



STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF LONG TERM SUPPORTS AND SERVICES

BUREAU OF ELDERLY AND ADULT SERVICES

Lori A. Shibinette
Commissioner

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Director

Telehealth

Comment: Several commenters asked about what services could be provided via telehealth and how the Department would ensure telehealth services.

Response: BEAS will be providing guidance on when services may be delivered via telehealth. BEAS will consult with applicable providers, stakeholders, and case managers to develop a Telehealth checklist to determine when a services may be delivered via telehealth. The guidance and checklist should ensure that telehealth services will only be allowed if it adequately meets the participant's needs.

Comment: Several commenters supported the inclusion of telehealth for waiver services.

Response: BEAS thanks you for your comments on this issue.

Participant Directed and Managed Services

Comment: Several commenters asked why BEAS is partnering with BDS in implementing participant directed and managed services for the CFI waiver.

Response: BDS has operationalized 3 waiver programs that include options for PDMS. BEAS is hoping to utilize the experience BDS has with operating PDMS programs in bringing PDMS options to CFI. BEAS will also be involving CFI providers and other stakeholders to create a PDMS workgroup.

Comment: One commenter was concerned that the language regarding provider requirements for participant directed and managed services implied that participants could hire individuals to provide services that require licensure under state law without having obtained a license.

Response: BEAS thanks you for your comment. PDMS Services are still subject to state and federal law. PDMS allows participants to choose their own providers within state law. BEAS has amended the provider requirements for skilled nursing to align with the requirements for agency directed services and state law.

Comment: One commenter asked what services will be eligible for participant directed and managed services?

Response: All services except for Residential Care may be participant directed.

Comment: What are provider qualifications to participate in PDMS services? Is there a training, license or certification?

Response: Case Management agencies identify participants likely to benefit from PDMS. If a participant is interested in PDMS, an FMS provider will provide training on how to manage and direct services. Participant determines qualifications for providers subject to state law licensure requirements

Use of Service Authorizations

Comment: One commenter asked if BEAS was changing the need for service authorizations to be entered into MMIS.

Response: BEAS is not changing how service authorizations work. Service Authorizations must be requested via NH EASY. BEAS will approve Service Authorizations based on needs identified comprehensive care plan.

Quality Assurance Eligibility Processing Timeframes

Comment: One commenter asked if BEAS would consider adding the quality assurance measure for time frame for eligibility determinations back into the waiver.

Response: BEAS monitors performance of eligibility determination through contract monitoring.

Institution for Mental Disease

Comment: Several commenters asked why the CFI waiver is being amended to allow for services provided in an institution. Several commenters mentioned they believed CFI services could already be provided in institutions for mental disease.

Response: BEAS thanks you for this comment. An Institution for Mental Disease (IMD) is a facility with more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services. CFI are currently not provided in an IMD per state and federal regulation. Should the state or federal government allow CFI service in IMDs this waiver renewal will allow for CFI services to be provided in an IMD without having to amend the waiver again.

Medical Eligibility Assessment

Comment: Any clinical assessment tool used to determine eligibility for the CFI Waiver should acknowledge that individuals living with cognitive impairment may not necessarily exhibit physical issues with ADLs such as eating, toileting, bathing, etc., but that they may need modeling, cuing, redirecting or other assistance in order to complete the task. Ensuring that this flexibility is given to those experiencing cognitive impairment will be critical for the determination of their eligibility for the program.

Response: BEAS thanks you for your comments on this issue. BEAS will continue to monitor the appropriateness of assessment tools including the MEA.

Adult Day

Comment: One commenter asked why adult day facilities are not required to be licensed.

Response: Providers must be licensed as required by RSA 151:2 as stated on page 55 of waiver.

Comment: Several commenters asked for clarification regarding the difference between CFI adult day services and adult day services offered under the state plan.

Response: State Plan enrolled adult day providers are not necessarily CFI enrolled adult day providers. CFI participants must need nursing level of care while state plan beneficiaries do not. The Level of Care requirement for CFI results in CFI Adult Day participants and individuals receiving adult day under the state plan having very different adult day service plans. CFI Adult Day Service plans are more involved as the individual is more likely to have more needs than a state plan beneficiary. The difference in the needs of the two populations is why CFI has a higher rate than state plan.

Comment: Several commenters were concerned that adult day services could not be effectively provided via telehealth.

Response: BEAS will be providing guidance on when services may be delivered via telehealth. BEAS will consult with applicable providers, stakeholders, and case managers to develop a Telehealth checklist to determine when a services may be delivered via telehealth. The guidance and checklist should ensure that telehealth services will only be allowed if it adequately meets the participant's needs.

Comment: One commenter expressed concern that oversight of telehealth adult day services was being improperly assigned to case managers.

Response: CFI Case Managers are responsible for the ongoing assessment, person-centered planning, coordination of continued CFI Waiver enrollment, and monitoring of the provision of services included in the comprehensive care plan, and assisting their CFI participants with required tasks to continue CFI enrollment.

Home Health Aide

Comment: Several commenters were concerned about changes to the description of Home Health Aide services to be more specific. Several commenters were concerned that the proposed language was too restrictive.

Response: BEAS thanks you for your comment. BEAS will be clarifying the definition of HHA services in the waiver to allow for services of an LNA within the scope of the Nurse Practice Act. This change will allow the nurse practice act and nursing board to dictate what services a HHA may or may not provide.

Comment: Several commenters asked about the difference between CFI home health aide services and state plan home health aide services.

Response: CFI Home Health Care providers do not need to be Medicare certified. State plan is to address medically oriented needs and different duration. CFI address long term care needs.

Non-Emergency Medical Transportation

Comment: Several commenters inquired about whether the CFI waiver could be used to provide non-emergency medical transportation to participants.

Response: BEAS thanks you for your comment. Unfortunately BEAS is unable to extend any CFI waiver service to cover NEMT. NH State Plan has managed care contracts for MCOs to cover NEMT for all Medicaid beneficiaries including CFI participants. Medicaid third party liability rules prohibit waivers from covering services that are already covered under an existing agreement.

Relatives as Providers

Comment: Several commenters requested that relatives be allowed as homemaker providers.

Response: BEAS thanks you for your comments on this issue. BEAS will be revising the waiver to allow relatives to be homemaker providers.

Personal Care

Comment: Several commenters were concerned about the inclusion of skilled nursing care in the definition of personal care services.

Response: The Department is clarifying in the waiver that PCA are not expected to perform skilled services unless they receive proper delegation.

Respite

Comment: Access to this service is currently limited to a point of inadequacy due to availability of providers. Meaningful options are needed which consumer will be able to access when needed.

Response: Thank you for your comments on this issue. BEAS is aware of a shortage of Respite Providers. BEAS is making efforts to attract more providers. We appreciate any suggestions on this matter.

Supported Employment

Comment: If someone is receiving kinship care, would they be able to also receive supported employment?

Response: Yes.

Comment: Several commenters expressed concerns about lack of supported employment providers.

Response: Thank you for your comments on this issue. BEAS is aware of a shortage of Supported Employment providers. BEAS is making efforts to attract more providers. We appreciate any suggestions on this matter.

Financial Management Services

Comment: One commenter asked what the prerequisites for becoming a FMS provider are.

Response: FMS providers must enroll as FMS providers under Medicaid. As part of the enrollment process, the FMS provider demonstrated the capability to perform the required tasks in accordance with Section 3504 of the Internal Revenue Code and Revenue Procedure 70-6 Internal Revenue Cumulative Bulletin 1970, p. 420, accessible via ZIP download at govinfo.gov.

Comment: One commenter asked when FMS will be allowed in an acute care setting?

Response: Temporary provision of services in acute care hospitals, based on an individual's needs has been added to this Waiver as identified in Appendix C. All Home and Community Based Services in this Waiver are not duplicative of services available in the acute hospitals. Services that may be temporarily provided in acute hospitals include: Personal Care, Respite, Supported Employment, Financial Management Services, Participant Directed and Managed Services, Community transition services, Environmental accessibility services, In-Home Services, Personal Emergency Response System (PERS) and Specialized Medical Equipment Services. These services are provided to meet needs of the individual that are not met through the provision of acute care hospital services; are in addition to, and may not substitute for, the services the acute care hospital is obligated to provide; Will be identified in the individual's person-centered comprehensive care plan; and will be used to ensure smooth transitions between acute care hospitals and community-based settings and to preserve the individual's functional abilities. FMS is a monthly service to allow participants to manage and direct their own services. FMS is allowed in acute settings in that the participant can still have FMS assist with PDMS while the individual is in a hospital or other acute setting.

Adult Family Care

Comment: Several commenters that the wording regarding how many unrelated people could live in a household would be unnecessarily prohibitive.

Response: BEAS thanks you for your comment on this issue. BEAS will be revising the waiver to clarify the language referred to is regarding unrelated individuals *receiving AFC services*.

Community Transitions

Comment: Can you clarify on the limits, that it is limited to \$3000 per person per transition and the next bullet is it is a one-time service and represents one-time costs? Can you provide examples of per transition verses one time?

Response: Community Transitions are for one time i.e. not ongoing expenses for each transition but the Community Transition service can be received more than once. For example an individual looking to transition might receive help with a security deposit a onetime expense as opposed to rent which would be ongoing. However if that individual were to later be readmitted to a NF and then later retransition back to the community again that person could receive help with a security deposit again. The service is one-time per transition, so if someone needs the same type of assistance in a later transition in can be covered.

Environmental Accessibility Services

Comment: Several commenters were asking if more clarification was needed to allow EAS to cover modification of vehicles.

Response: Vehicle modifications that meet the applicable requirements namely that a Medicaid enrolled licensed practitioner determine it necessary and prior authorization requested.

Comment: One commenter requested that EAS be allowed when a relative of a participant is the owner of a vehicle.

Response: BEAS will modify the waiver to allow for EAS of a vehicle if the owner of the vehicle is a relative of the participant.

Home Delivered Meals

Comment: In reference to adult family care, the only thing is that is personal care could not be combined with it. So, can someone get home delivered meals even though they are being paid to be a provider? In my opinion is that they are to be providing meals in adult family care.

Response: BEAS thanks you for your comments on this issue. Home-delivered meals can be delivered in adult family care if the service is included as part of the comprehensive care plan.

In-Home Services

Comment: Several commenters asked why in-home services are allowed in an acute care setting.

Response: CFI services may be authorized while an individual is in an acute care setting when the services are aimed at allowing the individual to continue living in the community. For example In-Home Services or Homemaker services involving laundry, cleaning, and other household chores may be authorized during temporary hospitalizations to allow the participant to return to a community home.

Non-Medical Transportation

Comment: One commenter objected to the limitation that non-medical transportation not be allowed when using the participant's vehicle.

Response: The prohibition on use of a participant's vehicle does not apply to any other authorized service. For example a participant with authorized personal care services could ask a personal care services provider for transportation and the personal care provider could utilize the participant's vehicle in providing personal care service. The non-medical transportation service was added to the CFI waiver to reimburse personal care providers for the cost of maintaining their vehicle and mileage. When a personal care provider provides transportation but utilizes the participant's vehicle, the provider does not incur the costs that the non-medical transportation service was meant to reimburse for, and the provider should not be eligible for the higher rate. The department has made a revision to He-E 801.23 in the final proposal that clarifies that the prohibition on use of a participant's vehicle does not apply to any other authorized service, such as personal care services.

Personal Emergency Response Systems

Comment: One commenter asked why medication dispensers are considered SME and not PERS.

Response: Members can have a single medication dispenser not linked to a call system or a dual dispenser with a PERS if the Provider is able to provide for alert calls. For reminders, or device malfunctions. Not all members need the added Medication device and can have the PERS system alone.

Comment: Personal Emergency Response System (PERS) devices including wearable technology such as GPS devices are included in the Department's draft 2022 CFI Waiver application. These devices are incredibly important for people living with the disease given that six in 10 people who experience dementia will wander at least once; many do so repeatedly, and it can be extremely dangerous, even life-threatening. For those who are at risk of falling, the best PERS device for a person living with dementia would be one that is gyroscopic, where emergency response is initiated after a fall has been detected, since individuals living with memory and cognition issues may not be able to press a button to call for help.

Response: BEAS thanks you for your comment. BEAS will continue to monitor the definition of PERS and developing technologies to best serve the residents of New Hampshire.

Residential Care Facility Services

Comment: Several commenters expressed concern about the availability of RCF services for low income participants that cannot afford to pay much for room and board.

Response: BEAS thanks you for your comments on this issue. BEAS recognizes that the cost of room and board at residential care facilities can be cost prohibitive for many participants. BEAS is unable to take further action without new legislation.

Comment: One commenter expressed concern regarding participants signing waiver of case management services to receive retroactive authorization for RCF services.

Response: BEAS thanks you for your comment. The waiver is intended to allow retroactive coverage of residential care facility (RCF) services under CFI. CFI requires that case management services be offered for CFI services to be covered. For individuals residing at RCFs that become eligible for LTC services but do not open for CFI immediately, the individuals could incur large RCF expenses. The waiver of CMA services is intended only for the retroactive period before the individual opens for CFI and allows CFI to reimburse the RCF instead of the individual incurring bills for RCF services that could be covered by CFI with a waiver.

Skilled Nursing

Comment: Several commenters that the guidance regarding the definition of skilled nursing services was unnecessarily restrictive.

Response: BEAS thanks you for your comments on this issue. BEAS will be clarifying the definition of skilled nursing as being services provided within the scope of the Nurse Practice Act.

Comment: The CFI Waiver allows for skilled nursing visits, a service that is essential for beneficiaries who can't always report on their health or medical conditions. In order to ensure that those living with Alzheimer's and dementia have access to regular health assessments, a more frequent and regular schedule of skilled nursing visits, such as once every 30 days, may be beneficial.

Response: BEAS thanks you for your comment. Services are approved based on the comprehensive care plan.

Specialized Medical Equipment Services

Comment: Who is identifying the shelf-life of the equipment? Where is this coming from – vendor or state?

Response: Vendor should identify any shelf life related to SME. BEAS will authorize any necessary replacements repairs as necessary e.g. new battery.

Comment: One commenter suggested that the procurement process for SME is overly burdensome.

Response: The department believes that requiring two proposals is an effective method for controlling the costs of services. Many states with a two proposal implement a threshold under which one proposal is acceptable. See NY Dept. of Health Nursing Home Transition and Diversion Medicaid Waiver Program Manual, Section VI, Assistive Technology (requiring minimum 3 bids for assistive technology over \$1,000) See also IN Health Coverage Program Provider Reference Module Home and Community-Based Services Waivers, Section 7, p. 89 (requiring minimum of two bids for specialized medical equipment over \$1,000). To reduce the burden of the requirement while maintaining an important cost control, the department has decided to keep the two proposal requirement but implement a threshold of \$1,000 that will allow specialized medical equipment costing less than \$1,000 to be approved with only one bid without a written explanation.

Supported Housing Services

Comment: One commenter expressed a concern with a particular provider.

Response: BEAS thanks you for your comment. BEAS is aware of the situation, but we will not be addressing concerns with a particular provider in this setting.

Comment: The waiver details compliance with HCBS Final Settings Rule and there exist concerns with the supported housing services setting, specifically many participants ability to have privacy and dignity. One or more facilities employee inspection staff and supervisors who enter the units with or without permission. The residents are photographed without consent and there is no clear delineation of the roles and responsibilities for compliance with the settings rule guidance between housing authority and home care. That is true of any other regulatory guidance in some instances. The Home Care Providers contracts are for services of housekeeping and they claim no responsibility to the services contracted to the housing authority. One or more facilities have a nurse's station and this facility would meet the criteria for licensure under He-P 804 and 805. I recommend that they be required to pursue the licensure but with no objection leaving it under this heading. Many facilities have minimum income limits and in these facilities the service is only available to consumers at the top echelon of eligibility threshold

similar to the concern raised for residential care due to income guidance the services aren't available to all participants, which is questionable at best.

Response: BEAS thanks you for your comment. BEAS is aware of the situation, but we will not be addressing concerns with a particular provider in this setting.

CFI Service Rates

Comment: Several commenters expressed concerns that the methodology for calculating CFI service rates is insufficient.

Response: The formula for determining the effective rates for the waiver application is correct. The rates in effect on June 30, 2021 are appropriate to serve as the baseline for rate updates to be implemented for the SFY 2022-2023 biennium. It should be clarified that the June 30, 2021 rates function as a baseline for calculating updated rates, and are not being proposed here as the rates in effect for the waiver renewal. The unit costs listed in Appendix J will be updated to reflect the rate update effective July 1, 2021 for the SFY 2022-2023 biennium, and will include the 5% rate increase from the previous fiscal year.

CMA Contingency Planning

Comment: Several commenters were concerned that there was no authority for requiring CMA to have contingency plans and that contingency planning is impossible when there are no community service providers available.

Response: He-E 805.05(c)(3)f. requires that CMA develop and individuals contingency plan that must identify alternate staffing resources in the event that normally scheduled care providers are unavailable and address special evacuations that require notification of local emergency responders. Nursing Facilities may serve as alternate caregiver when no other provider is available.

Dementia Specific Case Management

Comment: Case management services are currently provided by the waiver, however, in order to ensure that individuals with dementia receive targeted case management and caregiver supports, dementia-specific care coordination may be beneficial. Dementia case managers who are trained in the complexities of the disease would be able to better serve people with dementia by improving service coordination and the quality of care, which may also reduce Medicaid spending. The Alzheimer's Association, MA/NH Chapter provides a Dementia Care Coordination (DCC) service that assists over 1,000 families a year. The Alzheimer's Association employs specially trained dementia care consultants. We receive referrals from health care providers, Medicare Advantage plans and provider/plans that deliver care for dual eligible (Medicare and Medicaid).

Response: BEAS will not require dementia specific care coordination at this time. We will consider commenter's feedback in our future considerations.

Requests for Additional Services

Comment: Pet care: The significance of animal presence in the life of an older adult or an individual with a disability are often lifesaving, especially as social isolation has only increased due the COVID 19 pandemic. Including the task of minor pet care, as needed, in the provision of Personal care and Homemaker services (pages 59, 61) should be an acceptable extension of care for individuals. This will serve to ensure safe and healthy companionship for clients as well as reduce a barrier to attracting workforce.

Response: BEAS will not offer pet care at this time. We will consider commenter's feedback in our future considerations. BEAS has added care of service animals in personal care service

Comment: Caregiver Coaching: A vital and effective service delivery consideration is Caregiver Coaching. It is less about program and respite referral and more about competency in caring. Coaching can facilitate successful and sustaining caregiving through the understanding of a caregiver's competencies and goals. Providing diagnosis information, coaching, and emotional support has proven to lessen the burden often associated with caregiving. Developing this service for CFI recipient families would be augmenting a service that is missing in the delivery

of long term supports and services. Coaching can also serve to support longevity in the field, something necessary to address the impact of turnover in the workforce shortage.

Response: BEAS will not offer caregiver coaching at this time. We will consider commenter's feedback in our future considerations.