

Objectives

- Discuss CMS Technical Guidance on Employment Services
- Discuss HCBS Regulation Regarding Home and Community-Based Settings
- Provide an Overview of CMS Funding Opportunities for Employment Supports and Services
- Discuss New Performance-based Options for Funding Employment Supports through a § 1915(c) waiver

1915 (c) Waiver Technical Guidance Revisions

- Underscores CMS's commitment to the importance of work for waiver participants
- Supports States' efforts to increase employment opportunities and meaningful community integration for waiver participants.
- Provides further clarification of CMS guidance regarding several core service definitions and adds several new core service definitions.

Key Updates to CMS Waiver Guidance: continued

- Articulates best practices and highlights self direction options for employment support
- Explains that Ticket to Work Outcome and Milestone payments are not in conflict with payment for Medicaid services rendered

Key Updates to CMS Waiver Guidance:

- Provides a strong preamble that highlights the importance of competitive work and CMS's goal to promote more integrated employment options in waivers
- Emphasizes the critical role of person centered planning in achieving employment outcomes

Key Updates to CMS Waiver Guidance: continued

- Articulates best practices and highlights self direction options for employment support
- Explains that Ticket to Work Outcome and Milestone payments are not in conflict with payment for Medicaid services rendered

Key Updates to CMS Waiver Guidance: continued

- Clarifies that pre-vocational services are not an end point, but a time limited (but no specific limit given) activity to help someone obtain competitive employment
- Describes that volunteering ~~work~~ and other ~~work-type~~-similar activities that can build skills and interest for integrated supported employment (but that are not paid, integrated employment) are appropriately classified as pre-vocational, not supported employment services

Key Updates to CMS Waiver Guidance: continued

- Splits supported employment into two core service definitions- individual and small group
- Adds a new core service definition for career planning currently used by several States

Sharing Updates

- CMS is not changing policy, but clarifying and strengthening guidance around permissible waiver options to promote employment for people with disabilities and individuals who are elderly.
- CMS issued an Informational Bulletin with these updates on 9/16/11 (<https://www.cms.gov/CMCSBulletins>)
- These changes were also included in the January 2015 version of the Waiver Technical Guide

Final Rule

CMS 2249-F and CMS

Published in the Federal Register on 01/16/2014

Title:

Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice (Section 1915(k) of the Act) and Home and Community-Based Services (HCBS) Waivers (Section 1915(c) of the Act)

Intent of the Final Rule

- To ensure that individuals receiving long-term care services and supports through home and community based service (HCBS) programs under the 1915(c), 1915(i) and 1915(k) Medicaid authorities have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate
- To enhance the quality of HCBS and provide protections to participants

Final Rule: Impact on Employment

- 441.301(c)(2)(i) The Home and Community-Based setting:
- Is integrated in and supports access to the greater community
 - Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
 - Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services

Pay for Performance Option

Acceptable:

- Outcome payment for Discovery or SE Assessment Service and Report as a single unit of service which is:
 - Time-limited service
 - Tangible outcome that shows the service was completed (e.g., a report, career plan)
- Payment must be based on the average amount of time it is expected to take to complete the service (based on actual data) and the cost per hour of service determined by the state.

Example: 40 hours of service X \$40/hour = \$1,600 outcome payment

Pay for Performance Option

Acceptable:

- Outcome payment for Job Development, Placement, Customized Employment Position as a single unit of service
 - Time-limited service
 - Defined outcome that can be identified for payment (e.g. job obtained)
- Payment must be based on the average amount of time (based on actual data) it is expected to take to complete the service and the cost per hour of service determined by the state.

Example: 50 hours of service X \$40/hour = \$2,000 outcome payment

Pay for Performance Option

Acceptable:

- Tiered outcome payments based on level of disability
- Must explain in application the number of tiers and how the state will determine the appropriate tier for each waiver participant
- If state plans to have exception process, this must also be explained
- If a state doesn't use tiers and instead has one reimbursement rate for everyone, can the state demonstrate that people at all levels of acuity are getting access to the service and using the service to the same degree?

Pay for Performance Option

Acceptable:

Milestone payments in addition to fee-for-service to reimburse providers when certain employment outcomes are achieved

- Examples:
 - Person secures job that is 20 or more hours per week
 - Person achieves hourly wage that is 20% above state's minimum wage
 - Person retains job for at least 6 months, then one year
- Payment must be based on fair estimate of effort (based on data) a provider must put in to produce these "above average" outcomes.

Pay for Performance Option

Acceptable:

- Payment per hour worked by the supported employee:
 - Must be based on average percentage of job coaching time necessary to enable person to retain employment (supported by data at outset and verified at intervals on on-going basis)
 - Can have tiers based on acuity and average percentage can vary based on acuity.
 - Fading (some decline in percentage) over time must be expected at each acuity tier as the individual develops proficiency at the job.

Pay for Performance Option

Acceptable:

- Payment per hour worked by the supported employee requirements:
 - Reimbursement is verified for the hours the individual worked – not projected hours.
 - The individual has the option to end service if s/he wants to work completely independently
 - Payment adjustment is required when a job coach works with multiple individuals in a job site.

Pay for Performance Option

General Requirements:

- Independence of job coach from person centered care planner/case manager (no organizational or financial relationship; for a definition of a financial relationship, see 42 CFR 411.354).

Pay for Performance

General requirements:

- CMS requires fiscal integrity structures that ensures a regular look behind at actual hours spent working with individuals to ensure that the estimates used to set payments remain accurate.
- CMS requires the state to have clear expectations of success of an outcome. Criteria must be standard – not arbitrary, in order to weigh evidence against success.

Pay for Performance Option

Not Acceptable:

- Payment for a unit (e.g. 15 minutes; hour; day; month) where there is no expectation that any amount of service will be delivered by the job coach
- Payment per hour worked by the supported employee if payment structure does not expect fading of paid supports over time

Example Model: Job Coaching Percentages for Rate Calculation

SIS Tiers or Similar Acuity Tiers	0-11 Months on Job	12-24 Months on Job	25+ Months on Job
Acuity Tier 1	85%	75%	65%
Acuity Tier 2	65%	55%	45%
Acuity Tier 3	45%	35%	25%
Acuity Tier 4	30%	20%	10%

Contact Information

Ralph Lollar

Ralph.Lollar@cms.hhs.gov

Colleen Gauruder

Colleen.Gauruder@cms.hhs.gov

Jeff Clopein

Jeffrey.Clopein@cms.hhs.gov

Serena Lowe, DOL ODEP

Lowe.Serena.D@dol.gov