

Report to the Office of the Legislative Fiscal Analyst

Home and Community Based Waiver Study

Prepared by

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Division of Aging and Adult Services

Division of Services for People with Disabilities

and

Department of Health,

Division of Medicaid and Health Financing

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This report is submitted in response to the following intent language passed in the 2012 Legislative General Session:

“The Legislature intends that the Departments of Health and Human Services conduct a study to identify one or more Medicaid home and community based waivers that could be expanded to save money or be cost neutral. The Departments shall submit their detailed proposals by September 1, 2012 to the Office of the Legislative Fiscal Analyst.”

This report provides a general overview of long term care services followed by two sections: a Department of Human Services Section and a Department of Health section.

Overview of Current Long Term Care Services Delivery System

Through Utah’s Departments of Health and Human Services, Medicaid long term care services are provided in both facility-based and home and community-based settings.

Facility-Based Services

- *Nursing Facility (NF) Care* provides a comprehensive array of chronic care services to individuals who are elderly and to individuals with disabilities. Individuals must meet established level of care criteria. These services are provided in licensed and certified facilities.
- *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) Care* provides a comprehensive array of chronic care services to individuals with intellectual disabilities. Individuals must meet established level of care criteria. These services are provided in licensed and certified facilities.

Community-Based Services

- *State Plan Benefits* (Including: Home Health Services, Private Duty Nursing Services and Personal Care Services) provide an array of chronic care services to individuals in their homes.
- *Medicaid Home and Community-Based Services (HCBS) Waiver Programs* provide an array of chronic care services to targeted populations in home and community-based settings in lieu of receiving care in facility-based settings. Individuals must meet established level of care criteria. Utah currently has six HCBS waivers with a seventh likely to be approved this fall. While the Department of Health (DOH) as the State Medicaid agency has final administrative authority for all these programs, the Department of Human Services (DHS) oversees the day-to-day operations of four of the waivers. DOH directly operates two of them.

Long Term Care Services Expenditures

According to the Kaiser Foundation, State Health Facts 2010¹, long term care services accounted for 25.2 percent of Utah’s Medicaid spending compared to a national average of 31.5 percent of state Medicaid budgets being spent on long term care services.

While the Departments continue to support the full continuum of long term care services across both facility-based and community-based settings, the rate of non-institutional spending over the past several years demonstrates Utah’s strong commitment to home and community based services (HCBS). See Table 1.

Utah Medicaid Long Term Care Institutional and Non-Institutional Cost Comparison (TABLE 1.)						
Fiscal Year	Institutional Total Costs	Non-Institutional Total Costs	Total Combined Costs	Difference between Non-Institutional and Institutional Total	Institutional Percentage of Total Costs	Non-Institutional Percentage of Total Costs
2006	\$198,207,589.25	\$155,877,952.77	\$354,085,542.02	(\$42,329,636.48)	55.98%	44.02%
2007	\$200,083,748.59	\$147,200,531.73	\$347,284,280.32	(\$52,883,216.86)	57.61%	42.39%
2008	\$210,880,887.21	\$195,304,257.44	\$406,185,144.65	(\$15,576,629.77)	51.92%	48.08%
2009	\$215,085,184.88	\$212,908,469.30	\$427,993,654.18	(\$2,176,715.58)	50.25%	49.75%
2010	\$207,953,240.71	\$203,023,087.66	\$410,976,328.37	(\$4,930,153.05)	50.60%	49.40%
2011	\$215,145,507.22	\$220,656,209.61	\$435,801,716.83	\$5,510,702.39	49.37%	50.63%

Department of Human Services Home and Community-Based Waiver Review

Division of Services for People with Disabilities, Home and Community-Based Waiver Services

The Department of Human Services administered three Home and Community Based Waiver Programs through the Division of Services for People with Disabilities (DSPD) in FY12:

The Community Supports Waiver – This is Utah’s comprehensive waiver for people of all ages with intellectual disabilities or related conditions. In Fiscal Year 2012, DSPD served 4,410 people through this waiver at an average annual cost of \$35,760 (cost of waiver services only).

The Acquired Brain Injury Waiver – This waiver serves adults 18 or older who have acquired a brain injury after birth. In Fiscal Year 2012, DSPD served 107 people through this waiver at an average cost of \$29,991 (cost of waiver services only).

The Physical Disabilities Waiver – This is Utah’s program for people who have lost the use of two or more limbs. In Fiscal Year 2012, DSPD served 129 people through this waiver at an average cost of \$16,398 (cost of waiver services only).

Division of Aging and Adult Services, Medicaid Aging Waiver Services

The Department of Human Services also administers the Medicaid Aging Waiver through the Division of Aging and Adult Services. Individuals on the waiver are 65 years of age or older and meet the Medicaid level of care requirements for nursing home placement. In Fiscal Year 2012, 616 people were served on the waiver at an average annual cost of \$10,040 (cost of waiver services only).

Continuing and increasing support of HCBS Waiver programs can help to serve more people at a lower average cost than entitlement programs.

Each State Implementation Plan, the agreement between the State Medicaid Agency and the Centers for Medicare and Medicaid Services (CMS), provides a detailed calculation which states must use to

demonstrate that the costs of HCBS programs are less than or equal to the cost of services in an Intermediate Care Facility for people with Intellectual Disabilities (ICF/ID) or Skilled Nursing Facility (SNF).

There is difficulty in comparing costs between Home and Community-Based Medicaid Waivers and institutionsⁱⁱ. Much of the complexity in comparing costs is related to the fact that institutional costs can include some medical, dental, room and board costs, while Home and Community-Based Waiver services do not. Though the methods to compare costs may be intricate, the formula used in each State Implementation Plan takes this into account by including the costs of all other Medicaid services (e.g. medical, dental). The calculation used in each State Implementation Plan is known as the “Cost Neutrality Formula” and is used to demonstrate that total costs for all Medicaid services are less than or equal to costs for people receiving services in a facility.

The cost neutrality demonstration formula is as follows:

$$\begin{array}{ccccccc}
 \textcircled{D} & + & \textcircled{D'} & \leq & \textcircled{G} & + & \textcircled{G'} \\
 \text{Avg.} & & \text{Avg.} & & \text{Avg.} & & \text{Avg.} \\
 \text{Waiver} & & \text{Other} & & \text{Institution} & & \text{Other} \\
 \text{Costs} & & \text{Costs} & & \text{Costs} & & \text{Costs}
 \end{array}$$

Below is a table from an actual State Implementation Plan for the Community Supports Waiver that demonstrates the cost neutrality of Waiver services (with annotations in red).ⁱⁱⁱ These estimates were derived using actual expense and utilization figures from 2009 and applying a 2% cost of living adjustment for each year (year 1 corresponds to Fiscal Year 2011, year 2 is Fiscal Year 2012, etc.).

Level(s) of Care (<i>specify</i>):			ICF/MR				
Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8
Year	Factor D	Factor D'	Total: D+D'	Factor G	Factor G'	Total: G+G'	Difference (Column 7 less Column 4)
1	\$36,581	\$6,403	\$42,984	\$75,363	\$4,852	\$80,215	\$37,231
2	\$37,312	\$6,532	\$43,844	\$76,871	\$4,949	\$81,820	\$37,976
3	\$38,057	\$6,662	\$44,719	\$78,408	\$5,048	\$83,456	\$38,737
4	\$38,820	\$6,795	\$45,615	\$79,976	\$5,149	\$85,125	\$39,510
5	\$39,598	\$6,931	\$46,529	\$81,576	\$5,252	\$86,828	\$40,298
			All costs for Community Supports Waiver participants			All costs for Intermediate Care Facility residents	Savings per person for Waiver over Intermediate Care Facility

The cost neutrality formula outlined in the State Implementation Plan above estimates a roughly 50% savings of waived services over institutions ($\$42,984 / \$80,215 = 54\%$) for this waiver population. If Utah stopped operating the more cost-effective Community Supports Waiver, many participants would receive their Medicaid entitled services in the Intermediate Care Facility system. Despite the impracticality (i.e. lack of ICF infrastructure) and legal ramifications^{iv} (i.e. the Olmstead Decision), placing current waiver recipients into Intermediate Care Facilities would roughly double costs. If only half of waiver enrollees elected to seek ICF admission, then total State and Federal costs remain cost neutral. However, in this scenario, the remaining half would likely continue to require some sort of assistance from another sector of Utah's safety net programs.

The cost neutrality formula detailed previously is an example of the savings achieved through Home and Community Based Services using the Department's largest waiver (Community Supports Waiver). Summary data from actual waiver applications for all four Department of Human Services Waivers is as follows:

Cost Savings of Department of Human Services Home and Community Based Medicaid Waivers

Waiver Name	Est. Cost for Waiver Participants D + D' (FY12)	Est. Cost for Institutional Residents G + G' (FY12)	Est. Cost Difference
Division of Services for People with Disabilities			
Acquired Brain Injury Waiver	\$ 46,379	\$ 55,604	\$ 9,225
Community Supports Waiver for People with Intellectual Disabilities or Related Conditions	\$ 43,844	\$ 81,820	\$ 37,976
Physical Disabilities Waiver	\$ 36,428	\$ 62,874	\$ 26,446
Division of Aging and Adult Services			
Waiver for Individuals Age 65 or Older	\$ 14,036	\$ 58,624	\$ 44,588

Demand for services for people with Disabilities in Utah

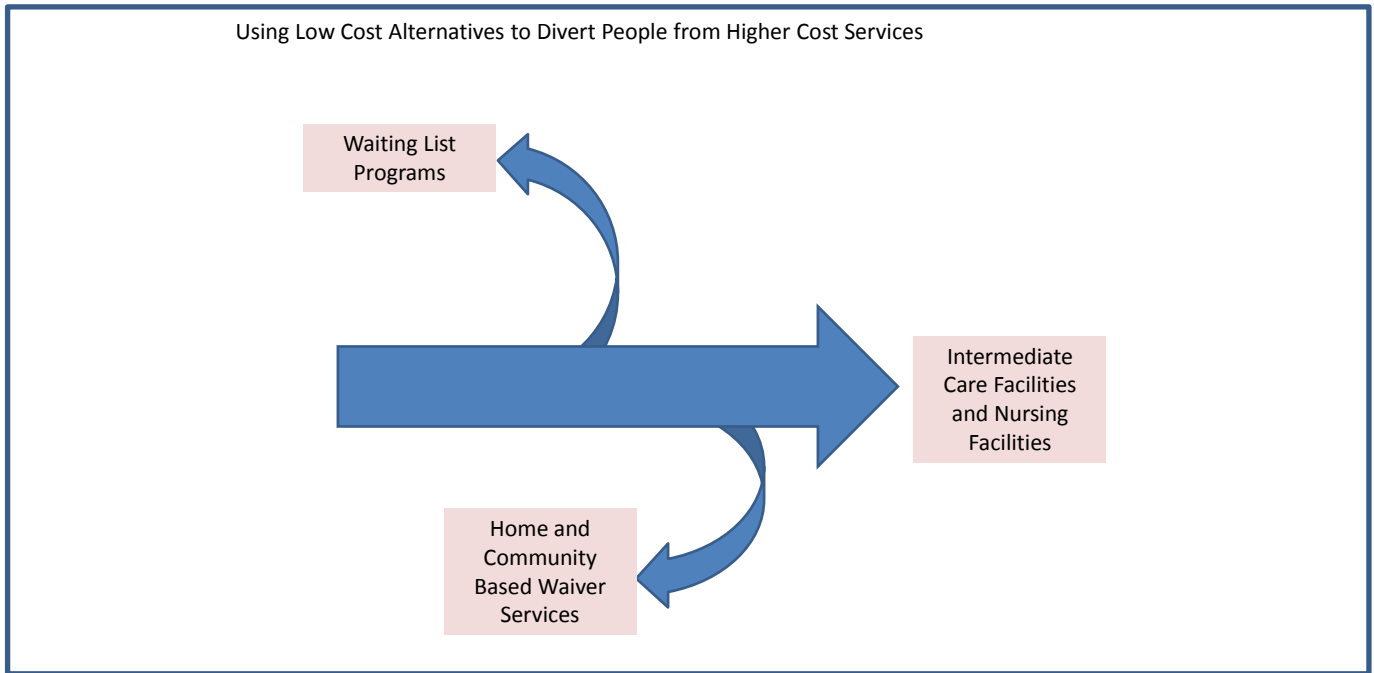
As of June 30, 2012, 1,940 people continue to wait for DSPD's Home and Community Based Waiver programs while thousands more would be eligible were they to apply. A recent study^v found that 54 percent of a small sample of adults with autism living in Utah have never applied for DSPD funding. Furthermore, the U.S. Department of Health and Human Services Administration for Children and Families estimates^{vi} 1-3 percent of the national population has an intellectual disability. Applying the most conservative statistic in this range (1 percent) to Utah's population^{vii} of 2,763,885 (on April 1, 2010) suggests that over 25,000 Utahns could be eligible for DSPD's services. However, only 4,650 people are on the waiting list or in the DSPD service system with an intellectual disability^{viii}.

Demand for Medicaid Aging Waiver Services

As of July 1, 2012, there are 122 individuals seeking entrance to the waiver. In the initial screening, these individuals are likely qualifiers for nursing home placement and the Aging Waiver.

Expand DSPD Waiting List Programs

Investing in and expanding Home and Community Based Waiver Services can successfully divert people from more costly Intermediate Care Facilities and Nursing Facilities. The same principle can be applied to more costly Medicaid Waiver services by investing in small, low-cost waiting list programs.

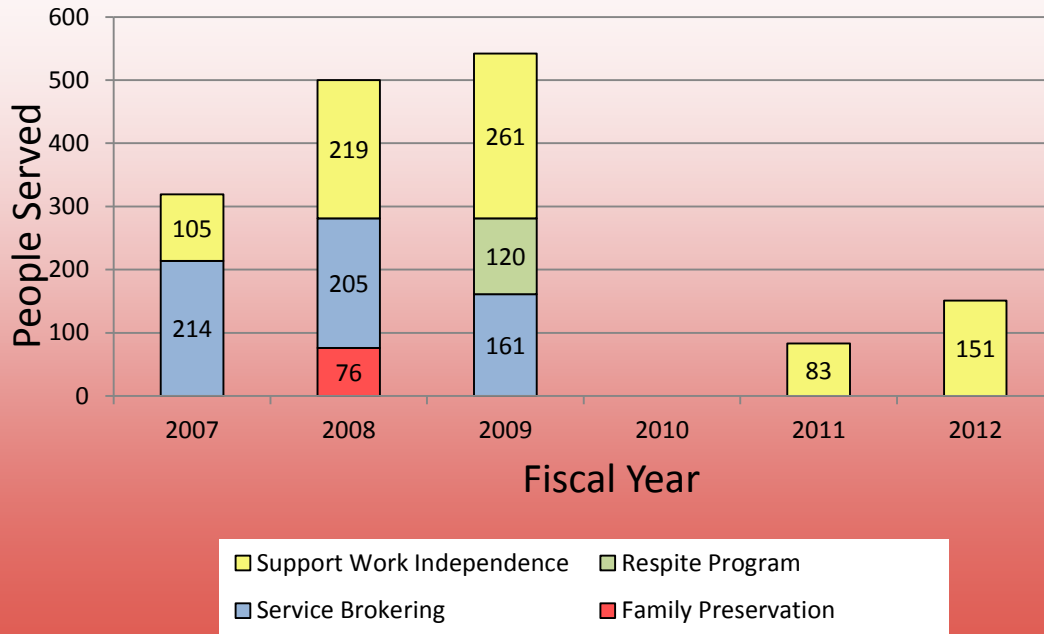


In the last five years, DSPD has begun providing supports to people on its waiting list. These programs are funded with non-Medicaid dollars and instead use State General Fund dollars in combination with limited Social Security Block Grant funds. This allows DSPD to meet the needs of a portion of the people who are waiting to enter its more traditional and expanded service system. Some advantages of offering limited services without Medicaid Waiver funds are:

1. The number of services offered can be minimal.
2. Participation can be time-limited rather than lifelong.
3. Fewer administrative burdens from Federal oversight.

While limited non-Medicaid programs would not benefit everyone, they have been successful in diverting costs for a portion of the DSPD waiting list population. This small upfront investment in limited services can lead to independence and reduce reliance on State and Federal social programs.

DSPD Waiting List Programs: People Served



Support Work Independence This program allows people on the DSPD waiting list to obtain and maintain employment in their community with the support of a job coach. Department of Vocational Rehabilitation is also able to leverage Federal dollars that are earmarked for supported employment. With minimal funding, this program allows people with disabilities the opportunity to become contributing taxpayers, earn spending money to put back into Utah's economy, and could reduce reliance on food stamps, social security, or other social benefit programs. At the same time, some caregivers are themselves able to re-enter the workforce when given the respite that employment for their adult child with a disability provides. Without this program, many people would be left at home with their skills deteriorating and requiring more costly support needs when they exit the waiting list and enter the traditional DSPD service system. Though costs for supported employment can vary depending on the person's needs, in Fiscal Year 2012, the average annual DSPD expenditure per person enrolled in this program was \$681.

Other Waiting List Programs - Other waiting list programs were seen as beneficial in offsetting future costs, but were eliminated because funding lapsed or budget reductions occurred in FY2010. These programs include:

Family Preservation Program: This program operated in the form of caregiver workshops which emphasized skills to avoid burnout by successfully reducing stress and utilizing their circle of support.

Respite Program: This program was established with time-limited funds to provide minimal respite support to caregivers of those waiting for DSPD services.

Community Service Brokering: Community Service Brokers specialize in connecting people waiting for DSPD services with non-DSPD community resources.

Conclusion

The Department of Human Services administers four HCBS Medicaid Waiver programs which are part of the array of services provided for people with disabilities and people age 65 and older living in Utah. Continuing to support and investing in these programs will help reduce future costs by allowing people to gain independence, preventing caregiver stress and breakdown, and ideally reduce Government reliance. While these programs have been successful, there is still a portion of the population who may require services in a private Intermediate Care Facility for people with Intellectual Disabilities, at the Utah State Developmental Center, or in a nursing facility.

Department of Health Home and Community Based Waiver Review

Background

The Department of Health administers two HCBS Medicaid Waiver programs: The New Choices Waiver and the Waiver for Technology Dependent, Medically Fragile Individuals. As stated previously in the report, each State Implementation Plan provides a detailed calculation which states must use to demonstrate that the costs of HCBS programs are less than or equal to the cost of services in an Intermediate Care Facility for people with Intellectual Disabilities (ICF/ID) or Skilled Nursing Facility (SNF).

Summary data from actual waiver applications for the Department of Health Waivers is as follows:

Cost Savings of Department of Health Home and Community Based Medicaid Waivers			
Waiver Name	Est. Cost for Waiver Participants D + D' (FY12)	Est. Cost for Institutional Residents G + G' (FY12)	Est. Cost Difference
New Choices Waiver	\$ 24,282	\$ 51,021	\$ 26,739
Technology Dependent Waiver	\$ 102,568	\$ 190,098	\$ 87,530

Utah Medicaid developed a pilot program in 1998 that assisted nursing facility residents to move from facilities into home and community-based settings. This program was a forerunner of the current federal *Money Follows the Person* program. Utah’s program initially included a few dozen participants but has grown substantially over time.

In 2007, Utah received approval to run the pilot on an ongoing basis as a 1915(c) home and community-based services waiver—the New Choices Waiver. At its inception, the New Choices Waiver was authorized to serve 1,000 people. The number of waiver slots was increased to 1,200 a few years later. Late in FY2012, Utah amended the program again to increase the number of participants served from 1,200 to 1,400.

DOH has increased the number of people served in the waiver without additional funding or building block requests. This is possible because of the de-institutionalization nature of the program. The Medicaid budget includes a portion for nursing facility services. When a recipient enters the long term care system and is receiving services in a nursing facility, Medicaid’s cost of care for that individual is fairly predictable because Medicaid pays the facility a set daily rate for the services provided. When that same recipient is found eligible for the New Choices Waiver and is able to move into a community-based setting, Medicaid realizes savings because the cost of care in the waiver is generally less than the cost of care in the nursing facility. Because the nursing facility census has remained flat or has trended to be on the decline, the Medicaid agency has seen a trend in which the vacated nursing facility bed does not back-fill. So, the movement of the client from the facility to the community results in savings to the State.

In addition to the cost savings that result for the deinstitutionalization process through the New Choices Waiver, the program provides the additional benefit of assuring that the State has a process in place whereby individuals who desire and have the ability to move from a nursing facility into a community setting have an opportunity to do so.

Cost Saving or Cost Neutral Expansion Opportunities and Recommendations

There have been discussion and some legislative proposals in recent years to remove the nursing facility 90-day stay requirement and to simply allow the New Choices Waiver to be open as a nursing facility diversion program as well.^{ix}

DOH’s position is that a policy change of this nature would allow additional people to be served but would result in additional costs. This type of increase is known as the “woodwork effect.” The Department believes that if individuals who are currently on HCBS waiver waiting lists in the community and who have chosen not to seek institutional based care were presented with a new package of HCBS services, the majority of these individuals would avail themselves to the new package of services. The influx of new Medicaid recipients would result in a significant increase in funding. With this in mind, DOH recommends maintaining deinstitutionalization as the primary objective of the New Choices Waiver.

As stated previously, DOH has proactively expanded the number of people served in the New Choices Waiver by 400 since 2007. Given the intent language objective to “*identify one or more Medicaid home and community based waivers that could be expanded to save money or be cost neutral...*” DOH intends that as the New Choices Waiver population continues to grow over time, DOH anticipates that it will

amend the waiver implementation plan in order to continue to accommodate the growth of the program. DOH does not foresee the need to modify any current policies or practices to accomplish this effort.

REFERENCES

ⁱ <http://www.statehealthfacts.org/profileind.jsp?cat=4&sub=47&rgn=46>

ⁱⁱ Jardine, S. Utah Office of the Legislative Fiscal Analyst July 13, 2011 “Costs of Residential Care for Individuals with Intellectual Disabilities” page 3 Found at: <http://le.utah.gov/interim/2011/pdf/00001394.pdf> Accessed: August 2, 2012

ⁱⁱⁱ Application for a §1915 (c) HCBS Waiver, “Community Supports Waiver (CSW) for Individuals with Intellectual Disabilities and Other Related Conditions” Page 246 Appendix J-1: Composite Overview and Demonstration of Cost-Neutrality Formula
http://www.dspd.utah.gov/docs/AMENDED%20FINAL%20DRAFT%20CSW%20APPLICATION%2031_11.pdf
accessed: August 2, 2012

^{iv} Olmstead, Commissioner, Georgia Department of Human Resources, et al. v. L.C. 527 U.S. 581 (1999)

^v Megan A. Farley, William M. McMahon, Eric Fombonne, William R. Jenson, Judith Miller, Michael Gardner, Heidi Block, Carmen B. Pingree, Edward R. Ritvo, Riva Arielle Ritvo, and Hilary Coon “Twenty-Year Outcome for Individuals With Autism and Average or Near-Average Cognitive Abilities” International Society for Autism Research 2009.

^{vi} http://faq.acf.hhs.gov/app/answers/detail/a_id/940/~/_what-is-the-prevalence-and-incidence-of-intellectual-disabilities%3F (Accessed: October, 2011)

^{vii} <http://governor.utah.gov/dea/Census/2010/Cities%20and%20Counties.pdf> (Accessed: October, 2011)

^{viii} DSPD Annual Report Fiscal Year 2011 page 13
http://www.dspd.utah.gov/reports_pdf/DSPD%202011%20Annual%20Report.pdf (Accessed: August, 2012)

^{ix} The NCW eligibility was modified in FY2012 to allow long-term residents (180 days or greater) of assisted living facilities to be eligible for entrance into the waiver without the 90-day nursing facility stay requirement. This change was made to eliminate a seemingly artificial barrier that was created by requiring an individual who met the program criteria to move to a nursing facility for 90-days with the intent of moving back to the assisted living facility in which the person had been established as a long-term resident.