

Fact Sheet

For States Interested in Creating a Home- and Community-Based Waiver for Children with Serious Mental Disorders

Rules on Home- and Community-Based Waivers for Children with Mental and Emotional Disorders

Despite the value of the home- and community-based services waiver under Section 1915(c) for children with mental and emotional disorders whose families might otherwise be forced into giving up custody to the state because they can no longer manage their child at home without supports, only three states have such waivers in their Medicaid programs. In contrast, 49 have waivers for individuals with developmental disabilities.

A home- and community-based waiver permits children with mental disabilities (as defined in SSI) to be offered home-based services in lieu of placement in an institution. The waiver allows the state to expand the number of children eligible for Medicaid because children may be included regardless of family income if they would otherwise require care in an institution.

The waiver also allows the state to offer these children and their families an expanded package of home- and community-based services that may include the all-important service of respite care for the family along with other family-support services that enable the child to remain at home. This is a far better option for the child and family and less expensive for the state. With support services, the child's own family is able to care for the child. Without such services, costly therapeutic foster care or institutional services are the only option.

One potential problem in the federal rules for home- and community-based waivers is the definition of the institutions from which the covered child would be discharged or diverted. Federal law defines these institutions as only "hospitals, nursing homes and Intermediate Care Facilities for Mental Retardation." The federal Centers for Medicare and Medicaid Services (CMS) has made it clear that a residential treatment center for a child with a mental or emotional disorder does not fall within this definition. This makes it more difficult for states to use the waiver. However, states can still estimate the number of children with serious mental disorders whose condition requires the level of care provided in a hospital and use cost estimates of hospital care to document their potential savings through a waiver.

A recent survey of selected states without the home- and community-based services waiver found that more than half of states had considered developing a waiver for children with mental or emotional disorders, but faced barriers in doing so.¹ These states identified the following as the most significant barriers (percentage of states where officials cited these barriers in parentheses):

- lack of state funds to furnish the state's share of Medicaid costs (65%);
- the federal rule which does not permit children in or at risk of placement in a residential treatment center to be eligible (59%);
- the requirement that community services be no more expensive than the alternative institutional placement (47%).

Experience in the three states that have these waivers shows that the cost-related concerns of other states can be addressed. In fact:

- The costs of a home- and community-based services waiver for children with mental or emotional disorders are quite low per child, e. g. \$12,900 per child for the home- and community-based

Issue

Home- and Community-Based Waiver

State Concerns

Modest Cost

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Modest Cost (Cont'd.)

services in Kansas (2001), \$23,344 in Vermont (2001) and \$40,000 in New York (2001). In comparison, per child institutional costs in these states were: \$25,600 in Kansas, \$52,988 in Vermont and \$77,429 in New York.

- Since the state can limit the number of slots, a home- and community-based waiver can be initiated with a relatively small state investment. For example, first-year costs for the Kansas waiver were only \$1 million. Initially, New York began by serving 25 children.

The three states with these waivers did not find the state match difficult to raise. All started small and expanded the waiver after the state had some experience. In New York, the legislature was supportive of increasing access to community care. In Vermont, total costs are low and several agencies contribute funds for the match. In Kansas, tobacco settlement resources were initially used for the match and experience with waivers for individuals with developmental disabilities encouraged state officials to apply for a waiver for children with mental disorders.

These three states have had little trouble meeting the cost-neutrality requirements. The high costs of institutional care easily offset the average waiver costs. Each state found it had an adequate level of funding and none have average costs that approach the institutional costs. States also did not find it difficult to gather the data to demonstrate cost neutrality to the federal government. They used existing data systems, and one supplemented this through a survey of providers.

Other Barriers

The states with the waiver found it a helpful source of funding for home- and community-based services and a catalyst to build the necessary infrastructure. However, states needed to address the issue of workforce development and training. One state provided incentives for participating agencies by providing start-up funds for new services.

Federal rules on the institutions to which children are at risk of placement are a more serious barrier. Only hospitals, nursing homes and Intermediate Care Facilities for Mental Retardation are included in the federal definition. In some states very few children on Medicaid are placed in a psychiatric or other hospital settings, but are instead in residential treatment centers (RTCs). In these states, a home- and community-based waiver can still be developed but the state will have to prepare documentation showing that a significant number of children have conditions that require a hospital level of care (even if the child is not placed in a hospital) and the costs of such care. A home- and community-based waiver can be developed in this manner.

Legislation to include RTCs within the definition of institution under Section 1915(c) is pending in Congress and CMS has announced plans to develop a demonstration program along these lines. However, pending federal action some states may not be able to use the home- and community-based waiver to help parents of children with mental or emotional disorders.

States can also control the size of the population covered (and thus the costs) and the home- and community-based services families need to keep their child at home are significantly less expensive than the costs of alternative institutional care.

Action Needed

All 47 states² without the waiver should examine the pattern of institutional placements for children with mental and emotional disorders to determine whether a home- and community-based services waiver can help families struggling to find services for their child.

¹ Survey conducted in 2001 by the Bazelon Center for Mental Health Law, Washington, D.C. ² And the District of Columbia