

Report of the Subcommittee on Waiver Integration to the House Committee on Health and Human Services

CHAIRPERSON: Representative Willie Dove

OTHER MEMBERS: Representatives Kelly, Osterman, and Ward

STUDY TOPIC(S)

Review and analysis of Medicaid waiver integration.

March 2016

HOUSE HEALTH & HUMAN SERVICES

DATE:

ATTACHMENT

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Report

Conclusions and Recommendations

Pending

Proposed Legislation:

BACKGROUND

The Kansas Department of Health and Environment (KDHE) as the Kansas Medicaid agency is proposing to move the state to an integrated waiver process in January 2017. The House Committee on Health and Human Services introduced HB 2682, which would require any state agency to obtain the Legislature's approval to integrate, consolidate, or otherwise alter the structure of the following waiver services under the Medicaid program: medical services; behavioral health services; transportation; nursing facilities; other long-term care; autism; frail elderly; technology assistance; physical disability; traumatic brain injury; intellectual/developmental disability; or serious emotional disturbance. [See the attached memorandum for additional information on Kansas Medicaid waivers and proposed waiver integration.] On February 17, 2016, the House Committee held a hearing on the bill, and representatives from the following agencies provided proponent testimony: Disability Rights Center of Kansas; Interhab; Kansas Advocates for Better Care; and Kansas Association of Centers for Independent Living. The Alliance for Kansans with Developmental Disabilities submitted proponent written-only testimony. The proponents stated the Legislature should be required to give approval prior to the Kansas Medicaid agency integrating waiver services under the Medicaid program as there are too many unanswered questions about how the transition and implementation of waiver integration will occur.

KDHE submitted opponent written-only testimony which provided an overview of waiver integration.

At the hearing, Chairperson Hawkins appointed a Subcommittee to review and analyze waiver integration.

COMMITTEE ACTIVITIES

The Subcommittee met on March 2 and 8, 2016.

On March 2, 2016, representatives from the following agencies provided testimony to the Subcommittee: Community Works, Inc.; Disability Rights Center of Kansas; Interhab; Jenian, Inc.; Kansas Advocates for Better Care; Kansas Association of Area Agencies on Aging and Disabilities; Kansas Association of Centers for Independent Living; Southwest Developmental Services, Inc.; Targeted Case Management; and Topeka independent Living Resource Center. Written-only testimony was provided by Big Lakes Developmental Center, Inc.; Johnson County Developmental Supports; and KETCH.

Conferees provided the following comments and concerns:

- Without a specific waiver for seniors as a target group, they may get lost in the system and a waiting list may develop for seniors;
- The integrated waiver process has the potential to offer benefits for individuals

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in the disability system; however, there is not sufficient time to work out all the details for a successful implementation by January 2017;

- Uncertainty about how the current waiting lists will be affected and whether waiting lists will be created for those currently on the traumatic brain injury and frail elderly waivers;
- Medical necessity is defined differently by each MCO and is geared to those acutely ill, not those on the traumatic brain injury waiver;
- Whether waiver integration will save the state money;
- The home and community based services (HCBS) manuals should be updated prior to implementation;
- A written plan should be submitted to the Legislature that addresses remediation of current systemic failures prior to moving forward with implementation;
- Details of the waiver integration should be provided to the Legislature prior to implementation;
- Waiver integration is not a bad idea but the implementation date needs to be delayed;
- Combining individuals with different disabilities into the same service program may have unintended negative effects;
- The 1915(c) waivers have worked well and changing the process will likely have unintended consequences;
- It is unclear how waiver integration can occur without diminishing services; and
- Individuals involved in providing and receiving services have been through

many changes since the implementation of KanCare and another major change to a fragile service system would result in turmoil.

On March 9, 2016, KDHE provided testimony to the Subcommittee. KDHE provided an overview of waiver integration, stating Kansas would fully integrate seven 1915(c) waivers into the 1115 waiver; entrance to HCBS would remain the same and services would fall into two broader categories; adults and children; children would continue to be entitled to all medically necessary services identified through Early Periodic Screening Diagnosis and Treatment; all members would continue to be entitled to medically necessary state plan services in KanCare; and services would be authorized through personalized plans of care.

The representative from KDHE stated waiver integration would create parity for populations served through HCBS and would offer a broader array of services.

The representative discussed stakeholder input and recommendations from the Waiver Integration Stakeholder Engagement (WISE) workgroup. He stated the next step is to develop the 1115 waiver amendment by considering the WISE workgroup recommendations, focus group recommendations, public input, and recommendations from the Managed Care Organizations (MCOs). The targeted implementation is January 2017.

A Subcommittee member asked the representative from KDHE whether January 2017 implementation is premature. The representative stated KDHE was on target to achieve that implementation time frame and it had postponed the date once from July 1, 2016.

A Subcommittee member asked the representative from KDHE if the state would save money by implementing waiver integration. The representative stated it is unknown at this time whether a savings will be achieved; however, the KDHE actuary will be reviewing the waiver integration program to make that determination.

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In response to additional questions from Subcommittee members, the representative from KDHE stated KDHE is required to submit an application and obtain approval from the federal Centers for Medicare and Medicaid Services to integrate the waivers, and KDHE plans to publish the application for public comment in late spring 2016; the administration of the waiting lists for physical disability and intellectual/developmental disability will not change with the implementation of waiver integration; provider licensure requirements will not be lowered; billing changes required by MCOs should be minimal; Vermont

and Rhode Island have similar waiver integration models and KDHE will contact both states; KDHE has not defined any specific occurrence that would cause the implementation to be postponed or cease; and a reduction of services will not occur during a certain period of time, not yet determined, after implementation.

CONCLUSIONS AND RECOMMENDATIONS

Pending.

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March 1, 2016

To: House Committee on Health and Human Services: Subcommittee on Waiver Integration

From: Erica Haas, Principal Research Analyst

Re: Waiver Integration

WAIVER INTEGRATION

Medicaid is a partnership between the federal government and the states with shared authority and financing, created by Congress in 1965 (Title XIX of the Social Security Act [SSA]). The program was designed to finance health care services for low-income children, their parents, the elderly, and people with disabilities. Medicaid has become the nation's largest source of funding to provide health services to low-income individuals. State participation in Medicaid is optional. However, the federal government's financial share of Medicaid financing creates an incentive for states. To date, no state has declined to participate. Although all states participate, eligibility varies widely because the states can choose to cover additional people and services above and beyond the federal minimum requirements by applying to the Centers for Medicaid and Medicare Services (CMS) for a waiver. Approval of waivers, as set forth in the SSA, allows states to provide services to specific populations that would not have their needs met by the federal minimum required services. A list of federally mandated Medicaid services can be found at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/benefits/medicaid-benefits.html>.

Kansas operates its Medicaid program under Section 1115 of the SSA, which includes all Medicaid services in the state plan and gives the state authority to provide all services, including services allowed for in the Home and Community Based Services (HCBS) waiver program Section 1915(c) of the SSA. Kansas operates seven 1915(c) HCBS waivers: Autism; Frail Elderly; Intellectual/Developmental Disability; Physical Disability; Traumatic Brain Injury; Technology Assisted; and Serious Emotional Disturbance. Under the 1915(c) waivers, an individual can qualify only for the services available under one waiver.

Kansas Department for Aging and Disability Services (KDADS) and Kansas Department of Health and Environment (KDHE) are planning to submit a request to CMS to integrate the seven 1915(c) waivers Kansas operates into the 1115 waiver. If this change is approved by CMS, entrance to the seven 1915(c) HCBS waivers would remain the same, but services would be provided under two categories: adults and children. The proposed date for implementation is January 2017. Over the past year, KDADS and KDHE held public forums to explain the proposed changes and seek input from stakeholders. The agencies also formed the Waiver Integration Stakeholder Engagement Workgroup to review the proposal and provide recommendations in the form of a report. The report, which includes the responses from the agencies, is enclosed.

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Enclosures

