

EXCEPTIONAL SUPPORT WAIVER SERVICES TASK FORCE

Minutes of the 2nd Meeting of the 2020 Interim

August 24, 2020

Call to Order and Roll Call

The 2nd meeting of the Exceptional Support Waiver Services Task Force was held on Monday, August 24, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senator Dennis Parrett, Representative Tina Bojanowski; David Allgood, LeeAnn Creech, Thomas Laurino, Lisa Lee, Wendy Morris, Brad Schneider, Steve Shannon, and Amy Staed.

Guests: Claudia Johnson, Division Director, Department for Behavioral Health, Developmental and Intellectual Disabilities; Leslie Hoffmann, Policy Advisor, Department for Medicaid Services.

LRC Staff: Chris Joffrion, Hillary Abbott, and Shyan Stivers.

Approval of Minutes

A motion to approve the July 27, 2020 meeting minutes was made by Steve Shannon and seconded by Senator Parrett and approved by a voice vote.

Department for Medicaid Services: An Analysis of the Supports for Community Living Waiver and Exceptional Support Waiver Services

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, stated that 1915(c) Home and Community Based Services (HCBS) Waivers are designed to give individuals with disabilities an alternative to institutionalization. These waivers should complement available state Medicaid program services, public programs, and family/community supports to meet each individual's needs. If an individual's needs exceed what can be safely provided in the community, he or she may not be appropriate for waiver services. The Department for Medicaid Services (DMS) must demonstrate to the Centers for Medicaid and Medicare Services (CMS) that the cost of care in the community is equal to or less than institutionalized care. Of the six HCBS waivers in

Kentucky, the Michelle P. and Supports for Community Living (SCL) are for individuals with intellectual or developmental disabilities.

Ms. Hoffmann stated that the budgets for the waiver programs are determined by evaluating expenditures from the previous fiscal years and must be cost neutral. To be cost neutral, the average per participant expenditure must not exceed the average per person cost of furnishing institutionalized services for an individual with the same level of care. CMS provides 70 percent of funding for waiver services and not meeting CMS requirements for one waiver puts federal funding for all waivers at risk. In the 2019 budget year, the SCL waiver served a population of 4,921, with \$386,802,581 in total paid claims, of which \$270,761,807 was paid by federal cost-sharing dollars and \$116,040,774 paid by state funds. The SCL waiver had 4,491 funded slots for the waiver year March 1, 2020 through February 28, 2021 with 4,774 active slots, and 2,891 on the waiting list.

Ms. Hoffmann explained that the individuals on the SCL waiver waiting list are classified into three categories: 1.) for emergency and immediate services needed, 2.) urgent where the individual needs services within one year, and 3.) future planning where an individual need services within one year and is not currently receiving services. Kentucky currently has zero individuals on the emergency waiting list, 128 individuals on the urgent waiting list, and 2,763 individuals on the future planning waiting list.

Ms. Hoffmann stated that exceptional supports claims account for 3 percent of the total paid claims for SCL participants. In 2019, 265 individuals were authorized for exceptional supports but only 251 received services based on paid claims data. In 2019, only one individual was denied exceptional supports due to lack of information. DMS provided responses to the recommendations given in the July 27, 2020 meeting by Kentucky Association of Private Providers and Kentucky Association of Regional Providers.

In response to questions and comments from Amy Staed, Ms. Hoffmann stated that budget neutrality is based on the aggregate of the total number of participants and paid claims.

In response to questions from Thomas Laurino, Commissioner Lee stated that she will follow up regarding costs of immediate care facilities and whether they exceed the cost of community based services.

In response to questions from Senator Parrett, Ms. Hoffmann stated that she will follow up with aggregate information on the cost per person served.

In response to questions from Representative Bojanowski, Commissioner Lee stated that nursing level of care is unable to be replicated in the community and beyond the scope of CMS's waiver services.

Department for Behavioral Health, Developmental and Intellectual Disabilities: An Analysis of the Supports for Community Living Waiver and Exceptional Support Waiver Services

Wendy Morris, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) stated that DBHDID administers the Supports for Community Living (SCL) waiver through a contract with DMS. The SCL waiver includes a specialized rate for people with exceptional medical or behavioral needs and applies to both traditional or participant directed services. Commissioner Morris stated that exceptional supports are to be based on the cost of providing the service not to exceed two times the upper payment limit of the service. Exceptional supports are authorized to be reimbursed at either a higher rate than the upper payment limit or additional units in excess of the service limits. The services eligible for the exceptional support rate include: residential levels one and two, community access, personal assistance, respite, day training outside of an adult day center. The services eligible for additional units include consultative, clinical, and therapeutic services, person centered coach, personal assistance, and respite.

Commissioner Morris explained the approval process for exceptional supports, the documents required to be included in the recipient's application packet, the one-day turn around for case managers to submit to DBHDID and the three days DBHDID has to process the request. Commissioner Morris stated that the SCL waiver is a Medicaid program and DMS sets the policies in accordance with 907 KAR 12:010 and 907 KAR 12:020. Two of the recommendations presented at the July 27th Task Force meeting do not require a change to the administrative regulations. Commissioner Morris stated that DBHDID is in agreement with the recommendations to extend prior authorization of non-clinical exceptional supports to one year and to backdate approvals to the date of initial submission if all required information is included and letters of intent are answered within three days.

In response to questions and comments from Thomas Laurino, Commissioner Morris stated that the one-day turn around for case managers to submit the request for exceptional supports is in place because of the emergency nature of the need. Claudia Johnson, Division Director, Department for Behavioral Health, Developmental and Intellectual Disabilities stated that it is assumed the paperwork necessary would be prioritized for the cases of exceptional support to accommodate the expedited turnaround time.

In response to questions and comments from Amy Staed, Claudia Johnson stated that an administrative regulation change has to be made to alter the provider letter and recipient packet.

Adjournment

There being no further business, the meeting was adjourned at 4:25 p.m.

