

*Renewal and Redesign of
Arkansas's Home and Community Based Services for
Individuals with Intellectual and Developmental Disabilities:
Conflict Free Case Management*

A Concept Paper for the
Centers for Medicare and Medicaid Services
for Review and Input

**Arkansas Department
of Human Services
Division of Developmental Disabilities Services**



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Individuals with Intellectual and Developmental Disabilities:
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Executive Summary

This paper summarizes proposed changes to the State of Arkansas 1915(c) Home and Community Based Services (HCBS) Waiver Program; specifically, changes to our current case management system. These proposed changes are based on input received from stakeholders through individual in-person meetings, online comments submitted to DHS and a statewide community meeting held on February 2, 2016. While we are transforming our system to comply with the Medicaid regulations surrounding case management, this creates a significant change to our system. Therefore, we are requesting a phase in period.

Background

Over the past few years, while attempting paths of Medicaid transformation, the Division of Developmental Disabilities (DDS) has operated the 1915(c) under a series of extensions. Currently, we are waiting for approval of our latest temporary extension request. We understand the need for filing a Renewal.

Arkansas is in the midst of transforming our Medicaid payment and delivery system, not only for DDS, but for our behavioral health and aging populations. The Governor created a Health Reform Task Force and tasked the Arkansas Legislature to determine the best course of action for future Medicaid efficiency and savings. The Arkansas General Assembly begins a special legislative session on April 6, 2016 and the direction of Medicaid reform is a priority. We anticipate further direction at the conclusion of this session. Based on legislative mandate, we will file necessary amendments to the 1915(c) ACS Waiver to align with that direction.

On November 9, 2015, DDS requested approval from the Secretary of Health and Human Services to devise a series of conflict of interest protections that would allow recipients of our 1915(c) ACS Waiver to choose the entity or entities that provide direct care and case management services—even if the provider is one and the same. On February 13, 2016 DDS sent a letter to CMS outlining the specific contentions and mitigation techniques.

While DDS does not wish to restate those arguments, it is important to note that the majority of our current 1915(c) ACS Waiver recipients choose to use the same entity for both direct care and case management. Specifically, a report run in November of 2015, indicates out of 3,988 Waiver consumers only sixty-six (66) providers across the State of Arkansas were chosen to provide services under the 1915(c) ACS Waiver. Most consumers choose the same provider for all services. It is also important to note that Arkansas is a rural state with limited resources in many counties. Under our 1915(c) ACS Waiver, entities can bill \$117.00 per recipient per month for case management if the service is included in the person-centered service plan. At only \$117.00 per recipient per month, the rural entities cannot continue to operate if they are restricted in providing only case management to some recipients.

Request for "Phase in" and the Arkansas Procurement Process

DDS currently administers a 1915(c) ACS Waiver that includes a broad array of case management services. We currently define the scope of service as: "Services that assist participants in gaining access to needed waiver and other state plan services as well as medical, social, educational and other generic services regardless of the funding source for the services to which access is available." Furthermore, case management services involve responsibility for guidance and support in all life activities including locating, coordinating and monitoring the following:

1. All proposed Waiver services;
2. Other state plan services;
3. Needed medical, social, educational and other publicly funded services (regardless of funding source);
4. Informal community supports needed by eligible person and their families.

In addition, case management is currently responsible for the following activities:

1. Arranging for the provision of services and additional supports;
2. Monitoring and review of services included in the individual's service plan;
3. Monitoring and review of services to assure health and safety of the participant;
4. Facilitating crisis intervention;
5. Guidance and support to obtain generic needs;
6. Case planning;
7. Needs assessment and referral for resources;
8. Monitoring to assure quality of care and case reviews with focus on the person's progress in meeting goals and objectives established through the case plan;
9. Providing assistance relative to the obtaining of Waiver Medicaid eligibility and ICF/MR level of care eligibility determinations;
10. Assuring the integrity of all case management Medicaid Waiver billing in that the service delivered must have DDS prior authorization, must meet required Waiver service definitions and must be delivered before billing can occur;
11. Assuring submission of timely (advance) and comprehensive behavior and assessment reports, continued plans of care, revisions as needs change and information and documents required for ICF/MR level of care and Waiver Medicaid eligibility determinations;
12. Arranging for access to advocacy services as requested by consumers;
13. Upon receipt of DDS approvals and denials, ensures that a copy is provided to the individual or their legal representative;
14. Provides assistance with appeals when an appeal is chosen.

At \$117.00 per person, per month, Arkansas providers contend there is a substantial monetary loss on every case management client they service. Further, based upon stakeholder feedback, providers claim that the direct service side of the business subsidizes case management. For these reasons, most providers will not agree to provide only case management services to certain individuals.

We are asking for a phase in to continue the above scope of service in our 1915(c) ACS Waiver until a contract for case management is procured. The contracted vendor will be responsible for several components of case management which will include: assessment of an eligible individual (42 CFR 440.169(d)(1), development of a specific care plan (42 CFR 440.169 (d)(2), referral to services (42 CFR 440.169 (d)(3) and monitoring activities (42 CFR 440.169(d)(4). The contracted vendor will not provide direct care to Waiver recipients.

Arkansas has a multiple step procurement process. The process begins with the state writing a pre-solicitation memo for internal Department of Human Services (DHS) approval. Upon approval by the DHS Director, DDS will draft a detailed Request for Qualifications (RFQ) with supporting documentation and obtain necessary approvals including the Governor's Office. All purchase requisitions for services with a total projected cost greater than \$1,000,000 require approval from the Governor's office prior to bidding. The RFQ will be reviewed and approved by the Office of Chief Counsel to ensure adequate performance measures. The review and approval of the request for qualifications can take several months.

The RFQ will be approved and publically published by the Office of State Procurement for a minimum of 30 days. At the conclusion of the 30 days, there is a 14 day anticipation of award period when bidders can contest the results. Once the contract is awarded, there is a lengthy process to ensure the proper paperwork is completed between the DHS Office of Finance Administration, Arkansas Department of Finance and Administration and the awarded vendor. Once the contract terms are finalized, the contract must be reviewed by the legislature.

While no procurement process is exactly the same, we estimate that an average of nine (9) months is needed to complete the task.

Interim Firewalls and Conflict Mitigation Strategies

Arkansas has implemented strategies and is currently working to implement additional firewalls and mitigation strategies to ensure conflict free case management until the contract is in place:

1. Arkansas DDS will continue to make the eligibility decisions for the 1915(c) ACS Waiver. This will include a level of care determination and an eligibility of financial need determination with Arkansas Medicaid;
2. Clinical needs-based assessments are performed annually by providers. Arkansas DDS will review those assessments prior to approving an individual's plan of care;
3. The individuals performing the annual needs-based assessments are not providers on the treatment plan nor do they provide direct care. Arkansas DDS will continue to monitor to ensure individuals performing the assessments do not provide treatment or direct care;
4. Arkansas DDS will continue to perform utilization reviews;
5. Arkansas DDS will continue to review and approve/deny individual plans of care at the annual time of renewal or with any submitted amendment/modification;
6. Individuals receiving Waiver services are encouraged to advocate or have an advocate present during planning meetings;

7. The DDS Waiver Specialist will document that the individual has been offered a choice among all qualified providers for both direct care and case management services;
8. Providers will continue to administratively separate between case management functions and staff and direct care functions and staff;
9. Arkansas DDS is currently establishing a consumer council to monitor issues of choice;
10. Arkansas DDS has an established and accessible means for consumers to file grievances/complaints and to appeal to Arkansas DDS regarding concerns about choice, quality and outcomes;
11. Arkansas DDS Waiver Specialist and the Assistant Director of Waiver Services oversee all plans to assure consumer choice and control;
12. Arkansas DDS has tools in place that measure consumer experiences and captures the quality of care.

Conclusion

Arkansas DDS is requesting allowance to utilize firewalls and mitigation strategies until a contracted vendor is secured. We estimate completion of this task by March of 2017. Once secured, a contracted independent vendor will be responsible for several components of case management which will include: assessment of an eligible individual (42 CFR 440.169(d)(1), development of a specific care plan (42 CFR 440.169 (d)(2), referral to services (42 CFR 440.169 (d)(3) and monitoring activities (42 CFR 440.169(d)(4). The contracted vendor will not provide direct care to Waiver recipients.

Arkansas DDS asserts that the firewalls and mitigation strategies outlined above will ensure a quality of care for the Waiver recipients that we serve. We assert that potential conflicts of interest will be eliminated and providers will be closely monitored for compliance.