

### CMS Waiver Steering Committee Minutes

<b>Date:</b> December 18, 2006		<b>Location:</b> Mile High United Way	
<b>Present:</b>		Elaine Wakasugi	
Kathy Athens, Denver Options	X	Jay Kauffman, DD	X
Amanda Bickel	X	Cami Learned, CCB Partners	X
Josh Block, HCPF		John Miles, DDD	X
LeeAnn Bellum, Denver Options		Kate MacLeod, Governor's Office	X
Claire Brockbank, Segue Consulting	X	Kim Eisen, HCPF	X
Judy Brown, DHS		John Nevins, Alliance/Imagine	
Chris Collins, Alliance	X	Al Orlofsky	X
Mike Crane, DHS/DDD	X	Michele Patarino, Segue Consulting	X
John Daurio	X	Roxanne Pinneo, CCB Partners	X
Fred DeCrescentis, DDD		Barb Prehmus, HCPF	
Marta Fyffe, HCPF	X	Barb Ramsey, HCPF	X
Ted Hernandez, Denver Options	X	Jeremy Schupach, Alliance	X
Luke Huwar, Governor's Office	X	John Taylor, Alliance/Imagine	X
Roger Jensen, Alliance/Starpoint	X	Christine Thomas, DHS	X
Matthew Solano		Gary Smith, HSRI	X
Max Chmura	X	Julius Monge	X

**Announcements:**

There is no agenda for today's meeting. The purpose is to go over the HSRI report and the preliminary report from Navigant Consulting. The HSRI report has been made available to the public and members of the CMSWSC over the course of the last week or so. The preliminary Navigant report has just been approved for distribution so has not yet been distributed to the public. The material presented today provides insight into the Navigant report. In addition, this report will be made publicly available as soon as all clearances are received. These minutes capture the slides presented by HSRI and Navigant. In addition, these slides will be made available on the DDD website (<http://www.cdhs.state.co.us/ddd/index.htm>).

HSRI and Navigant were selected through a formal bid process with the state procurement staff and a committee made up of state and CCB staff as well as Julie Reiskin of the Colorado Cross Disability Coalition.

HSRI and Navigant are responsible for the following tasks:

**Task 1:** Identify changes to the comprehensive and supported living services (SLS) waivers to meet federal requirements and improve their effectiveness in supporting people in the community. *This task will be completed by HSRI.*

**Task 2:** Restructure waiver payment rates based on individual support needs. *This task will be completed by Navigant.*

**Task 3:** Assist state officials to incorporate changes and the new rate structure into the federal waiver applications. *Both entities will be involved in this process.*

### **HSRI Report**

*Note: This report represents HSRI's recommendations. The state hasn't taken a position on them yet.*

#### **Overview**

Question #1: Would it be advantageous for Colorado to use a different federal Medicaid authority to finance community developmental disabilities services?

Question #2: Should the waivers be consolidated?

Question #3: What changes are necessary to align the Comp and SLS waivers to federal policies?

Question #4: What other changes would improve the value/utility of the waivers?

#### **Question 1: Other Federal Authorities**

There are three other ways to fund HCBS services:

##### **§1915(b)/§1915(c) Hybrid Waiver**

- Hybrid waivers pose significant design challenges
- 2 year time-horizon
- More, not less requirements
- Entitlement exposure

##### **§1115 Research and Demonstration Waiver**

Coverage of HCBS under Medicaid State Plan (§1915(i) – DRA 2005)

- DRA HCBS benefit is an imperfect substitute for 1915(c) waiver
- Eligibility problems
- Coverage problems
- DRA self-direction provisions already addressed by CMS in new waiver application

There is also an opportunity through Self-Direction Personal Assistance (§1915(i) – DRA 2005).

Bottom line: Other authorities may be worth considering down the road but are not realistic near-term options. Other states have been able to do some interesting things with them. Colorado should consider these when we can think beyond next year.

Question 2: Should Colorado combine the SLS and Comp waivers?

- PROBLEM: CMS *Olmstead* Letter #4
- Anyone enrolled in a waiver must be able to receive any service covered in the waiver
- Can't wait list people already enrolled in a waiver for services covered under the waiver
- Financial issue: SLS waiver participants who are wait-listed for Comp Waiver/residential services
- Bottom line: Consolidation is not financially viable unless there is more money available for services.

Questions 3 & 4: What changes are necessary to align the waivers to federal policies and what would improve the value of the waivers?

HSRI examined current waivers against current CMS policies and technical guidance

- Conducted stakeholder interviews
- Sorted changes into two classes –
  1. Near-term changes needed to secure CMS approval of revised waivers this summer
  2. Other changes that would increase value/utility of the waiver in supporting people

Some key points:

- Colorado's recent CMS issues revolve around payments and financial accountability.
- Issues concern compliance with general Medicaid policy rather than HCBS waiver policies and requirements.
- Colorado already has taken many of the fundamental steps necessary to address these issues with respect to Comp Waiver (e.g., interim rates, direct billing to MMIS).
- Upcoming waiver amendment must address the full range of CMS requirements contained in the new HCBS waiver application.

### Two-Stage Strategy

- Make the most essential changes this summer – point toward having SLS and Comp Waiver amendments ready to go in late March.
- Consider making other changes via second-stage, follow-along amendments.
- Once basic platform is on solid footing, it may be easier/simpler to secure CMS approval for additional changes.

### **Near-Term Changes and Recommendations**

HSRI concluded that major changes to the waivers are not necessary in the near-term. Many of the problems that stakeholders have identified are operational rather than policy issues and not appropriately addressed by the waiver.

#### Recommendations

- Clarify roles and responsibilities of HCPF, DHS/DDD, and CCBs in administering and operating the waivers (Stage 2).
- Used reserved capacity to set aside slots for crises and other legislatively approved purposes.

#### Recommendations - Comp Waiver Services

- Reexamine waiver participant financial liability provisions in the Comp Waiver (financial impact).
- Specify living arrangements for residential habilitation.
- Reintegrate nursing into scope of residential habilitation services.
- Substitute SLS supported employment definition for current comp waiver definition; identify types of supported employment services provided.
- Consider adding coverage of supervised day activities\*.
- Specify types of SMES that may be authorized\*.
- Institute maximum expenditure limitations to extent necessary.
- Used reserved capacity to set aside slots for crises and other legislatively approved purposes.

*\*Also applies to SLS*

#### Recommendations - SLS Waiver Services

- Provide for intermittent delivery of services in the SLS waiver.
- Delete coverage of prevocational services.
- Add prompting/cuing to definition of personal assistance.
- Remove supported living consultation from personal assistance.
- Separately cover SMES and housing adaptations.

- Substitute Comp Waiver definition of vision services for current SLS definition.
- Delete coverage of hearing services.
- Delete therapies covered under the state plan; add coverage of therapies not covered under the State Plan.
- Include a more detailed definition of covered nursing services.
- Institute a step-up method for authorizing the overall amount of SLS services.

#### Additional Recommendations

- Review rules to make sure that there are no impermissible restrictions on providers furnishing services anywhere in the state.
- Establish worker qualifications as necessary.
- Standardize IP development and risk assessment processes.
- Ensure that PQ processes place sufficient emphasis on administrative separation of case management and service provision.
- Adopt standard explanation of Fair Hearing rights.
- Add a Program Quality (PQ) process to test the validity of Comp Waiver claims.

#### Stage 2 Recommendations

- Incorporate self-direction into both waivers. Develop an operational design that can be embedded in both waivers. Use new waiver application as jumping off point for the stakeholder group to refine recommendations.
- This will likely trigger additional changes to services.
- Add coverage of customized day services.
- Change Comp Waiver to include provision of services in the family home.
- Redesign coverage of behavioral services (dependent on Task 2 –rate restructuring).
- Address absent day issues as part of rate restructuring (Task 2).

#### Q&A

1. Should the state or CCBs add a program quality process?

(Gary) Mostly the state.

(Christine) Matthew Solano's group is already working on these issues.

2. Why should allowing services in the family home wait until Phase II?

(Gary) It is a matter of pace. To the extent that the state is ready, it could be done in Phase I. But there are issues to decide about personal assistance and paying family members.

(Roger Jensen) The self-determination work group already addressed these issues in 2003.

3. Please talk about the waiver participant financial liability.

(Gary) There are currently different policies attached to the two waivers. For example, Colorado should consider allowing people to keep their income from wages.

4. In reference to the 2003 report on self-determination, the report notes that Gary would be happy to meet with that committee. Why didn't he just respond to that report?

(Gary) The new waiver application clarifies some of the issues, and has some decision points in it that have not yet been addressed. The application requires that additional operational details be fleshed out.

5. The HSRI report, on page 28, say, "... use of the DDD alternative dispute resolution process is entirely optional. For the purposes of the revised waiver, it is not necessary to straighten out all the issues that attend the alternative dispute resolution process nor resolve around how grievances and complaints are handled." Will Medicaid Fair Hearings be addressed in Stage I or Stage II?

(Gary) The waiver does not require more than the fair hearing process. The other items do not go to CMS. It doesn't mean it shouldn't be straightened out, but as mentioned, the DDD ADR process is entirely optional.

6. The report discusses supported employment services through DDD and vocational rehab on page 20. Is there an opportunity to help people find jobs?

(Gary) Yes, but Medicaid won't pay for services someone else has bought. You can do career exploration under the waiver, being respectful of the non-duplication of payment.

7. Why is self-determination going to be addressed in Stage II?

(Christine) The departments have asked to focus on things needed for CMS approval of the waiver by July 1, 2007 first.

The departments have to look at their operational capacity to work through the issues. Right now it is not Stage I, but it may move to a higher priority in the future. In 2003, the state did commit to address self-determination in the next waiver amendment. And we may be going back on that commitment due to the volume of work for the CMS requirements.

8. Please explain crisis/reserved slots?

(Gary) It means setting aside slots for clients in crisis. CMS now allows states to explicitly do that, as well as things like children aging out of foster care.

9. Do you define crises?

(Gary) No.

10. Are there items in the amendment that will address compliance with HB1243 (Self Directed Attendant Care)?

(Barb Ramsey) The Department has to address 1243 across eleven waivers. It has been written into the EBD waiver first and we will use the approved language in other waivers once we receive approval from CMS.

11. If CMS approval for self-directed care is received prior to this waiver submission, will we add the language to the DDD waiver?

(Barb) The focus of Stage I is compliance issues. We don't have the capacity to address all the issues at the same time.

12. What does CMS seem to be thinking related to self-determination?

(Gary) They have been very supportive. They have had a high volume of state requests to implement self-direction, and they are encouraging states to do it.

### **Navigant Report**

Navigant Consulting Project Team:

- o Max Chmura (Project Director)

- Jim Pettersson (Seattle)
- Bo Martin (PhD Statistician, Chicago)
- Liz Larson (Actuary)
- Sarah Barry (Seattle)
- Holly Bertoli (Chicago, Researcher)
- Peter Soh (Chicago, Researcher)

**Who is Navigant Consulting?**

- Approximately 1,700 Consultants
- More Than 400 Dedicated Healthcare Consultants
- More Than 40 Offices Across The United States And Abroad (including one in Denver)
- Provided Assistance To Virtually Every State Medicaid Program, Over 25 State Developmental Disability Agencies, & Many Mental Health and Child Welfare Agencies
- Have Worked with Provider Agencies and Organizations
- Experience with Consumers, Self-Advocates, Advocacy Organizations
- Extensive Work in Small and Rural States
- Extensive Work Navigating Broad Systems Change Initiatives
- Strong Relationship with CMS, NASDDDS, HSRI, and others

**Public Policy Solutions Offered by Navigant:**

1. HCBS Waiver Development And Review
2. Assistance Strengthening Consumer-Directed Program Policy
3. Strategic Leadership, Planning, and Partnership Building
4. Cost Analysis
5. Revenue and Reimbursement System Review & Restructuring
6. Cross-disability System Re-balancing

**Guiding Principles for Rate Setting**

(The going-in assumption is that the new rates have to be budget neutral).

1. Consumers should be empowered to make their own service and support choices. (This does not imply self-direction per se, but person-centered planning).

2. The selection of services and supports should be cost effective. (Nobody has answered this efficiently to date).
3. The state should fund services at a level that will maintain consumer access to desired services and supports.
4. Payments to providers for services and supports should be made consistently and equitably.
5. There should be an appropriate balance between consumer choice and fiscal responsibility.
6. The methodology used to determine payments to providers should facilitate predictability of payment for the division.
7. The methodology used to determine payments must be responsive to CMS audit and compliant with CMS Rule.

Objectives of the Waiver Rate Setting Methodology (Task 2):

- Common and Consistent Approach that Can Be Used For Both The Comprehensive And Supported Living Services Waiver
- Provide A Long-term Policy Solution For Issues Raised In CMS' Recent Audit
- Create A Viable Fiscal Platform That Supports Quality Services And Facilitates Expansion Of The Provider Community
- Redistribute Available Appropriation Equitably
- Support Choice for People Who Have Developmental Disabilities

Navigant's project team will work with the state to look at mitigating changes at the individual consumer level (vs. individual provider level). Among providers, there will be winners and losers, and we will have to look for a reasonable transition.

Waiver Rate-Setting Technical Approach

The approach will consist of five distinct phases:

*Phase 1: Cost Data Analysis*

*Phase 2: Rate Methodology Design*

*Phase 3: Developing Recommended Rates*

*Phase 4: Impact Analysis*

*Phase 5: Implementation Guidance*

Rate-setting Technical Advisory Group (TAG)

The TAG plays an advisory role to Navigant in their task. Christine has asked for nominees with technical knowledge of the financing of the DD system from CCBs, state staff, parents, and ARCs. The participants have not been selected, but there will be 12-15 members.

Purpose

- Investment of Principal Stakeholders

- Sounding Board For Project
- Discuss Salient Issues
- Provide Alternative Perspectives And Interpretations
- Provide Feedback To Project Team And Division
- Assure Common Understanding & Knowledge Base of Project Output

Technical Advisory Group (TAG) Meetings

- 90-Minute Conference Calls or Meetings (work sessions) every 2 weeks beginning January 8th
- Will Provide Advice on Key Project Tasks (i.e., cost model, supplemental data survey, review of other states,
- Members Will be Responsible for Carrying Project Information Back to Other Stakeholders
- TAG Membership Under Development

Rate Setting for the Following Waiver Services

- Residential Services\*
- Day Habilitation\*
- Supported Employment\*
- Skilled Nursing
- Behavioral Services
- Transportation

*\*Navigant will introduce SIS data as representative of need for these services.*

Rate Setting for the Following Additional Services and Activities

- Targeted Case Management
- Administrative and Quality Activities
  - Claiming Process
  - Allowable Costs
  - Documentation Process

Available Data Includes:

- Consumer Service Plans
- Interim Rates For Each Waiver Service Area
- Resources Associated With Administering The Supports Intensity Scale (SIS) For Each CCB
- CCB Consolidated Financial Reports

•State Profiles Of Other States' Service Delivery Systems

NCI Proposes To Use The Cost Methodology Approach For Developing The Waiver Rates Because:

- There Is No Common Provider Cost Data That Allows The Necessary Integration And Analysis For Each CCB
- Expenditure Data Associated With CCB Payment Levels Are Unavailable
- The Available Cost Data May Not Have Been Collected Consistently Across Providers
- The Audit Data Is Not At The Level Of Detail Necessary For A Cost Analysis, And It Is Not Available Electronically

Cost Analysis Versus Cost Methodology

*What Is A Cost Analysis?*

Development of service rates based on comprehensive provider cost information. Navigant is moving away from this approach for Colorado.

*What Is A Cost Methodology?*

•Development of service rates using industry standard data that is adjusted for local experience. This methodology is based on data related to the key cost elements collected from available sources, such as the Bureau Of Labor Statistics, national and other state agency information, adjusted using data from a provider survey. This is the approved project approach, and will employ a common set of cost elements such as personnel, indirect, and others. Ideally, HSRI's recommendations will be taken into account, but there is a limit to what can be done in the next 3-4 months.

Timeline For Rate-setting

- December 31, 2006:** Distribute Proposed Cost Model for Development
- January 31, 2007:** Finalize Any Supplemental Data Collection Tool In Conjunction With Technical Advisory Group
- February 6, 2007:** Specify Approach For Determining TCM And Administration Rates, Including Necessary Data Collection
- February 28, 2007:** Prepare Summary Report Of Cost Model
- March 31, 2007:** Submit Initial Proposal For Comprehensive Waiver Rates
- April 15, 2007:** Revise Proposed Rates if Required by Division
- April 30, 2007:** Submit Initial Proposal for Targeted Case Management Rates
- May 15, 2007:** Submit Initial Proposal for HCBS Administration and Quality Activity Claiming Process and Rate
- May 31, 2007:** Revise Proposed TCM Rate, if Required by Division
- June 15, 2007:** Revise Proposed Administration and Quality Activity Claiming Process and Rate, if Required by Division
- July 1, 2007: GO LIVE DATE!!!!!!**

### Questions and Answers

1. How do tiers determined by SIS assessments come together with the cost methodology?

(Max) The rate methodology will be sensitive to site of service but not dependent on it.

2. Will you comment on the adequacy of funding for the system as a result of your work?

(Max) No, the analysis makes the assumption that funding is adequate.

3. How will the model deal with outliers?

(Max) We aren't far enough along to comment on that yet.

4. Do you see the potential for unintended consequences?

(Max) Well, there will be winners and losers, and a level of angst that comes from not having money for hold-harmless.

5. Do you predict that we'll fall prey to the "tyranny of regression to the mean," and will that have an impact on quality?

(Max) There will be a regression to the mean, yes, but there won't necessarily be an impact on quality. The amount of funds provided by the mean can be adequate—it is just based on a different model.

6. Why don't we ask CMS for an extension on the waiver amendment and do a better job on it?

(Barb Ramsey) We haven't yet done enough work to show we've made an adequate effort before we ask for the extension. We won't go back to CMS until we can clearly describe what would keep us from meeting the timeframes. We need more specific information before we consider this.

(Claire) We will further refine the Steering Committee's Work Plan and determine when and how all the tasks can be done.

7. Do SIS assessments need to be done for SLS before you can implement new rates on July 1?

(Max) No, you can set the methodology without implementing it yet.

(Gary) However, in order to do a full impact analysis, you need the SIS assessments.

(Roger) That is a big issue. Just getting Comp done is stressing the system.

(Christine) We will not do SIS assessments on SLS this year.

8. After July 1, if someone moves out of the state and there is a space for a new person, and the next person on the waiting list has had their SIS done, you know their needs, you know how they want to be served, what happens if the funding doesn't match? If the person who left was at \$15,000 of funding and the next person in line needs \$25,000 in funding? Will the new person be told they can't decide how they want to be served?

(Max) The new person will figure out which payment level they can make work for the services of their choice.

(Christine) There will be no change from the current practices when this happens- the State will need to meet the needs of the individual under the waiver as defined in their IP.

(Jay Kauffman) We just haven't done enough work yet to answer this.

9. I am concerned that people will be told they cannot live by themselves.

(Max) That is not the team's intent.

(Barb) The way the services are structured in the rate bands is not directly related to the way MMIS can be structured. We will not let MMIS drive the services that are available. We assume certain services can be combined within a rate tier.

10. But where does the money come from? If the person has been evaluated at a \$25,000 annual rate and the slot was only for a person with a \$15,000 rate?

(Barb) The "slot" does not have a particular dollar amount attached. A slot is a position open on the waiver. Once enrolled, the client will receive those services, identified in their care plan, necessary to allow the client to live in the community.

	<p>(Max) A key question is how you define what a tier offers.</p> <p><u>Upcoming Meetings</u>  In general, the Steering Committee will meet on the 2<sup>nd</sup> and 4<sup>th</sup> Thursdays of the month. Due to some conflicts, these dates don't work in February and March. The next five meetings will be:</p> <ul style="list-style-type: none"> <li>○ January 11</li> <li>○ January 25</li> <li>○ February 8</li> <li>○ February 15</li> <li>○ March 8</li> </ul>
	<p><u>Agenda Items for January 11</u>  SIS Complaint Process  SIS Reporting</p>

Guests:

1. Aileen McGinley
2. Randy Brodersen
3. Linda Skaflen
4. Rob DeHerrere
5. Amanda Bickel
6. Paul Niemann
7. Nora Earnest
8. Stacie Baesman
9. Nancy Baesman
10. Bill Baesman
11. Tim Cairns
12. Dianne McNamara
13. Bob Sattler
14. Beverly Hirsekorn
15. Gerrie Frohne
16. Todd Lowther

17. Julius Monge
18. Carol Meredith
19. Tom Liotta
20. Art Hogling
21. Grace Ornsley
22. Jed Ziegenhagen

**Hand-outs:**

1. Powerpoint – Review of Colorado’s HCBS Waivers for People with Developmental Disabilities, Gary Smith, HSRI
2. Powerpoint – Rate Setting for HCBS Waiver Services and Other Services, Navigant Consulting