INFORMATION BRIEF
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Medicaid Home- and Community-Based Waiver Programs

This publication provides background information on the Medicaid home- and community-based waiver programs and provides details on the five Minnesota-specific waivers.

Contents

What is a Home- and Community-Based Waiver?

Home- and community-based waivers allow for federal Medicaid reimbursement for certain services provided to the chronically ill, disabled, and elderly, which are not otherwise covered under the Medicaid program.

Home- and community-based waiver services (HCBS) help people remain in their homes and communities, rather than be institutionalized. These waivers allow Minnesota (1) an alternative to placing Medicaid-eligible individuals in hospitals, nursing facilities, or intermediate care facilities for the mentally retarded (ICF/MR) and (2) provide services that are not covered, or are limited, under the traditional Medicaid program.

Historical Background

Medicaid, or Medical Assistance (MA) as it is called in Minnesota, is a joint federal-state health care program that provides necessary medical services for low-income families, children, pregnant women, and people who are elderly (65 or older) or have disabilities.

Prior to 1981, the only comprehensive long-term care that was reimbursed by Medicaid was care in an institutional setting, such as a nursing facility, hospital, or an ICF/MR.

Medicaid home- and community-based waivers were established under section 1915(c) of the federal Social Security Act of 1981. The waivers were intended to correct a bias toward institutional care in the Medicaid program. They allow states to offer a broad range of home- and community-based services to people who may otherwise be institutionalized.

In addition, in 1999, the U.S. Supreme Court ruled in *Olmstead vs. L.C.* that states have an obligation to ensure that people with disabilities are not forced to remain institutionalized when a more integrated setting is appropriate and the affected people do not object to the community placement. The court also indicated that states should have comprehensive, effective working plans for placing qualified people in less restrictive settings. This ruling prompted states, including Minnesota, to review their policies and practices and to determine whether they were most effectively supporting the relocation and diversion of people from institutional settings.

How Does a State Receive a Waiver?

In order to participate in and receive federal reimbursement for home- and community-based Medicaid expenditures, states must make special application to the federal Department of Health and Human Services (DHHS), seeking approval for each home- and community-based waiver program. Each state must assure the DHHS that it will protect each consumer's health and welfare and assure the consumer's right to choose HCBS or services in an institutional setting. States must also assure that the expenditures under the home- and community-based waiver program, on average, will not exceed the cost of care for the identical population if they would have been in an institution.

Minnesota's Waivers

Minnesota has been authorized by the DHHS to provide HCBS to people with mental retardation or a related condition (MR/RC) since 1984. Since its introduction in 1984, the home- and community-based waiver programs have been the primary means of support for Minnesota's shift from institutional to HCBS (see Appendix A). This shift from institutional care to HCBS both saves money (see Appendix B and C) and is preferred by the vast majority of people involved.

Minnesota currently administers the following five home- and community-based waiver programs:

- *Mental Retardation or Related Condition (MR/RC) Waiver.* This waiver is for people with mental retardation or a related condition who need the level of care provided at an ICF/MR.

- *Community Alternative Care (CAC) Waiver.* This waiver is for people who are chronically ill and need the level of care provided at a hospital.

- *Community Alternatives for Disabled Individuals (CADI) Waiver.* This waiver is for people who are disabled and require the level of care provided in a nursing home.

- *Traumatic Brain Injury (TBI) Waiver.* This waiver is for people with a traumatic or acquired brain injury who need the level of care provided in a nursing home or neurobehavioral hospital.

- *Elderly Waiver.* This waiver is for people who are over 65 years old and need the level of care provided at a nursing facility.

What are the Eligibility Requirements for an Individual to Receive Services Under a Waiver Program?

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible. Minnesotans with disabilities or chronic illnesses who require a certain level of care may qualify for the Minnesota home and community-based waiver programs.

An ICF/MR level of care is required for the **MR/RC Waiver**. To meet the requirements for an ICF/MR level of care a person must meet all of the following conditions:

- have mental retardation or a related condition

- require a 24-hour plan of care

- be in need of continuous active treatment services

- be unable to apply skills learned in one environment to a new environment without aggressive and consistent training

To meet the requirements for the **CAC waiver** for hospital-level care, a person must meet all four of the following requirements:

- need skilled assessment and intervention multiple times during a 24-hour period to maintain health and prevent deterioration

- due to the person's health condition, have both predictable health needs and the potential for status changes that could lead to rapid deterioration or life-threatening episodes

- require a 24-hour plan of care that includes a back-up plan to reasonably assure health and safety in the community

- would require frequent or continuous care in a hospital without the provision of services under the waiver

A nursing facility level of care is required for the **CADI Waiver**. To meet the requirements for a nursing facility level of care a person must be screened using the Long Term Care Consultation Services Assessment and demonstrate the need for assistance because the person meets one or more of the following conditions:

- need restorative and rehabilitative or other special treatment
- be in unstable health
- need complex care management
- have functional limitation
- have complicating conditions
- have cognitive or behavioral condition
- be frail or vulnerable

The **TBI Waiver** requires that a person have a cognitive or behavioral condition that requires treatment in a nursing facility that provides specialized treatment for brain injury. To meet the requirements for a neurobehavioral hospital level of care a person must meet the following conditions:

- have a significant cognitive impairment or need for care that exceeds the care that would be available in a specialized nursing facility

- have a behavior impairment manifested by:
  - damage to property;
  - inappropriate sexual activity;
  - injury to self or others; or
  - physical aggression

- require a 24-hour plan of care including a formal behavioral support plan

- require the availability of intensive behavioral intervention
- have documentation by a physician of the person's diagnosis and prognosis, level-of-care need, and intervention plan recommendations
- have a statement that the person would otherwise need neurobehavioral hospitalization

Who Administers the Home- and Community-Based Waiver Programs?

The federal Centers for Medicare and Medicaid Services administers Medicaid nationwide, providing funding, approving state plans, and ensuring compliance with federal regulations. In Minnesota, the Department of Human Services (DHS) oversees the MA program, including the waivers and the distribution of funding to counties. The counties administer the MA program, including the waiver programs, locally and develop individualized service plans with recipients.

Services Provided

The home- and community-based waiver programs provide a variety of support services that assist people to live in the community instead of going into or staying in an institutional setting. Available support services include the following:

- caregiver training and education
- case management
- consumer-directed community supports
- behavioral interventions
- day activity, day habilitation, and vocational supports
- home-delivered meals
- home and environmental modifications
- homemaking and chore services
- independent living skills training
- supplies and equipment
- transportation
- respite care
- supportive services in foster care, assisted living, and residential settings
- extended MA home care services, including therapies

Participation in Minnesota's Home- and Community-Based Waiver Programs

Waiver Program	FY 2000 Recipients	FY 2001 Recipients	FY 2002 Recipients	FY 2003 Recipients
MR/RC Waiver	8,313	14,031	15,264	15,704
CAC Waiver	128	128	126	165
CADI Waiver	3,957	4,669	6,022	8,420
TBI Waiver	408	474	603	861
Elderly Waiver	9,772	10,890	11,912	13,405
Total	22,578	30,192	33,927	38,555

Source: Minnesota Department of Human Services-November 2003 Forecast

In the last quarter of fiscal year 2001, the enrollment for the MR/RC waiver program was opened due to a legislative requirement that DHS reallocate any unused funding in the MR/RC waiver program to serve persons on the waiting list. As a result of the open enrollment, 5,534 recipients were added to the MR/RC waiver.

There is a very high demand for some of the home- and community-based waiver programs. As of June 30, 2003, there were 3,485 people waiting for the MR/RC waiver in Minnesota. It is important to note that 2,621 of these individuals live with their immediate family or an extended family member. These individuals may be receiving MA home care services, family support grants, consumer support grants, day training and habilitation services, or other publicly funded assistance as they wait for an available MR/RC waiver slot. Currently, there are 460 individuals on the waiting list residing in an ICF/MR.

Funding

As with Minnesota's other MA services, the waiver programs receive half of their funding from the federal government and half from the state general fund. The amount allocated to these programs on a per recipient basis cannot be greater than the amount that would have been spent if the recipient had been institutionalized.

Waiver Program	FY 2000 Expenditures (in 000s)	FY 2000 Average Cost per Recipient	FY 2001 Expenditures (in 000s)	FY 2001 Average Cost per Recipient	FY 2002 Expenditures (in 000s)	FY 2002 Average Cost per Recipient	FY 2003 Expenditures (in 000s)	FY 2003 Average Cost per Recipient
MR/RC	401,192	48,261	494,657	35,255	678,905	44,478	816,600	51,999
CAC	5,368	41,937	5,146	40,201	6,176	49,013	7,761	47,143
CADI	22,245	5,622	28,783	6,165	41,633	6,913	69,627	8,270
TBI	13,433	32,924	17,288	36,345	23,806	39,479	36,654	42,559
Elderly	40,800	4,175	55,703	5,115	72,498	6,086	92,052	6,867
Total	483,038	21,097	601,577	19,638	823,018	23,908	1,022,694	26,530

Source: Minnesota Departments of Finance and Human Services-November 2003 Forecast
Note: Expenditures represent state and federal funding.

Recent Legislative Actions

In 1999, the legislature passed a bill to "unlock the waiting list" for people with developmental disabilities who had been waiting for HCBS. The law required DHS to use funding that was projected to be unspent in the program to fund services for those who continued to wait for services. As a result, DHS announced an open enrollment period during the last quarter of fiscal year 2001 and 5,534 recipients were added to the MR/RC waiver program.

During the 2001 legislative session, the legislature enacted a budget proposal to relocate or divert individuals with disabilities under the age of 65 from institutional settings. About 1,300 people are expected to exercise their right to move out of nursing homes into noninstitutional services. The legislature reaffirmed that the HCBS are available to support people with disabilities in the most integrated community setting, required DHS to share proposed amendments with advisory committees, and clarified the state's authority to allow MA eligibility for the waivers without counting parent's or spouse's income and assets.

The 2001 Legislature also passed an "informed choice" provision requiring that people who are determined likely to need the level of care provided in a nursing facility or hospital must be informed of the HCBS alternatives.

Additionally in 2001, the legislature directed the commissioner to take actions that modified the service and support options available under the home- and community-based waivers. Specifically the legislature directed DHS to:

- establish common service menus across the home- and community-based waiver programs;

- implement one or more needs-based methods for allocating waivers to local agencies and allowed exceptions to the current reimbursement system for persons with extraordinary needs at risk of institutionalization; and

- submit an amendment to the federal home- and community-based waiver plans to expand the availability of consumer-directed community services.

The consumer-directed community service options allow for increased consumer choice, control, and autonomy in terms of the supports consumers receive and how those services are secured and purchased. In fiscal year 2003, there were almost 3,300 MR/RC waiver recipients that chose this service option.

Finally in 2001, the legislature changed the eligibility for the TBI waiver by directing DHS to seek federal authority to allow persons with acquired or degenerative conditions to receive assistance under the TBI waiver program.

The 2002 Legislature adopted a governor's budget proposal that created savings without reducing eligibility or benefits in the MR/RC waiver. The legislature passed changes that delayed the allocation of new MR/RC waiver diversion slots to January instead of July and also delayed the availability of MR/RC waiver turnover slots by 180 days.

In response to the budget crisis, the 2003 Legislature:

- passed a 1 percent rate reduction to the fiscal year 2003 funding levels for HCBS;
- eliminated funding for 600 new diversions in the MR/RC waiver program during the 2004-2005 biennium;
- limited the caseload growth in the TBI waiver to 150 slots per year for the 2004-2005 biennium;
- required DHS to manage the average monthly growth in the CADI waiver to 95 over the June 30, 2003, levels during the 2004-2005 biennium; and
- delayed the implementation of the common service menu until July 1, 2005.

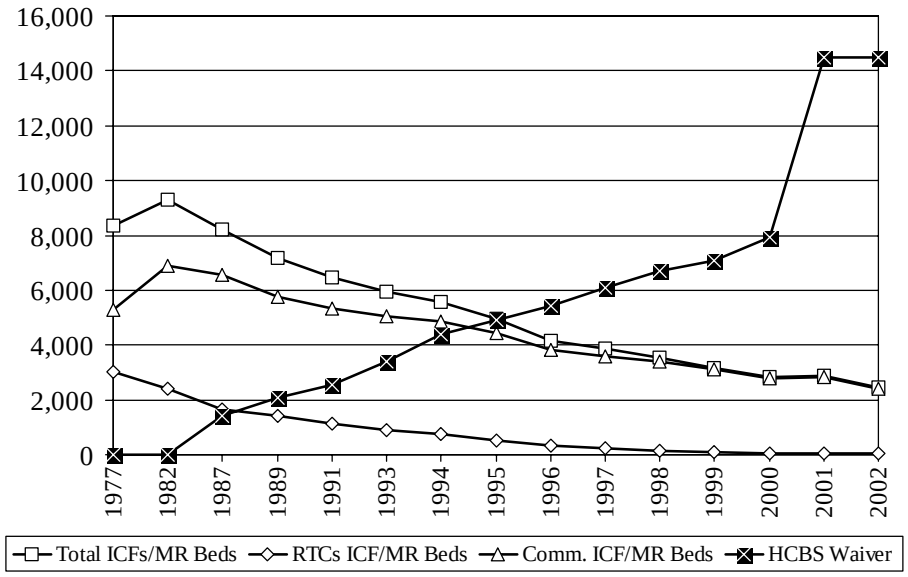
Potential Legislative Issues

During the 2003 legislative session, several issues concerning the home- and community-based waiver programs were discussed. Some of these include (1) variation in county administration of these programs, (2) case management, and (3) expenditure growth and cost containment.

The Legislative Auditor's Office is currently conducting an evaluation of the HCBS programs and is looking at many of the above issues. The auditor's final report will be presented to the legislature in early 2004.

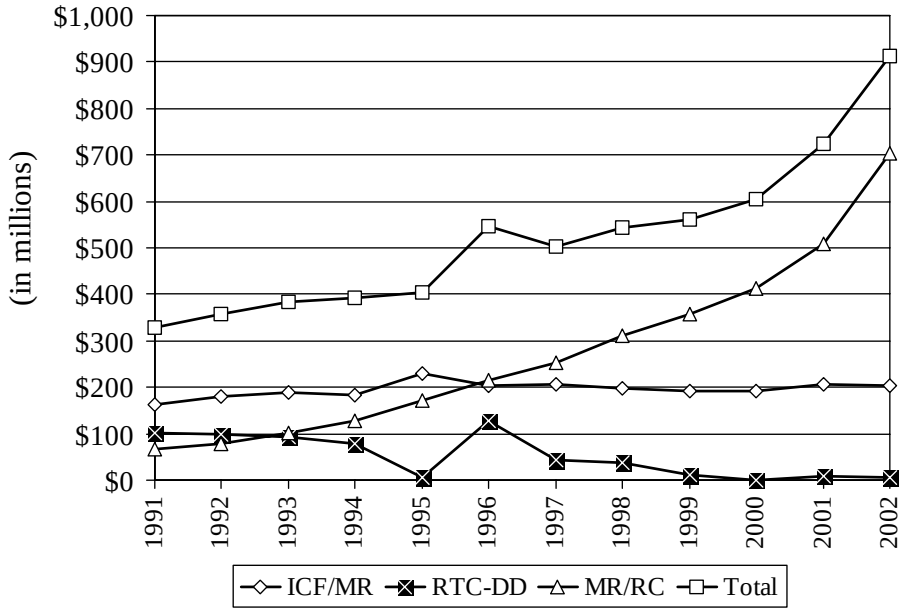
The DHS is working with the DHHS to amend the waiver plans to include a community-directed community support option in all five of the home- and community-based waiver programs. Currently, this option is only available in the MR/RC waiver program.

Appendix A
ICF/MR Beds in Minnesota



Source: Minnesota Department of Human Services
Note: ICF/MR = intermediate care facility for persons with mental retardation or a related condition (see page 2); Comm. = community; RTC = regional treatment center

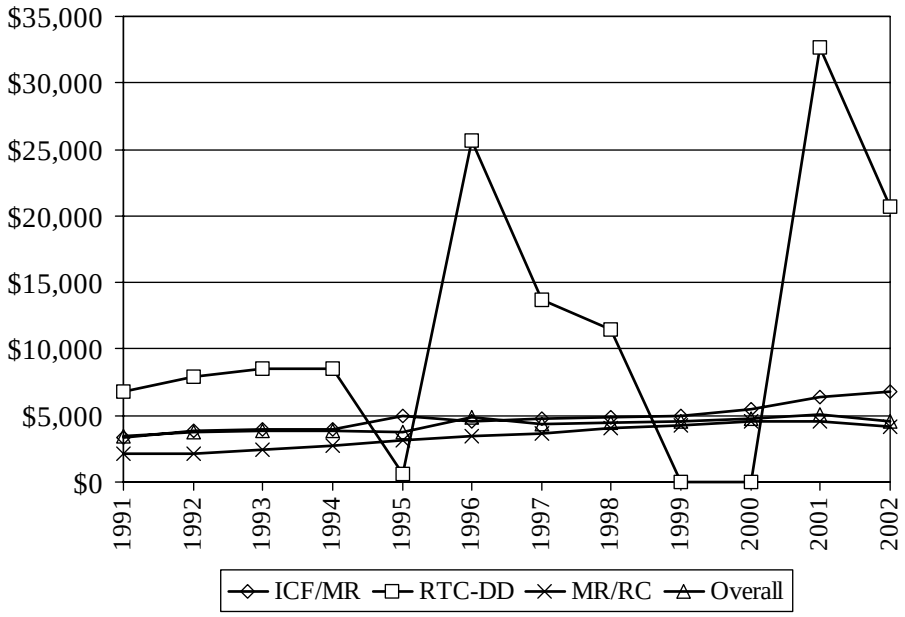
Appendix B
Overall Cost by Service Type for Recipients with Development Disabilities



Source: Minnesota Department of Human Services

Appendix C

Average Cost Per Person for Recipients with Development Disabilities



Source: Minnesota Department of Human Services

For more information about assistance programs, visit the health and human services area of our web site, www.house.mn/hrd/issinfo/hlt_hum.htm.