

## New Hampshire Department of Health and Human Services [DHHS]

### Bureau of Developmental Services [BDS]

#### Responses to Public Comments on New Hampshire Draft In-Home Supports [I.H.S.] Waiver

##### IHS Waiver Public Comment Period: August 28, 2015 – September 28, 2015

###### **COMMENT 1:**

In reviewing the In-Home Supports regulations, it was noted that He-M 524 does not include criteria for eligibility for IHS [to restrict access to In Home Supports] for individuals who experience risk] (i.e. Forensic) as the He-M 525 rule does. It would be helpful if this information were to be included.

###### **RESPONSE 1:**

This is an important point. Individual risk is addressed in He-M 524, the Administrative Rule governing services on the In Home Supports Waiver, as written. In addition, requirements for risk assessment are addressed in He-M 503 which applies to all services provided to individuals who are eligible for developmental services. BDS believes area agencies and families will work together to ensure that individuals who present high risk behaviors will have appropriate safeguards in place for their In Home Supports and services.

###### **COMMENT 2:**

Please provide clarification around the roles of the family, versus the roles of Area Agencies/providers. Must I.H.S. Waiver services be self-directed? This is difficult for some families to manage.

###### **RESPONSE 2:**

This is addressed in He-M 524, Orienting Families to In-Home Supports. This question suggests there is a need to provide additional clarification in this area. BDS will recommend the Area Agencies develop a work group that includes families to explore how orientation for families to In-Home Supports could better define the roles and responsibilities of families, Area Agencies/Provider Agencies and staff. The work group will also consider how supports can be offered for families who would benefit from help to build capacity to self-direct and manage their services.

###### **COMMENT 3:**

Several commenters expressed concern about the challenges of recruiting and keeping staff.

###### **RESPONSE 3:**

We appreciate the complexity of recruiting and retaining staff and urge families to work with their respective Area Agency to address this concern with the Agency's Family Support Council, Board of Directors and Executive Director. This important issue could be specifically addressed as an area of priority in the Area Plan required of each agency according to He-M 505, the Administrative Rule that governs area agency operation.

**COMMENT 4:**

Please provide clarification regarding the timelines for Providers developing service plans. The timelines outlined in He-M 503 do not allow sufficient time for the area agency to develop an I.H.S. Waiver service plan.

**RESPONSE 4:**

He-M 503 articulates specific time frames for when service planning must be initiated and completed to ensure that service planning is timely. Families may request, based on their own needs, a different timeline.

**COMMENT 5:**

Several commenters expressed concern that increased paperwork [for documenting the provision of I.H.S. Waiver services] is overwhelming and repetitive. How can the process be streamlined through multiple area agencies?

**RESPONSE 5:**

We appreciate that documentation can be challenging for families. State regulation He-M 524 provides the minimum amount of documentation possible when utilizing public funding. BDS will recommend that Area Agencies develop a work group that includes families to explore how documentation can be streamlined.

**COMMENT 6:**

How will coordination work with chronic mental illness under the waiver?

**RESPONSE 6:**

There are no changes in how behavioral health and In-Home Support services are coordinated. Services will continue to be organized in the same way.

**COMMENT 7:**

Medicaid Lapse- happens with providers and different funds. Is there a way to transfer funds from different accounts [so that funds not used by one area agency or family could be assigned to another]?

**RESPONSE 7:**

“Medicaid Lapse” occurs when funds have been allocated to an area agency or individual, but because of a delay in services starting, difficulty finding a provider or other complications, the funds are not actually used and ultimately “lapse”. This is an area of significant focus for BDS and the Area Agencies. If underutilization occurs because the level of service is not needed, funds could be reallocated to other area agencies or individuals who are in need of services on a one time or permanent basis. Families are currently able to move funding to other line items within the individualized budget provided that the funding amounts remain within the service limitations, it supports the individuals goals reflected in the service agreement, and a service agreement amendment has been put in place.

**COMMENT 8:**

Commenters expressed concern about personal care items not being covered by the IHS Waiver such as Prescribed Medications not covered by the Medicaid and insurance: If a child has a mitochondrial disorder, and in order to improve this function, he/she is on a vitamin cocktail prescribed by his/her GI; he/she has prescribed a probiotic called VSL#3 which most private insurance covers. But Medicaid does not cover either of it. So there must be a provision to pay for these medically necessary, highly important medical items that are not covered by Medicaid.

**RESPONSE 8:**

BDS is sensitive to this concern and to the complexity of issues families face in making and paying for treatments. The In-Home Supports Waiver covers only the services that are defined in the Waiver Application. Area Agencies can, through the provision of service coordination, assist families to access Medicaid and Non-Medicaid services not covered under the I.H.S. Waiver.

**COMMENT 9:**

Thank you everyone who does a superb job on this program.

**RESPONSE 9:**

Thank you. We appreciate this comment.

**COMMENT 10:**

We would like to not have background checks for respite workers. This creates an additional expense and can result in delays in families accessing respite providers when needed.

**RESPONSE 10:**

Several commenters indicated it is a hardship for families because of the cost of criminal record checks and due to the time constraints to obtain criminal record checks for respite providers. We agree that in the case of family arranged and managed respite, a criminal background check for providers selected by the family is not required. When respite providers are identified by the Area Agency, a criminal background check is required.

**COMMENT 11:**

Will the background checks come out of family's budgets? This is the driver's license, criminal and BEAS checks.

**RESPONSE 11:**

All appropriate costs related to aspects of services as well as administrative costs are incorporated into each individual's budget.

**COMMENT 12:**

I've been very proactive for my daughter, and therefore I've found PCAs. But how can I have more flexibility with funds, (because I don't use equipment), and more help find PCAs?

**RESPONSE 12:**

Families are able to move funding to other line items within the individualized budget provided that the funding amounts remain within the service limitations, it supports the individuals goals reflected in the service agreement, and a service agreement amendment has been put in place.

**COMMENT 13:**

What is a family's role in respite? The language seems inconsistent in the waiver. Waiver refers to one section, and offers different language in that section. Additionally, please provide clarity around the roles of families, AAs, PCAs.

**RESPONSE 13:**

This area is addressed in the regulation, Orienting Families to In-Home Supports. BDS will recommend to the Area Agencies to develop a work group to standardize the orientation for families to In-Home Supports and develop a standardized approach to identifying the roles and responsibilities of families, Area Agencies/Provider Agencies and staff...taking into account that some families will need more support than others to build their capacity to self-direct and manage the services.

**COMMENT 14:**

Is there more funding expected for the waiver?

**RESPONSE 14:**

BDS requested and was allocated additional funds to serve individuals and families in FY 15.

**COMMENT 15:**

Is the Waiver capped for the number of individuals?

**RESPONSE 15:**

No. If funding is made available for more individuals to be served, BDS will, if necessary, request additional Waiver slots.

**COMMENT 16:**

Really enjoy the flexibility of the waiver- it helps my son get out into the community

**RESPONSE 16:**

We appreciate hearing that the waiver services are helpful to your family.

**COMMENT 17:**

How will this impact MCOs?

**RESPONSE 17:**

The IHS waiver is not currently part of the Managed Care Program. It will be transitioned at a later date.

**COMMENT 18:**

Limit for Therapeutic recreation: the present limit and the proposed waiver limit of \$1200 for this service (page 43) completely ignore the reality. Ex. child takes a therapeutic horse riding course and adaptive swimming to help with the sensory needs which directly relates to his/her Service Agreement goals. The horseback riding lesson (per session) costs \$80.00 and the swimming lesson costs \$60.00/session. He/she gets one unit of each/week a total of \$140.00 per week, so the \$1200 only covers cost of 8.5 weeks, considering in a year there are 52 weeks, the limit proposed is too low and arbitrary, did not consider the reality. There must be some flexibility to allocate more funds to these services as long as they are directly related to the goals in the Service Agreement. The important thing is, as the name states "Recreation" which is an essential part and it provides greater opportunity to get integrated in the community. So, there must be a reasonable balance between direct care services and the therapeutic recreational services. In the current limit I don't see that.

**RESPONSE 18:**

BDS is sensitive to the concern that families would like increased spending in this area. BDS must balance the needs of all families who are in need of IHS services, budgetary limitations and federal expectations for the appropriate use of Medicaid Funds. BDS in collaboration with the Area Agencies has recently updated a Guidance document to assist families and staff to better understand the utilization of IH.S waiver services. A copy of "PDMS Under the In-Home Supports Waiver: Considerations for Utilization of Medicaid Funds, August 2015" can be requested from your Area Agency or BDS.

**COMMENT 19:**

Qualified LNA's, CNA's and Family Managed Employees are finding jobs elsewhere due to NH's grossly outdated rate of pay model. The budget that Governor Maggie Hassan brought forward is so very important in so many ways. For those families fortunate enough to have found a qualified caregiver, their loved ones have, in turn, received consistency in care, safety and improved lives through goals achieved and quality of life. Children must become familiar with a new FME every time there is a change, instead of having that consistency in care, while parents spend countless hours training them, only to have them leave in six months.

**RESPONSE 19:**

The Department recognizes the importance of offering a competitive rate of pay as part of maintaining a qualified and stable direct support workforce.

**COMMENT 20:**

One commenter noted the importance of maintaining a functional operational budget to fulfill the purpose of the HIS Waiver.

**RESPONSE 20:**

The Department is very sensitive to this concern and agrees.

**COMMENT 21:**

Recently, several people were notified that they were removed from the waitlist and can access IHSW funds:

1) Some families that were notified of this have declined the INSW funds as they were told that they could not have LNA services while receiving INSW funds. They were frustrated that they could not access IHSW funds if they have LNA services because they did not want to give up LNA services. Parents were confused as to why they would have to make a choice as the majority of the funds are supposed to go to Personal Care services – The families are being told that LNA services are the same as Personal care services and that is why they have to make the choice. PCA services are different than LNA services as PCA services can be provided in the community whereas LNA services are provided in the home and the parents are being told that LNA's can no longer go with them with their child into the community which leaves the child basically “institutionalized” in their own home. If the parents were able to utilize both – the INS waiver in conjunction with LNA services it would give the child the opportunity to practice skills in the community and basically be wrap around services which would enhance the child's abilities. The idea that you have to choose does not make sense to parents. –They wanted to know if there has been a rule change or is it an interpretation of the rule which requires families to make a choice between IHSW funds and LNA services. Could you please help me to relay any information you on this so families can be aware of their choices. Families do want BDS to know that having to make a choice between LNA services and receiving the in home support waiver is counterproductive and not to the benefit of the family member that is receiving the supports and services.

**RESPONSE 21:**

The Department recognizes that there are different levels of care for children, adolescents and young adults with complex needs who would like to simultaneously access LNA (through the Medicaid State Plan) and Enhanced Personal Care through the IHS Waiver. The Department is committed to ensuring children, adolescents and young adults receive the most appropriate and cost effective service possible by matching the most appropriate service to the individual's need.