

## ISSUE BRIEF

# Medicaid Waivers: A Vehicle to Improve Access to Oral Health & Address Disparities for Older Adults and People with Disabilities

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## INTRODUCTION

Access to oral health care is essential to the overall health of older adults and people with disabilities and to addressing health disparities. Unfortunately, however, oral health coverage for these populations is limited. Traditional Medicare—the primary health insurance program for older adults and people with disabilities—does not include an oral health benefit. For those enrolled in private Medicare plans known as Medicare Advantage or in standalone dental plans, coverage is varied and can include significant out-of-pocket costs.

By default, Medicaid is the primary source of oral health coverage for low-income older adults and people with disabilities. However, under federal law, states are not required to offer adult dental coverage in their Medicaid programs. As a result, Medicaid oral health coverage varies from state to state. This is particularly problematic for older adults and people with disabilities, who, because of age and disability, are more likely to have poor oral health and also more likely to have chronic conditions that are exacerbated by poor oral health. Even if dental treatment is covered under Medicaid, older adults and people with disabilities can face unique barriers to actually accessing the care they need.

Enter Medicaid waivers, which allow states to “waive” certain requirements under federal law in order to more flexibly design their Medicaid programs to meet the needs of enrollees. For oral health, waivers can serve as an important tool for states to both expand the extent of oral health coverage available and as a means of addressing the unique barriers older adults and people with disabilities face in accessing covered dental treatment.

This issue brief is intended to equip state oral health, aging, and disability advocates with education and advocacy tips on how to leverage Medicaid waivers to expand access to oral health and address disparities in access to dental treatment. The issue brief begins with an explanation of Medicaid waivers, including what they do and who they impact. This is followed by state-specific examples illustrating how Medicaid waivers can both expand the scope of coverage available and address barriers to care. The brief concludes with steps on how advocates can engage in the waiver process.

## MEDICAID ADULT DENTAL COVERAGE BY STATE

States are not required to offer adult dental benefits in their Medicaid programs. As a result, whether a state offers dental coverage, to what extent, and to what populations vary significantly from state to state.<sup>1</sup>

The CareQuest Institute maintains a [Medicaid Adult Dental Coverage Tracker](#) that advocates can review to determine the status of Medicaid coverage in their state.<sup>2</sup> The tracker demonstrates that advocates have made enormous progress in expanding adult dental coverage, but significant coverage gaps persist.

## MEDICAID WAIVERS: AN OVERVIEW

Under federal law, states are required to cover certain populations and benefits in their Medicaid programs.<sup>3</sup> States also can cover other benefits and populations at their option. For example, states are mandated to cover hospital services, physician services, and care in a nursing facility, whereas states have the option to cover dental, vision, hearing, and at-home care. States must outline what populations and benefits they will cover in a document called the Medicaid State Plan, which is a formal agreement between the state and federal government approved by the Centers for Medicare & Medicaid Services (CMS).<sup>4</sup>

From nearly the outset of the Medicaid program, Congress recognized that states needed flexibility in designing their Medicaid programs to go beyond their State Plan agreements in order to effectively serve their populations. This flexibility is granted through Medicaid waiver authority, which, if approved by CMS, permits states to disregard certain federal requirements that are otherwise binding on Medicaid programs. Such flexibility includes, for example, allowing states to target programs and benefits to specific populations and test innovative ways of delivering care. This paper focuses on three types of Medicaid waivers: Medicaid Home and Community-Based Services (HCBS) waivers, also known as 1915(c) waivers, 1115 demonstration waivers; and 1915(b) Medicaid Managed Care waivers.<sup>5</sup>

### Medicaid 1915(c) HCBS Waivers

Medicaid Home and Community-Based Services (HCBS) refers to a broad set of long-term health and social services and supports provided to an individual in their own home and integrated community-based settings, as opposed to institutional settings such as a nursing facility.<sup>6</sup> Like adult dental coverage, states are not required to cover HCBS in their Medicaid programs. However, unlike adult dental, all states do cover HCBS.

The 1915(c) waiver authority is one means a state can use to offer HCBS to their Medicaid populations. In order to be eligible for 1915(c) waiver programs, individuals must have significant healthcare needs and require assistance with daily activities at a nursing facility level of care. In other words, but for the availability of the 1915(c) covered benefits, the individual would qualify for Medicaid coverage in a nursing facility.

Common 1915(c) waiver programs serve specific populations including, for example, older adults with Alzheimer's and dementia, people with developmental disabilities of all ages, adults with physical disabilities, and people with traumatic brain injury. Benefits under these waivers include personal care services such as providing help with bathing, dressing, and eating; homemaker and chore services; home modifications; adult day services; assisted living; durable medical equipment; caregiver respite; and care management.

As of 2024, all states except for Arizona, New Jersey, Rhode Island, and Vermont, operated one or more 1915(c) waiver programs for one or more specific populations.<sup>7</sup>

## 1115 Demonstration Waivers

The 1115 demonstration waiver allows states to test new approaches to delivering care to their Medicaid populations. States use 1115 waiver authority to implement creative and expansive changes in their Medicaid programs, including changes to eligibility, benefits, and how care is delivered. For example, states have used 1115 waivers to change the delivery of care from fee-for-service to requiring their Medicaid populations receive their care through a health plan (managed care); to expand and target benefits for focus populations, like those leaving incarceration or individuals experiencing homelessness; and to increase financial eligibility criteria for targeted populations. While 1915(c) waivers are narrow, applying only to HCBS benefits for people with disabilities, 1115 waivers can be very broad and affect nearly any aspect of a Medicaid program.

## 1915(b) Waivers

The 1915(b) waiver is specific to managed care and permits states to waive freedom of choice and require its Medicaid populations to enroll in a health plan. States also use the 1915(b) waiver to offer specific benefits only to managed care enrollees and to limit the providers the state contracts with to deliver specific benefits.

## USING MEDICAID WAIVERS TO EXPAND ACCESS TO ORAL HEALTH AND ADDRESS DISPARITIES

Medicaid waivers can be a powerful vehicle for expanding access to oral health for older adults and people with disabilities in all states regardless of the current status of coverage. For example, in states with minimal adult dental coverage, Medicaid waivers can be used to expand coverage specifically to older adults and people with disabilities when state advocacy to obtain a more comprehensive dental benefit for all adults is ongoing or stalled. At the same time, Medicaid waivers can provide additional services and supports to address specific barriers to covered dental treatment and help reduce the disparities in access and quality of care older adults and people with disabilities face.

State advocates are best positioned to utilize Medicaid waivers to expand oral health in a way that is responsive to the needs of residents in their state and that accounts for their state's dynamic budget and political reality. The examples offered below are not exhaustive but are meant to illustrate ways in which waivers can be utilized in states with very different Medicaid coverage, budget, and political landscapes to better meet the oral health needs of older adults and adults with disabilities. The [Appendix](#) provides a comprehensive overview of existing waivers by state that include oral health benefits.

### DISPARITIES IN ACCESS TO ORAL HEALTH CARE

Even when older adults and people with disabilities have access to oral health coverage, they face unique barriers obtaining the care they need, leading to disparities in access and health outcomes. For example, individuals with cognitive impairments may require additional time with an oral health provider to receive adequate treatment or require sedation; people who cannot easily leave their homes may need access to mobile units or teledentistry; people with physical disabilities may require someone to perform oral hygiene or need modified oral hygiene products. These barriers are compounded by existing discrimination and barriers in the health care system based on race, ethnicity, language, sexual orientation, and gender identity, and where someone lives—e.g. rural versus urban or at home or in an institutional setting. For additional resources on addressing disparities, see Justice in Aging's [Adding a Dental Benefit to Medicare: Addressing Racial Disparities](#) and [Adding a Dental Benefits to Medicare: Addressing Oral Health Inequity Based on Disability](#).

## Using Waivers to Expand Dental Coverage in States with Minimal Adult Coverage

For states that have minimal to no adult dental coverage under their State Plan, Medicaid waivers can provide more extensive coverage to targeted populations with specific health care needs. This use of a Medicaid waiver can provide oral health coverage to people with the most complex health care needs while also building evidence to support the expansion of coverage to all adults in the state. Put another way, waivers can be a building block or step in obtaining extensive adult dental coverage in the state.

### *Kansas as a Case Study*

Prior to 2022, Kansas provided limited adult dental coverage—adults were generally entitled to emergency dental care only. From 2008 to 2010, however, the state provided comprehensive dental coverage for people enrolled in the HCBS Frail Elderly, Physical Disabilities, and Intellectual and Developmental Disabilities waivers. The funding for dental coverage in these waivers was cut during the Great Recession, and Medicaid coverage reverted to emergency dental care only for all populations.

Over the next decade, oral health, disability, and aging services advocates worked together to uplift the positive experience of having dental coverage in the HCBS waivers for older adults and people with disabilities to advocate for coverage for all adults enrolled in Medicaid. Advocates cited the successes of offering dental coverage to the more limited population to make the case that extending coverage to all adults would similarly improve health outcomes and generate savings, as well as be more fair and equitable than only offering coverage to a limited subset of the state’s Medicaid population.<sup>8</sup>

In 2022, Kansas advocates were successful in extending adult dental benefits under the Medicaid state plan for all adults including coverage for periodontal care, silver diamine fluoride treatments, fillings, and crowns. Denture coverage was added in 2023, and the Kansas Legislature approved funding for preventive dental care for adults in 2024.<sup>9</sup>

## Using Waivers to Expand Coverage Beyond State Plan Benefits

Some states offer adult dental benefits, but there are gaps in coverage. For example, a state may offer preventive services and some restorative care, like root canals, but not offer periodontal treatment (gum treatment) to all or a subset of its Medicaid population. Below are examples of how states are using Medicaid waivers to expand coverage beyond state plan benefits to targeted populations.

### *South Carolina Community Choices*

The South Carolina Community Choices 1915(c) waiver serves individuals 65 and over who are dually eligible for Medicare and Medicaid with a nursing home level of care need and individuals with physical disabilities ages 18 to 64. As part of this waiver, the state covers dentures as a one-time expense not to exceed \$651.00 per plate or \$1,320.00 for one full pair of dentures. The state will also cover denture repair not to exceed \$77.00 per occurrence.<sup>10</sup> Dentures are not available to adults outside of the state’s 1915(c) waiver.

### *Florida Familial Dysautonomia 1915(c) Waiver*

Florida provides HCBS through a 1915(c) waiver to eligible enrollees diagnosed with Familial Dysautonomia, a rare genetic disorder affecting nerves that control breathing and digestion. Enrollees in the Florida Familial Dysautonomia Waiver between the ages of 3 to 64 who require a hospital level of care can receive adult dental services not otherwise covered by the Medicaid State Plan including diagnostic, preventive, and restorative treatment, and endodontics, periodontal, and surgical procedures.<sup>11</sup>

### *California Advancing and Innovating Medi-Cal (CalAIM) 1115 Waiver*

California uses its CalAIM 1115 waiver to cover Silver Diamine Fluoride (SDF) treatment, which is currently not covered under the Medicaid State Plan. SDF is used to prevent tooth cavities from forming and spreading. The waiver allows for SDF treatment to be administered to children (ages 0-6) and, importantly for this issue brief, to persons with underlying conditions that make it unlikely that nonrestorative treatment will be successful, including residents in skilled nursing facilities and individuals with intellectual and developmental disabilities.<sup>12</sup>

## Using Waivers to Address Barriers to Treatment

Older adults, people with disabilities, and members of marginalized communities who have oral health coverage still face challenges in accessing oral health treatment. Such challenges include, for example, a dental office being difficult to travel to or physically inaccessible; needing extra time for dental treatment to be rendered; and requiring assistance with oral hygiene. Below are examples of states using Medicaid waivers to help address these barriers to treatment and disparities in access.

### *Michigan Health Link 1915(c) HCBS Waiver*

The MI Health Link Waiver program offers HCBS through managed care to individuals dually eligible for Medicare and Medicaid. Through this waiver, enrollees are eligible to receive devices and appliances to help them perform their activities of daily living, including modified oral hygiene aids like toothbrush adaptors and oral swabs, free of charge.<sup>13</sup>

### *Mississippi Independent Living 1915(c) Waiver*

As part of Mississippi's Independent Living 1915(c) waiver that serves individuals over the age of 65 and individuals between 0 to 64 years old living with physical and other disabilities, personal care attendants are required to be trained on oral hygiene.<sup>14</sup>

### *Utah Choice of Dental Care Delivery Program*

Under Utah's 1915(b) managed care waiver, the state requires contracted dental plans to ensure the delivery of dental benefits to specific populations, including children with disabilities, through targeted strategies.<sup>15</sup> Specifically, the state requires contracted dental plans to ensure direct access to specialists, that each enrollee has an ongoing source of primary dental care, and to use independent monitors to analyze demographic data to assess access and health disparities.

## HOW TO ADVOCATE FOR ORAL HEALTH COVERAGE IN HCBS WAIVERS

### Center Equity

The ways Medicaid waivers can be used to expand coverage and improve access to care are infinite. In advocating for oral health expansions and improvements through Medicaid waivers, advocates should consider policies that would address the disparities that older adults, people with disabilities, and members of marginalized communities face in accessing oral health care. Coverage is an essential piece of access but alone cannot address disparities.

At a minimum, every HCBS waiver should explicitly require personal care attendants to be trained to perform oral hygiene, similar to what federal law requires for nurse aids in nursing facilities. Waivers could also make

oral health care accessible through co-location with medical care, like allowing doctors to apply fluoride varnish, through teledentistry, and by facilitating quick compliance with requirements to have accessible exam chairs.<sup>16</sup> Waivers could require training that is culturally competent and tailored for people with specific disabilities and health care conditions, improve access to sedation through higher reimbursement rates, and allow additional reimbursed time for rendering oral health services. These are just a few examples of policies that could help address disparities in oral health access and outcomes based on age, disability, race, and other factors.

## Comment on Waiver Applications

States are required to seek public input in the development and approval of waivers. Advocates can use the public commenting opportunity to advance proposals to include in waivers that improve oral health.

### Waiver Comment Process and Timelines

MEDICAID WAIVER	COMMENT PROCESS	APPROVAL PERIODS
1915(c) <sup>17</sup>	States are required to provide at least a 30-day notice and comment period prior to submission of the waiver application to CMS.	<u>Initial</u> : 3 years <u>Extension</u> : up to 5 years
1115 <sup>18</sup>	States are required to provide at least a 30-day public notice and comment period for applications for both new 1115 demonstrations and for extensions and amendments to existing demonstrations.  States also must conduct at least two public hearings on separate dates and at separate locations and accept public comment.  After the application is submitted to CMS, CMS provides a second 30-day comment period.	<u>Initial</u> : 5 years <u>Extension</u> : 3-5 years
1915(b) <sup>19</sup>	States are required to provide at least a 30-day notice and comment period prior to submission of the waiver application to CMS.	<u>Initial</u> : 2 years <u>Extension</u> : 2 years

## CONCLUSION

Medicaid waivers are an invaluable tool for addressing the significant disparities in access to dental treatment faced by older adults and people with disabilities. It is imperative that aging, disability, and oral health advocates and providers engage in public comment opportunities to advocate for the inclusion of oral health in Medicaid waivers. By harnessing the potential of Medicaid waivers, we can move closer towards ensuring that all individuals have access to the oral health care they need to thrive.

## APPENDIX

The Appendix, [\*Medicaid Waivers with Oral Health Benefits for Older Adults and Adults with Disabilities by State\*](#), is available on the [Justice in Aging website](#).

## ENDNOTES

- 1 National Academy for State Health Policy (NASHP), [State Medicaid Coverage of Dental Services for General Adult and Pregnant Populations](#), (updated Oct. 20, 2022). *See also*, Medicaid and CHIP Payment and Access Commission (MACPAC), [Access to Covered Dental Benefits for Adult Medicaid Beneficiaries: Panel Discussion](#) (Apr. 13, 2023).
- 2 CareQuest Institute for Oral Health, [Medicaid Adult Dental Tracker](#), last accessed May 8, 2024.
- 3 Medicaid.gov, [Mandatory & Optional Medicaid Benefits](#), last accessed May 8, 2024.
- 4 MACPAC, [State Plan](#), last accessed May 8, 2024. Adult dental benefits are located in Section 3 of the State Plan.
- 5 Medicaid waivers are named after the statutory section of the Social Security Act in which they are found, Social Security Act, 42 U.S.C. §§ [1915\(b\)](#); [1915\(c\)](#); and [1115](#).
- 6 Justice in Aging, [Medicaid Home- and Community-Based Services for Older Adults with Disabilities: A Primer](#) (Apr. 2021).
- 7 Medicaid.gov, [State Waivers List](#), last accessed May 8, 2024.
- 8 The authors would like to thank Tanya Dorf Brunner, Executive Director of Oral Health Kansas for contributing to this paper.
- 9 Kansas Dept. of Health and Environment, [Update for Dental Coverage for Ages 21 and Over](#) (Jun. 2022); [Coverage of Denture and Partial Prosthetics for Ages 21 and Older](#) (Jun. 2023); Oral Health Kansas, [Weekly Wednesday Update](#) (May 1, 2024).
- 10 Medicaid.gov, [SC Community Choices Waiver](#), (0405.R04.00), last accessed May 8, 2024.
- 11 Medicaid.gov, [FL Familial Dysautonomia Waiver](#), (40205.R03.00), last accessed May 8, 2024.
- 12 California Department of Health Care Services, [Silver Diamine Fluoride](#), last accessed May 8, 2024.
- 13 Medicaid.gov, [MI Health Link HCBS Waiver](#), (1126.R01.00), last accessed May 8, 2024.
- 14 Medicaid.gov, [MS Independent Living Waiver](#) (0255.R07.00), last accessed May 8, 2024.
- 15 Medicaid.gov, [Choice of Dental Care Delivery Program](#), (UT-0004), last accessed May 8, 2024.
- 16 45 CFR § 84.90 *et seq.*
- 17 CMS, [Application for a §1915\(c\) Home and Community-Based Waiver: Instructions, Technical Guide and Review Criteria](#), (Jan. 2019).
- 18 [42 CFR Part 431](#)
- 19 MACPAC, [1915\(b\) Waivers](#), last accessed May 8, 2024.