NASUAD
National Association of States
United for Aging and Disabilities

DEVELOPMENTS IN AGING AND DISABILITY POLICY: A NATIONAL PERSPECTIVE PART II

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Agenda

- NASUAD Overview;
- HCBS Settings;
- Electronic Visit Verification
- CMS and State Initiatives on Health and Welfare;
- HCBS Quality Initiatives; and
- Person-Centered Planning.

NASUAD Overview

- National Association that represents state agencies providing LTSS and other services and supports to Older Adults and People with Disabilities
  - 56 members (50 states, DC, 5 territories)
- Led by a board of directors comprised of state agency officials
- Provides direct technical assistance, research, regulatory and policy analysis to states
- Facilitates state-to-state information sharing via teleconferences/webinars, e-mail surveys, policy committees, and national conferences
- Educates and advocates for state agency interests in front of Congress and the Federal Government

HCBS Final Rule: January 16, 2014

- Applies to Medicaid HCBS delivered through 1915(c) and 1115 waivers and 1915(i) and 1915(k) state plan options
  - PACE programs are not included in the rule
- Designed to promote full access to benefits of community living in the most integrated setting appropriate
- Mandates conflict-free assessments and case management services
- Mandates a person-centered planning process and plan for services
- Establishes mandatory requirements that define an HCBS setting

HCBS Settings rule

- General requirements focus on individual choice, autonomy and integration into the broader community.
- Additional requirements for Provider controlled settings
- Settings that are not HCBS include: Nursing Homes, IMDs, ICF/IDs and Hospitals
- Settings that are presumed not to be HCBS and subject to CMS heightened scrutiny review include:
  - Settings in a publicly or privately-owned facility providing inpatient treatment
  - Settings on grounds of, or adjacent to, a public institution
  - Settings with the effect of isolating individuals from the broader community of non-Medicaid individuals
- State compliance process: states must submit transition plans to describe how their systems will come into compliance
  - CMS provides initial approval when the state finishes review and plan for compliance of state law, licensure requirements, regulation, and policy is complete;
  - CMS provides final approval when state finishes assessment and plan for compliance of all settings serving individuals receiving Medicaid-funded HCBS.

HCBS Settings Rule

- Settings rule deadline – extended to March 17th, 2022.
- New CMS Guidance: March 22, 2019
  - Clarifies the third prong of *settings that isolate* to focus on the experience of the individual and their opportunities for community integration;
  - Provides additional clarification on rural settings, settings that do not receive Medicaid funding, and the processes for states and providers to come into compliance with the rule;
  - https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf
- As of May 21, 2019, 45 States have initial STP approval:
  - States that don't have initial approval: IL, ME, MA, NV, NJ, TX
  - 13 States have initial and final STP approval: AK, AR, DC, DE, ID, KY, MN, ND, OK, OR, TN, WA, WY

Electronic Visit Verification

- The 21st Century CURES Act mandates that state Medicaid programs have electronic visit verification for:
  - Personal care services by ~~2019~~ 2020;
  - Home health services by 2023.
- Six data elements required as part of EVV:
  - Type of service performed;
  - Individual receiving the service;
  - Date of the service;
  - Location of service delivery;
  - Individual providing the service;
  - Time the service begins and ends.
- If a state does not have the system in place, they receive a decrease in FMAP:
  - Begins at 0.25% and grows to 1% over time;
  - Does not apply to all Medicaid services – FMAP only cut for the noncompliant services
    - Despite this, FY16 spending on personal care services was $14 billion in the 34 states with data available
    - Even this modest penalty could result in tens of millions of dollars lost in a state

Electronic Visit Verification

- Challenging timeline:
  - The one year delay alleviated the immediate concerns, but there are ongoing challenges with procurement, design, and installation;
  - States may receive a 1 year reprieve from the FMAP cut if they made a "good faith effort" and experienced "unavoidable delays":
    - CMS released a form that states can use to apply for a reprieve with on May 30, 2019
    - States can begin to request the exemption on July 1, 2019
  - States must submit an Advance Planning Document to secure approval for increased federal funding to implement EVV or else fund it at lower match rates:
    - 34 states had submitted APDs as of May 28, 2019
  - Competitive procurements and potential appeals will be lengthy, and there are questions about sufficient vendor capacity;

Current Status

- Implementation across the country varies greatly:
  - Several states, such as TN, KS, CT, OH, OK, and FL had EVV operational, in many cases before the CURES Act passed
    - Even those with operational systems had to make changes and/or expand to include additional populations or collect additional data points to meet the CURES act requirements
- Concerns from stakeholder/advocacy groups regarding:
  - Maintaining flexibilities inherent in self-direction
  - Privacy/autonomy
  - Impact on direct-care workforce
- Various workgroups, including CMS EVV collaborative & NASUAD EVV Committee, are working to share information and address implementation issues

Health and Welfare in Medicaid

- Federal Health and Welfare Investigations and Findings:
  - OIG & GAO reports highlighting gaps in Medicaid HCBS monitoring systems:
    - OIG:
      - https://oig.hhs.gov/oas/reports/region1/11400002.asp
      - https://oig.hhs.gov/oas/reports/region1/11400008.asp
      - https://oig.hhs.gov/oas/reports/region1/11600001.asp
    - GAO: https://www.gao.gov/products/GAO-18-179
  - Joint report from ACL/OIG/OCR on promising practices
    - https://oig.hhs.gov/reports-and-publications/featured-topics/group-homes/group-homes-joint-report.pdf
- Basic Takeaways: more must be done to monitor, remediate, and prevent critical incidents in order to protect health and welfare of HCBS participants

Health and Welfare in Medicaid

- CMS Response: Developed "Special Review Teams"
  - Three-year initiative to improve health and welfare protections for HCBS participants;
  - Contract with IBM/Watson health group;
  - Provide technical assistance, including on-site visits, to help improve policy and practice;
  - Collect and disseminate best practices from around the country.
- Stated goal is to visit all 51 states & DC; however, resource constraints may not allow this to occur.
- Four criteria are used to prioritize states for the assistance:
  - One or more HCBS programs are due for renewal in the following year;
  - One or more promising practices have been identified;
  - On-site technical assistance has been requested by the state;
  - Challenges in monitoring beneficiary health and welfare have been identified.

Quality Measurement

- In HCBS, quality/outcomes measures are often person-based and focus on survey reported data and include:
  - Quality of life measures
  - Access to care
  - Member satisfaction
- Other measures look at institutional vs. HCBS placements, timeliness of care plans, and adverse incidents such as falls
- Several entities are working to develop and strengthen HCBS quality measures:
  - CMS - HCBS CAHPS;
  - NASUAD - NCI-AD;
  - NASDDDS - NCI;
  - ACL – Research Center on Outcomes Measures; and
  - MLTSS Health Plan Association.

Key Takeaways and Next Steps

- *Quality measurement in LTSS is hard*
  - The person-centered nature of programs makes measuring the value and outcomes nebulous;
- Ongoing development of measures likely to continue through the future:
  - Some standardization may occur but much will remain state-driven;
- Next Steps:
  - CMS has established a workgroup with states to identify and improve quality measurement activities within Medicaid HCBS programs;
  - Potential inclusion of additional HCBS-related items in the Medicaid Scorecard: https://www.medicaid.gov/state-overviews/scorecard/index.html
  - Core set of measures may be expanded to include some LTSS measures: https://www.medicaid.gov/medicaid/quality-of-care/performance-measurement/adult-core-set/index.html

Person-Centered Planning

- The HCBS final rule established additional requirements regarding person-centered plans in Medicaid programs
- Other entities, such as ACL, are focused on improving person-centered practices too
  - ACL's No Wrong Door initiative emphasizes person-centered practices
- ACL awarded a grant to establish the National Center on Advancing Person-Centered Practices and Systems: https://ncapps.acl.gov/
  - Goal is to provide technical assistance, resources, and learning collaboratives to improve practices across the country
  - 15 states were selected to receive technical assistance through the NCAPPS: AL, CO, CT, GA, HI, ID, KY, MT, ND, OH, OR, PA, TX, UT, VA

HCBS Business Acumen Center

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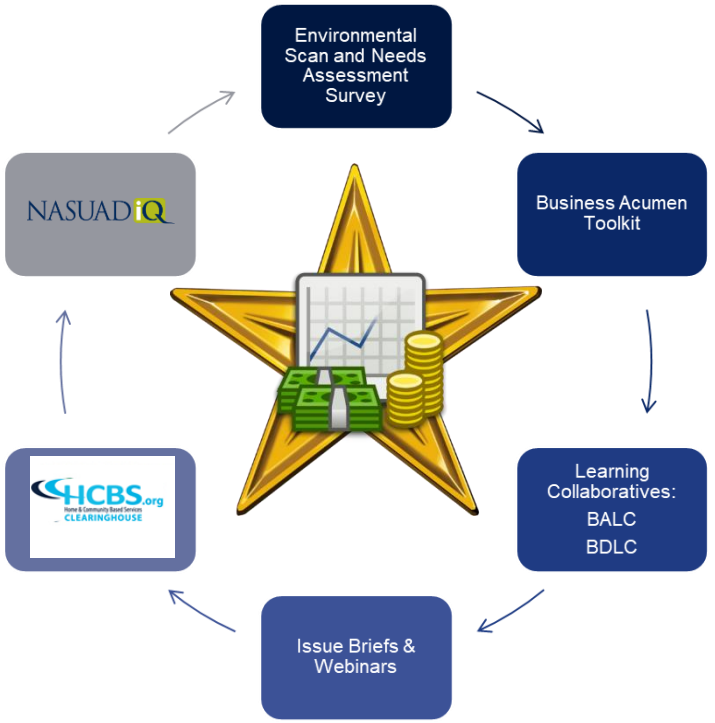
Goal/Vision:

- Build the capacity of disability community organizations to contract with integrated care and other health sector entities
- Improve the ability of disability networks to act as active stakeholders in the development and implementation of integrated systems within their state



http://www.hcbsbusinessacumen.org/

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