



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #389

Community Opportunities Recovery Waiver (DHFS -- Medical Assistance -- Long-Term Care)

[LFB 2005-07 Budget Summary: Page 254, #6]

CURRENT LAW

The Department of Health and Family Services (DHFS) operates seven MA waiver programs that are intended to reduce the number of individuals who would receive long-term care services in nursing homes or institutions. Individuals who are elderly or physically disabled are served under the community options waiver program (COP-W) and the community integration program (CIP II) program. Individuals with developmental disabilities who are relocated from the state centers for the developmentally disabled or other intermediate care facilities for the mentally-retarded (ICFs-MR) receive services under CIP IA and CIP IB. Individuals with a brain injury receive services under the brain injury waiver (BIW), and children with developmental disabilities or other long-term care needs receive services under the children's long-term care (CLTC) and intensive autism programs. The state does not currently operate any MA waiver programs that target adults who have co-occurring mental health and physical health conditions.

Services may be provided to individuals with both mental health and physical health conditions under the COP or CIP II programs; however, the services available under the waivers are not targeted to persons with mental illness. Individuals with these co-occurring conditions may also receive services in an institutional setting, where specialized psychiatric rehabilitation services and nursing care would be provided. As of December 31, 2003, individuals with a primary diagnosis of a serious mental illness accounted for approximately 6.2% (881) of the individuals receiving services under COP regular and COP-waiver. Further, 36% of nursing home residents on December 31, 2003 (12,962 residents), were diagnosed as having a mental disorder as their primary disabling diagnosis.

In order to participate in the MA waiver programs, individuals must meet both financial and functional eligibility criteria. The functional eligibility criteria requires that an individual meet the nursing home level of care requirement, while the financial eligibility criteria requires that an individual has income that does not exceed 300% of the applicable 2005 SSI payment level (up to \$1,737 per month in 2005). In addition, elderly, blind, and disabled individuals, in general, receiving benefits under MA, may not have countable assets exceeding \$2,000.

GOVERNOR

Reduce funding by \$18,800 (-\$1,200 GPR and -\$17,600 FED) in 2005-06 and by \$192,900 (-\$75,800 GPR and -\$117,100 FED) in 2006-07 to support an initiative to implement a new MA home- and community-based waiver program that would provide services to individuals dually-diagnosed as having mental health and physical health conditions who are relocated from nursing homes to the community. Under the new waiver, DHFS would provide community-based services that are specific to the needs of persons with a mental health diagnosis that is severe, persistent, and that may require periods of intense supervision and support to remain in the community.

Funding. The bill would: (a) reduce MA benefits funding by \$48,200 (-\$15,900 GPR and -\$32,300 FED) in 2005-06 and by \$226,700 (-\$92,700 GPR and -\$134,000 FED) in 2006-07 to reflect projected cost savings of providing community-based services to support 25 individuals in 2005-06 and 100 individuals in 2006-07 with a dual-diagnosis of mental health and physical health conditions in the community, rather than continuing to provide care for these individuals in nursing homes; (b) provide \$5,700 GPR and \$5,700 FED in 2005-06 and \$16,900 GPR and \$16,900 FED in 2006-07 to fund ongoing quality assurance reviews; and (c) provide \$18,000 (\$9,000 GPR and \$9,000 FED) in 2005-06 to fund one-time database revision costs.

Statutory Changes. Authorize DHFS to seek a waiver, and if approved, seek an extension of the waiver, from the Centers for Medicare and Medicaid Services (CMS) to provide services under a new home- and community-based MA waiver program for persons with a dual diagnosis of mental health and physical health conditions. Authorize DHFS to contract with a county or a private agency to administer the program, if doing so is consistent with the waiver, and specify that a private agency with which DHFS contracts would have the powers and duties of a county under these provisions.

Provide that any MA recipient who has a serious mental illness and who meet nursing home level of care requirements would be eligible to participate in the program, and that funding for services would be paid from the GPR and FED MA benefits appropriations. Authorize DHFS to reimburse a county, from the FED MA benefits appropriation, for providing, or contracting to provide, services that cost more than the average amount approved by the federal government for the waiver program.

Delete the definition of "physically disabled" as it applies to the community options-waiver program. Define "nursing facility" and "serious mental illness" by cross-referencing federal law.

Add references to the new waiver program in current sections that reference other community-based waiver programs with respect to: (a) delegating authority to collect patient fees to counties and local providers; (b) requiring counties to act as a fiscal agent or contract with a fiscal intermediary to serve as a fiscal agent for clients; (c) counties' use of COP (GPR) funds to support individual for whom waiver services are available; (d) Family Care functional eligibility requirements; (e) coordination of services under the family support program; (f) MA eligibility services; and (g) the definition of "employer," as it relates to Chapter 108 ("Unemployment Insurance") provisions for counties and entities that serve as fiscal agents for waiver clients.

DISCUSSION POINTS

1. The Centers for Medicare and Medicaid Services (CMS) may waive certain requirements of federal MA law to permit state to offer supports and services to people eligible for MA who would otherwise meet the level of care provided in an institutional settings, such as a hospital, nursing facility, or ICF-MR. Community-based waiver services provide a cost-effective alternative to institutional care through the provision of services that may not otherwise be available to MA recipients.

2. In order to obtain a federal MA home- and community-based services waiver from CMS, a state must demonstrate that the care it will provide for individuals under the waiver will reduce MA expenditures, or, at a minimum, be cost neutral. The projected average per capita cost for individuals receiving services under a waiver may not exceed the costs that would have been incurred for the same group of individuals had the waiver not been granted. A state may exclude individuals from the waiver for whom the cost of waivers services is likely to exceed the cost of institutionalization. States must also provide assurances that safeguards are in place to protect the health and welfare of waiver participants. This includes quality assurance functions, which encompass monitoring the quality control procedures, including individual plan and service review, as well as ongoing quality assurance activities and technical assistance to counties and providers. In addition, the state must agree to address all problems that are identified through monitoring activities. DHFS submitted a waiver to CMS in April, 2005, and anticipates that approval will be granted in June, 2005.

3. The community opportunities and recovery waiver (COR-waiver) would provide waiver services to individuals who are relocated from nursing homes to the community who have a dual-diagnosis of a mental health and a physical health condition. Individuals participating in this new waiver program would be required to meet the functional and financial eligibility criteria that apply to other MA waiver participants. DHFS estimates that there are currently 555 individuals residing in nursing homes who have been dually diagnosed as having mental health and physical health conditions.

4. The services that are available under the existing MA waiver programs are not targeted to individuals with mental illness. Under the COR-waiver, DHFS would provide community-based services that are specific to the needs of persons with a mental health diagnosis that is severe, persistent, and that may require periods of intense supervision and support in order for the individual to remain in the community.

5. The attachment to this paper identifies the services that would be supported under the COR-waiver. Several of these services would be specific to the COR-waiver or would be expanded as compared to the existing waiver services including: vocational recovery, environmental accessibility adaptations, transportation, specialized medical equipment and supplies, natural supports training, benefit counseling, crisis plan services, housing counseling, peer advocate supports, and short-term supervision and observation.

6. The average cost of providing care to this population in a nursing home is projected to be \$167.92 per day in calendar year 2006 and \$177.94 per day in calendar year 2007. Further, the cost of providing care to this population in the community under this new waiver is projected to be \$161.54 per day in 2006 and \$172.15 per day in 2007. A comparison of these numbers would indicate a cost savings per waiver participant per day of \$6.38 (\$2.69 GPR) in 2005-06 and \$5.79 (\$2.46 GPR) in 2006-07.

7. These cost comparisons do not take into account the one-time costs of database revisions to implement a new waiver program (\$18,000 in 2005-06) or the ongoing costs of quality assurance activities that are required under the terms of the federal waivers (\$11,400 in 2005-06 and \$33,800 in 2006-07). When these costs are considered, the net savings that are projected as a result of this initiative are reduced.

8. Alternative 1 reflects a reestimate of the projected MA benefits savings that would be generated as a result of implementing the Governor's proposal. The cost savings are reduced to reflect: (a) a reestimate of the average cost of providing care to individuals in the community and in nursing homes, as indicated above; and (b) updated federal matching rates.

9. DHFS advises against budgeting for an "overly ambitious" number of relocations, as it may place DHFS at risk of not being able to meet the cost-neutrality requirements of the federal waiver. For this reason, DHFS staff indicate that the Governor's recommendation to create 25 slots in 2005-06 and an additional 75 slots (for a total of 100 slots) in 2006-07 represents the most reasonable number of slots to support in 2005-07.

10. The number of individuals on the COP and MA waiver waiting list at the end of calendar year 2004 was 10,783. The following table identifies the number and percentage of individuals on the waiting list, by major eligibility group.

**COP and MA Waiver Waiting List
by Primary Eligibility Group
December 30, 2004**

	<u>Elderly</u>	<u>Physically Disabled</u>	<u>Developmentally Disabled</u>	<u>Mental Health</u>	<u>AODA</u>	<u>Other</u>	<u>Total</u>
Number	3,396	3,175	3,633	454	107	18	10,783
Percent	31.5%	29.4%	33.7%	4.2%	1.0%	0.2%	100.0%

The table shows that individuals with a primary diagnosis of mental illness compose approximately 4.2% of the 10,783 individuals, or 454 individuals, on the COP and MA waiver waiting list.

11. Under the current MA waiver programs, counties are only reimbursed for a portion of the costs of providing care to waiver participants. In calendar year 2003, counties and tribes expended approximately \$100.4 million under the MA waiver programs, generating approximately \$159.8 million in federal matching funds. Counties are permitted to use community aids and COP-regular allocations, which are provided to counties by the state, to create MA waiver slots and to support MA waiver costs that exceed the reimbursement provided by the state. The following table identifies actual county expenditures by MA waiver program in calendar year 2003.

**County Contributions MA Waiver Programs
Calendar Year 2003**

<u>Programs</u>	<u>Local</u>	<u>Percentage</u>
CIP 1A - Waiver	\$6,195,682	6.2%
CIP 1B - Waiver	87,394,540	87.1
CSLA - Waiver	662,899	0.7
Brain Injury Waiver	1,153,287	1.1
CIP II - Waiver	232,889	0.2
COP-Waiver	<u>4,733,773</u>	<u>4.7</u>
	\$100,373,070	100.0%

12. An argument can be made that the state should address the waiting lists for current MA waiver programs and support a greater share of counties' actual costs of providing services to individuals under the existing MA waiver programs, before it creates a new waiver program. However, the administration assumes that savings would be generated by supporting this new waiver program because individuals currently residing in institutions would be relocated to the community. Addressing writing lists or supporting a greater share of counties' costs of providing

services would require an increase in MA benefits funding.

13. Further, DHFS indicates that, once there is adequate experience with the relocation waiver, the Department will consider applying for a waiver to divert persons from nursing facility placement. In general, a program that provides services to a population that is not currently receiving services or for whom services are limited would not likely reduce MA benefits expenditures in the long run.

ALTERNATIVES

1. Modify the bill by increasing funding by \$19,200 (\$3,600 GPR and \$15,600 FED) in 2005-06 and by \$92,000 (\$35,400 GPR and \$56,600 FED) in 2006-07 to reflect a reestimate of the savings that would be generated as a result of implementing the Governor's recommendations to fund 25 slots in 2005-06 and an additional 75 slots (for a total of 100 slots) in 2006-07.

<u>Alternative 1</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
2005-07 FUNDING (Change to Bill)	\$39,000	\$72,200	\$111,200

2. Delete the provision.

<u>Alternative 2</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
2005-07 FUNDING (Change to Bill)	\$77,000	\$134,700	\$211,700

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Attachment

ATTACHMENT

Community Opportunities and Recovery Waiver Nursing Home Relocation Waiver Services Listing

- Care Management
- Respite Care Services
- -- Residential Respite
- -- Institutional Respite
- -- Home Based Respite
- -- Respite Care Other
- Daily Living Skills Training
- Day Services
- Vocational Recovery
- Environmental Accessibility Adaptations
- Skilled Nursing
- Transportation
- Specialized Medical Equipment and Supplies
- Personal Emergency Response System (PERS)
- Natural Supports Training
- Residential Services
- Home Delivered Meals
- Financial Management Services
- Relocation Related Housing Start Up
- Relocation Related Utilities Start Up
- Supportive Home Care
- Benefit Counseling
- Consumer-Directed Supports
- Counseling and Therapeutic Resources
- Crisis Plan Services
- Housing Counseling
- Peer Advocate Supports
- Short Term Supervision and Observation