment, based on the Community Choice Act (CCA), would give the states an option to provide community-based attendant services to people who would otherwise qualify for institutional level of care.

The measure would amend Medicaid to allow state Medicaid plan coverage of community-based attendant services and supports for certain Medicaid-eligible individuals. Services under this option would include services to assist individuals with activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related tasks through hands-on assistance, supervision, or cueing. The CCA itself mandates that states offer people with disabilities the option to use Medicaid funding to pay for community-based rather than institutional care.

The CFCO frames the program as a state option, meaning that states could choose, but would not be required to, enact the principles of the legislation. The option would not allow caps on the number of individuals served, nor allow waiting lists for these services. A significant enhanced Federal Medical Assistance percentage (FMAP) would be provided, depending on cost, to encourage states to select this option. ↗

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Perspectives is published monthly by the National Association of State Directors of Developmental Disabilities Services, Inc. (NASDDDS).

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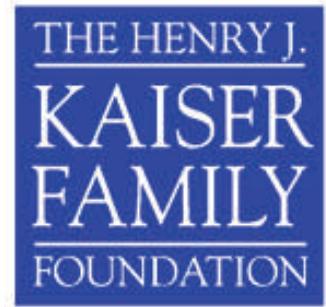
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Kaiser Briefs Examine Issues in Medicaid HCBS

Two new briefs from the Kaiser Family Foundation's Commission on Medicaid and the Uninsured (KCMU) examine current issues in providing more people who need long-term services and supports access to these Medicaid services in home and community-based settings rather than in institutional ones.

The first brief, *Advancing Access to Medicaid Home and Community-Based Services: Key Issues Based on a Working Group Discussion with Medicaid Experts*, highlights strategies to address financing, program administration and community workforce challenges that experts, federal and state officials and advocates believe must be overcome to expand access to home and community-based services (HCBS). Among the key ideas drawn from a working group discussion at the Foundation are the benefits of:

- providing additional federal financing to states to provide Medicaid HCBS and to administer these benefits;
- simplifying the process for states to provide HCBS;
- increasing Medicaid income-eligibility and resource limits for HCBS and expediting program eligibility determinations; and
- devoting greater attention to increasing capacity in the community and long-term care workforce development, including wages, training and benefits.



A companion brief, *Efforts in States to Promote Medicaid Community-Based Services and Supports*, summarizes lessons in offering more home and community-based services from states at the forefront of the effort. The brief describes current options for state Medicaid programs and draws on interviews with state officials to provide details about specific policies and procedures in states.

FMI: The two briefs are available online at <http://www.kff.org/medicaid/kcmu091709pkg.cfm>.



ODEP Funds National Disability Campaign



The Office of Disability Employment Programs (ODEP) has provided major funding for the Campaign for Disability Employment, a new national campaign to promote positive employment outcomes for people with disabilities. Through outreach and public education, the Campaign aims to encourage employers and others to recognize the value and talent that people with disabilities bring to the workplace, as well as the dividend to be realized by fully including people with disabilities at work.

The Campaign for Disability Employment is an effort of the American Association of People with Disabilities (AAPD), Special Olympics, the National Business and Disability Council (NBDC) and the U.S. Business Leadership Network (USBLN).

The coalition is launching an initiative dubbed "What Can You Do?" featuring a public service announcement and a new website where users can learn about employment issues and share their experiences.

FMI: The website is available at <http://www.whatcanyoudocampaign.org>.



KCMU Examines Money Follows the Person Programs

The Kaiser Commission on Medicaid and the Uninsured (KCMU) has released an issue brief examining the early successes and challenges of the Money Follows the Person (MFP) program. A 2008 survey of 29 states receiving MFP grants turned up several key findings, including that several hundred people have moved from institutional to community settings; that states are providing a broad range of services to facilitate transition; that housing issues for MFP participants are a major challenge for states; and that the severe economic downturn had not yet prompted states to scale back their efforts.

THE KAISER COMMISSION ON
Medicaid and the Uninsured

Key findings of the survey include:

- The program, as of 2008, was still in its beginning stages. Twenty-six of 29 states reported that their plans had been approved by CMS. Of the 14 states that had started enrolling participants, ten of these became operational in the summer of 2008.
- Eleven states reported that they had completed 349 transitions and thirteen states reported that 465 transitions were currently in progress as of late summer/early fall 2008.
- States are providing a broad range of services under the demonstration, including case management, transition assistance (that can cover rental deposits, utility hook-up expenses, and household set-up expenses), assistive technology, housing assistance, and home modifications to make the residence accessible to people with disabilities.
- States report a serious undersupply of housing and inadequate support for housing vouchers and other forms of housing assistance.
- Nearly all states reported not having to make budget cuts or programmatic changes to MFP as a result of the severe economic downturn.

FMI: The report is available online at <http://www.kff.org/medicaid/upload/7928.pdf>. ↗

ED Releases Stimulus Funds for IDEA and Vocational Rehabilitation

The U.S. Department of Education (ED) has made available ahead of schedule the second half of American Recovery and Reinvestment Act (ARRA) funding — \$11.37 billion — for Title I of the Elementary and Secondary Education Act, Parts B and C of the Individuals with Disabilities Education Act (IDEA), and Vocational Rehabilitation (VR) grants. On April 1, 2009, the department awarded 50% of each state's Title I ARRA funds, IDEA Part B and C ARRA funds, and VR ARRA funds. The remaining 50% was to be made available on September 30.

The early IDEA funding, totaling \$6.1 billion, is intended to provide states, school districts and early intervention service providers with additional support to improve outcomes for infants, toddlers, children and youths with disabilities while

stimulating the economy. The \$270 million in early VR funding provides state VR agencies an opportunity to further improve employment outcomes for individuals with disabilities. To assist states and districts with effective use of this unprecedented increase in funding, the Department of Education is releasing additional guidance on using Recovery Act funds under Title I, IDEA Part B and Part C. This guidance suggests how Title I and IDEA funds can be used to increase educators' ability to improve student results, avoid the "funding cliff," and foster continuous improvement.

FMI: Additional guidance on the IDEA Part C ARRA funds can be found at <http://www.ed.gov/policy/gen/leg/recovery/guidance/idea-c-reform.pdf>. ↗

REFLECTIONS ON FEDERAL POLICY

Responding the H1N1 Pandemic: Flu Reflections



By Chas Moseley
NASDDDS Associate Executive Director

The current H1N1 Influenza A pandemic is expanding rapidly across the country. As of this writing, the federal Centers for Disease Control and Prevention (CDC) report that the incidence of the virus is "widespread" throughout 48 states. Visits to doctors for influenza-like illnesses are increasing sharply and are now higher than the peak of many regular flu seasons. Although the flu does not appear to be as severe as was originally anticipated, the disease is turning out to be especially dangerous for children and adults with pre-existing medical conditions. The influenza pandemic presents a number of challenges to state agency officials charged with responsibility for managing publicly financed services and supports furnished to individuals with intellectual and developmental disabilities (IDD). In their efforts to assure the health and welfare of program recipients, state DD agency administrators are contemplating the need to take actions that could impact the amount, frequency, duration, and scope of services furnished under Medicaid waiver and state plan services.

During the past few years, states and the federal government have been working to improve their disaster response capabilities. Numerous initiatives have been funded and launched in an effort to blunt the catastrophic impact of a disease pandemic that could affect virtually all sectors of society. Response theories and plans became practice when the H1N1 "Swine" flu trotted across our borders last spring and health officials realized that this bug was something new. Although we clearly are in the midst of a growing health crisis, it seems like a good time to highlight some of the plans and activities that appear to be working well, and some areas that are in need of immediate attention.

It is clear that the response to critical events such as pandemic flu requires an effective operational interface between federal and state systems. Lines of communication need to be open and well understood; information feedback loops need to be in place to ensure that decision makers receive new data in a timely fashion and are able to react to emerging problems and changing conditions in the field. Public officials must be able to collaborate effectively to overcome the challenges and barriers that states face in delivering services during periods of crisis. The Association's focus on

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pan flu over the past few months has been two pronged. First, to provide useful and timely information to state developmental disabilities agencies on actions that can be taken to respond to the needs of persons with disabilities during the influenza pandemic. And second to appraise federal officials at the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) and the CDC of needs of people with disabilities, state agencies, and providers during this period and to collaborate with them on plans for responding to this health crisis.

In June, Association staff contacted CMS with specific concerns drawn from the experiences of state agency officials engaged in disaster preparedness and response during the past several years. We reviewed the implications of the pandemic flu for state developmental disabilities systems and offered recommendations regarding changes that states may need to make in their Medicaid services to provide needed healthcare to program beneficiaries and ensure the financial stability of the service delivery system. In the following months, CMS issued general guidance reminding states of existing flexibility in current Medicaid regulations that allow them to furnish and pay for services necessary to assure the health and welfare of persons receiving Medicaid services. More importantly from an operational standpoint, CMS also began working to quickly develop expedited review procedures for processing amendments to states' Medicaid waiver programs that might need to be made during periods of national emergency to change rate or payment methodologies, furnish additional resources to providers, or significantly modify other aspects of service provision.

Association staff and member state agency officials also have been working with the CDC, but the outcomes have been less clear. The good news is that CDC officials are concerned about the vulnerability of persons with IDD to pandemic flu and are working closely with Association staff, providing information and advice to NASDDDS member state agencies, contributing to Association committees and participating in teleconferences and meeting presentations. Their support has been invaluable. While the Association appreciates the assistance the CDC has offered, we are awaiting additional action to address areas of critical importance to NASDDDS members. Of particular concern is the lack of clear guidance regarding the inclusion of individuals with intellectual and developmental disabilities and staff among the high risk groups eligible to receive priority access to the H1N1 influenza vaccine. Through the numerous meetings and discussions that NASDDDS staff and members of the NASDDDS Pan Flu Committee have had with CDC representatives, CDC officials have been clear that, because of their level of disability, support requirements and mental or physical health conditions, people with IDD generally qualify as being in a priority population. They also recognize that staff furnishing home and community-based services to individuals with IDD who would otherwise be served in long-term healthcare facilities should qualify as priority "health care personnel" identified in the CDC immunization guidelines.

The problem is that this understanding of the nature and needs of individuals with disabilities, their families and the staff who support them has not yet been translated into professional guidance and plain language information on the CDC's websites, correspondence and response protocols.

NASDDDS member state agency directors and staff have found the CDC's notifications, treatment and care recommendations for various populations and groups to be helpful. We urge the CDC to use and act on the data they have received from NASDDDS and other organizations by providing similar guidance that is targeted to the needs of persons with intellectual and other disabilities and

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the families and staff who support them. NASDDDS member state agencies recommend that the CDC:

- Identify the groups eligible for priority vaccination based on the nature of their health conditions and need for support rather than their participation in a particular facility-based program. Plain-language descriptions of qualifying medical conditions should be provided and disseminated widely to avoid misunderstandings.
- Expand the description of the targeted groups from, “residents of nursing homes and other long-term care facilities,” to include individuals receiving Medicaid and state funded home and community-based long-term care, support and training services.
- Change guidelines identifying health care personnel by the services they provide rather than the programs within which they work. Include as covered individuals personal attendants, direct support staff, paid and unpaid family caregivers, professionals and others who furnish services to high risk individuals in their homes, residences, day programs and places of employment.
- Expand the scope of covered health care settings beyond facility-based nursing homes, home health agencies, long-term care, and outpatient programs to include agencies providing long-term community services and supports to persons with intellectual, developmental, and other disabilities and related conditions.

There is no shortage of lessons to be learned from our nation’s experiences with disaster preparedness and response over the past few years. We know that diligent and careful planning must occur if individuals, communities, and service delivery systems are to have the ability and capacity to prepare, respond, and recover from unforeseen emergencies and disasters. We know that plans and response strategies must be rehearsed, double-checked, and verified if they are to actually work when the time comes to use them. And we know the importance of ensuring the community infrastructure is in place to provide communication, transportation, and response when needed. But we also know about what can happen to the best laid plans of mice and men. Perhaps one of the strongest lessons that can be taken from our nation’s collective experiences with emergency response over the past few years is that practice needs to be able to adapt quickly to changing conditions on the ground. Decision makers must be able to take in new data and modify actions when existing approaches are deficient and need to be changed. Decision-making protocols must facilitate and not hamper response. ☙



Chas Moseley has been compiling and distributing timely information on Pan Flu preparedness to Association members. We are now posting these resources on our website, which include NASDDDS recommendations to CMS, states' updates, NASDDDS communications to its members, and other information.

Click [FLU PREP Resources and Materials on State DD Agency Influenza Preparedness](#) to access these materials.