

# MEDICAID WAIVERS MOSTLY

GUARDIAN AD LITEM DISABILITIES  
TRAINING CONFERENCE

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# All Medicaid Programs

- Jointly funded by federal and state governments
- State administers, but must submit program details to federal Centers for Medicare & Medicaid Services (CMS) for approval
  - For regular Medicaid: State Plan
  - For Medicaid Waivers: Waiver Application
- AHCA is single state Medicaid agency
- Must comply with Medicaid Act (Title XIX of Social Security Act) and other federal laws (like Americans with Disabilities Act)
- Designed to serve those with limited income & assets

# STATE PLAN MEDICAID

Medicaid for all

# State Plan Medicaid

- Statewide
- No cap on enrollees
- Comparable services for anyone eligible for Medicaid
- Can select among Medicaid providers
- AHCA has primary responsibility
- Like private health insurance (hospitalization, physician visits) but with a wider range of benefits

# Mandatory vs Optional Services

- **Mandatory:**
  - ▣ Required by Medicaid Act
- **Optional:**
  - ▣ State can chose to offer or not
  - ▣ State can limit service by type, amount, duration or scope

# State Plan Medicaid Services (Not Exhaustive)

## Mandatory

- Inpatient & outpatient hospital
- Physician & nurse practitioner services
- Labs & x-rays
- Prenatal care, nurse midwife & family planning
- ***EPSDT for under 21***
- Rural health clinic
- Fed Qualified Health Ctr
- Nursing facility for over 21
- Limited home health services
- Transportation to medical care

## Optional

- HCBS (disabilities or chronic medical conditions)
- Pediatric nursing facilities
- Dental
- Inpt psychiatric for under 21
- ICF/DD
- Prescription medication
- Personal care services
- Private duty nursing
- PT, OT, S/LT, RT
- Vision & dental services
- Durable medical equipment

# EPSDT: Children get Mandatory AND Optional Services

- Applies to under 21
- Early and Periodic Screening, Diagnosis & Treatment
- Diagnosis & treatment necessary to “**correct or ameliorate** defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.” 42 USC §1396d(r)(5) (1989 amendment)

# EPSDT Includes

- Applied Behavioral Analysis (ABA) Services for children with Autism Spectrum Disorder (ASD)
- Incontinent supplies
- Personal Care Assistance
- Private Duty Nursing
- Therapy Services



# MEDICAID HCBS WAIVERS

Medicaid for some

# What Does a Waiver Waive?

- The federal government can approve certain types of programs that would otherwise violate certain provisions of the Medicaid Act, like:
  - ▣ Comparability (a program could apply to only certain people, like the elderly or those with developmental disabilities)
  - ▣ Statewidedness (a program could operate only in certain parts of the state)
  - ▣ Freedom of choice (a program could limit provider choice through managed care)

# Types of Waiver Programs

- Home and Community Based Services (HCBS)
  - ▣ Requires level of care for hospital, nursing home or ICF/DD – depending on the Waiver
  - ▣ Provides long-term care services
  - ▣ In the home, home-like setting, and community
  - ▣ Designed to prevent or delay institutionalization
- Research and Demonstration Project Waiver
- Managed Care Waiver

# Florida's HCBS Waivers for Children

- **Developmental Disabilities “iBudget”**
  - APD administers and assesses
  - Enrollment around 30,000
- **Model Waiver (degenerative spinocerebellar disease)**
  - AHCA administers; CMS & CMAT assesses for risk of hospitalization
  - Very small enrollment (around 5)
- **Familial Dysautonomia (Riley-Day syndrome)**
  - AHCA administers and assesses
  - Requires hospital LOC
  - Very low enrollment (under 10)
- **Project AIDS Care**
  - AHCA administers; DOEA assesses (CARES) for NH LOC
  - Enrollment around 7,000

# Florida HCBS Waivers 18 and Up

- **Long-Term Care Waiver**
  - AHCA oversight, DOEA CARES assessment, and administered by managed care
  - Enrollment at 43,000
- **Traumatic Brain & Spinal Cord Injury**
  - Injury is defined by statute §381.745 but requires external trauma
  - Typically doctor/hospital referrals, but may self-refer
  - DOH administers; DOEA assesses
  - Brain and Spinal Cord Injury Central Registry BSCIP (1-800-342-0778 or online)
  - NH LOC and CARES Assessment
  - Enrollment under 500
- **Adult Cystic Fibrosis**
  - DOH administers; DOEA assesses for risk of hospitalization
  - Apply through BSCIP
  - Enrollment of around 100

# COMPARING STATE PLAN AND WAIVER SERVICES FOR CHILDREN

Or When Do You Need a Waiver?

## STATE PLAN

## DD WAIVER

- Private Duty Nursing
- Personal Care
- ABA
- Other behavioral
- SIPP
- Durable Medical

- Case Manager
- Group home and Supported Living
- Respite
- Specialized Mental Health Therapy
- Behavioral Services
- Supported Employment
- Adult Day Training (sometimes available for under 21)

# Who needs the Waiver?

- If a child is eligible, an application should be made.
- Waiver **enrollment** results in Medicaid eligibility based on child's finances alone, not parental finances.
- The DD Waiver and others provide HCBS after the child turns 21; State Plan Medicaid will not.
- Some services are not available under SP Medicaid, like group home placement and respite.



# THE BIG WAIVERS

DD and LTC

# Developmental Disabilities Waiver

iBudget and Agency for Persons with Disabilities

# Florida DD Waiver

## Florida Statutes §393.063

- Over the age of 3
- Disorder or syndrome that manifests before 18
- Attributable to:
  - ▣ Down syndrome
  - ▣ Intellectual disability (generally, IQ under 70)
  - ▣ Autism (NOT ASD, Asperger's or PDD-NOS)
  - ▣ Spina bifida
  - ▣ Prader-Willi syndrome, or
  - ▣ Cerebral palsy
- Substantial handicap that can be expected to continue indefinitely (i.e., LOC for ICF/DD)

# Florida DD Waiver

## High Risk Child

- Age 3 to 5 with one or more:
  - ▣ Delay in cognition, language or physical development
  - ▣ Traumatic illness or infection associated with DD
  - ▣ Has parent or guardian with DD who needs assistance meeting child's needs
  - ▣ Has physical or genetic anomaly associated with DD
- Reassessment when the child turns 6

# Application Process

- Apply to Regional Office of Agency for Persons with Disabilities, either by mail or hand-delivery. (They require an original signature.)
- Application is on-line at <http://apdcares.org/customers/application/>
- APD has 45 days to make an eligibility decision for a child under 6, 60 days if older. APD *shall* provide comprehensive assessment if necessary to identify conditions and needs.

# DD Waiver Waiting List

- Currently over 20,000
- Prioritization based on statute: §393.065
- Crisis rule places at top of waitlist: FAC Rule 65G-1.047
  - ▣ Homeless (or at imminent risk)
  - ▣ Significant danger to self or others
  - ▣ Caregiver under duress/unable to give care
- Crisis eligibility must be completed in 45 days

# Challenges

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- Notice in writing required.
- Eligibility denial, crisis denial, and denials, reductions, and service terminations may be challenged in a fair hearing.
- DCF Office of Appeal Hearings
- Can ask for in-person hearing
- Don't rely solely on documents

# Use the Handbook and Rules

- iBudget Rules at 65G-4.0210 through -4.027
- Describes how initial funding decisions are made and what is necessary to receive increased funding
- iBudget Handbook (which is also a Rule)
- Describes each covered service, eligibility criteria, documentation, and any limitations (like place of service or cap on amount)
- Both can be found online at:  
<http://apd.myflorida.com/ibudget/rules-regs.htm>



# Long-Term Care Waiver

Managed Care

# Long-Term Care Waiver Eligibility

- Age 18 and up
- Nursing Home level of care
- Disabled (same definition as Social Security)
- Most current enrollees were already on these waivers: Aged and Disabled Adult, Channeling for Frail Elders, Nursing Home Diversion or Assisted Living

# LTC Managed Care Organizations by Region

- 1 [Pensacola]: American Eldercare/Humana, Sunshine
- 2 [Tallahassee]: AE, United Healthcare
- 3 [Gainesville]: AE, Sunshine, United
- 4 [Jacksonville]: AE, Sunshine, United
- 5 [St. Pete]: AE, Molina, Sunshine, United
- 6 [Tampa]: AE, Coventry, Molina, Sunshine United
- 7 [Orlando]: AE, Coventry, Sunshine, United
- 8 [Sarasota]: AE, Sunshine, United
- 9 [Palm Beach]: AE, Coventry, Sunshine
- 10 [Ft. Lauderdale]: AE, Amerigroup, Sunshine
- 11 [Miami]: AE, AG, Coventry, Molina, Sunshine, United

# Application Process

- Call local Area Agency of Aging (Aging and Disability Resource Center) to set up a CARES assessment (Comprehensive Assessment and Review for Long-Term Care Services)
- Initial Assessment by phone (701 S Form)
- NURSING HOME TRANSITION
  - ▣ Required as part of federal court settlement
  - ▣ Client in NH 60 days or longer
  - ▣ No need for a referral – client, family, friend, advocate, agency, case manager, etc. can recommend
  - ▣ Requires comprehensive CARES screening

# Waiting List Priority

- Amendments to §§409.962 & 409.979 and pending Proposed Rule 59G-4.193, set requirements for an Assessed Priority Pipeline List (APPL)
- Prioritization score of 1-5 (low to high) based on certain responses to CARES assessment (701S or 701B)
- Exempt from screening or waitlist process:
  - ▣ 18-21 medically complex needing 24 hour care or supervision
  - ▣ High risk adult protective referral by DCF
  - ▣ NH residents who want to transition and have been in NH at least 60 consecutive days

# Care Planning Process

- Case manager is employed by the MCO
- Meets with client and legal representative or anyone else client wants to participate
- Develops “Care Plan” that lists service frequency and amount, beginning and end dates, provider
- No written notice of right to appeal, although clients do have that right
- Caseload limit of 1:60 for HCBS/1:100 NH

# Challenges

- Currently by both appeal to MCO and/or fair hearing request to DCF Office of Appeal Hearings
- No Handbook, although AHCA initiated workshop (but with no draft)
- Contract between MCOs and AHCA gives brief description of services. Found online at [https://ahca.myflorida.com/medicaid/statewide\\_mc/plans.shtml](https://ahca.myflorida.com/medicaid/statewide_mc/plans.shtml)

# AHCA COMPLAINT HUB

- Google “AHCA Complaint Hub”
- Or go to:
- [https://apps.ahca.myflorida.com/smmc\\_cirts/](https://apps.ahca.myflorida.com/smmc_cirts/)
- Or call 1-877-254-1055

**Report a Complaint**





# Medically Necessary and HCBS

- Applies to all services, in all Medicaid Programs, but really only fits with acute care. Should at least be paired with what is needed to prevent or delay institutionalization.
- “Medical necessity” is defined by Florida Administrative Code Rule 59G-1.010(166)
  - ① Protect life, prevent illness or disability, alleviate pain
  - ② Consistent with diagnosis and not in excess of need
  - ③ Not experimental
  - ④ No less costly treatment
  - ⑤ Not primarily for convenience of client or caregiver