

Medicaid Home- and Community-Based Waiver Programs

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Executive Summary

Home- and community-based waiver services (HCBS) help people remain in their homes and communities while receiving services, rather than be institutionalized. The waiver programs allow for federal Medicaid reimbursement for certain services provided to persons with chronic illnesses, persons with disabilities, and the elderly, which are not otherwise covered under Medicaid state plan services.

In order to participate in and receive federal reimbursement for home- and community-based Medicaid expenditures, states must apply to the federal Department of Health and Human Services (DHHS) to seek approval for each home- and community-based waiver program.

Minnesota currently administers the five home- and community-based waiver programs that are tailored to people (1) with developmental disabilities; (2) with chronic illnesses; (3) with a disability where the person needs nursing home care; (4) with a brain injury; and (5) who are elderly.

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible and choose to receive services in the community. Each waiver program also has additional criteria to be eligible for services.

The waiver programs are administered by the federal Centers for Medicare and Medicaid Services, but overseen by the Minnesota Department of Human Services with counties, Tribes, and health plans administering the programs locally.

In fiscal year 2022, 99,829 people participated in the waiver programs. There are waiting lists for some of the programs.

The waiver programs receive half of their funding from the federal government and half from the state general fund. In fiscal year 2022, estimated state and federal expenditures for the waiver programs were \$4,456,118,000.

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

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Home- and Community-Based Waivers

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 in the state plan.

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 developmentally disabled (ICF/DD); and (2) to 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/DD.

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 1999, the U.S. Supreme Court ruled in [Olmstead vs.L.C. Laws/2021/1/Session+Law/Chapter/7/](#) 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.

In addition, Governor Mark Dayton issued an executive order¹ in 2013 that created the Olmstead Subcabinet, which was charged with developing and implementing a comprehensive Minnesota Olmstead Plan that supports freedom of choice and opportunity for people with disabilities. The plan includes measurable goals related to the HCBS waivers in order to achieve outcomes such as broadening the use of person-centered planning, incorporating assistive technology assessments into the person-centered planning process, and expanding, diversifying, and improving the direct care and support services workforce.

Procedures for States to Receive Waivers

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 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 were in an institution.

Minnesota's Waivers

Minnesota has been authorized by DHHS to provide HCBS to people with developmental disabilities (DD) or a related condition since 1984. The shift from institutional care to HCBS both saves money and is preferred by the vast majority of people involved.

Minnesota currently administers the following five home- and community-based waiver programs:²

- *Developmental Disabilities (DD) Waiver.* This waiver is for people with developmental disabilities or a related condition who need the level of care provided in an ICF/DD.
- *Community Alternative Care (CAC) Waiver.* This waiver is for people who have a chronic illness and need the level of care provided in a hospital.
- *Community Access for Disability Inclusion (CADI) Waiver.* This waiver is for people who have a disability and require the level of care provided in a nursing home.

¹ See Gov. Mark Dayton, State of Minnesota, [Executive Order 13-01](#), Jan. 28, 2013.

² Minnesota also has a waiver agreement with the federal government in order to receive federal matching funds for the alternative care program. Alternative care provides home- and community-based services to individuals with low levels of income and assets who are not MA enrollees, but who are at risk of nursing facility placement. The monthly cost of alternative care services must not exceed 75 percent of the MA payment rate for nursing care for the person's case mix classification. Alternative care was a state-funded program until fiscal year 2014, when the state began receiving federal MA funding as well.

- *Brain Injury (BI) Waiver.* This waiver is for people with a traumatic or acquired brain injury who need the level of care provided in a nursing home that provides specialized services for people with a brain injury or neurobehavioral hospital.
- *Elderly Waiver.* This waiver is for people who are over 65 years old and need the level of care provided in a nursing facility.

Eligibility Requirements for Individuals to Receive Services

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible and choose to receive services in the community. Each waiver program also has additional criteria to be eligible for services, as listed below.

To meet the requirements for the DD waiver, a person must meet all of the following conditions:

- meet the ICF/DD level of care requirements
- have a developmental disability or a related condition, as determined by the assessment process
- require a 24-hour plan of care
- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the CAC waiver, a person must meet all of the following conditions:

- require the level of care provided in a hospital
- be certified disabled by the Social Security Administration or the State Medical Review Team (SMRT)
- be under age 65 at the time of going on the waiver
- have an assessed need for supports and services over and above those available through the MA state plan
- have a documented need for professional nursing assessments and intervention multiple times during a 24-hour period and require a 24-hour plan of care
- have both predictable health needs and the potential for life-threatening changes in condition or rapid deterioration

To meet the requirements for the CADI waiver, a person must meet all of the following conditions:

- require the level of care provided in a nursing facility
- be certified disabled by the Social Security Administration or the SMRT
- be under age 65 at the time of going on the waiver

- have an assessed need for supports and services over and above those available through the MA state plan

To meet the requirements for the BI waiver, a person must meet all of the following conditions:

- meet nursing facility level of care or neurobehavioral hospital level of care requirements
- be certified disabled by the Social Security Administration or the SMRT
- be under age 65 at the time of going on the waiver
- have a diagnosis of brain injury or related neurological condition that is not congenital and resulted in significant cognitive and significant behavioral impairment
- be able to function at a level that allows participation in rehabilitation
- have an assessed need for a service that is only available through the BI waiver

To meet the requirements for the elderly waiver, a person must meet all of the following conditions:

- require the level of care provided in a nursing facility as determined by a long-term care consultation services assessment
- be 65 years or older
- have an assessed need for supports and services over and above those available through the MA state plan
- need services that the elderly waiver can provide at less cost than the cost of nursing facility care

Administration and Operation of the Waiver Programs

The federal Centers for Medicare and Medicaid Services (CMS) administer Medicaid nationwide, provide funding, approve state plans, and ensure 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 lead agencies (counties, Tribes, and health plans) administer the MA program locally, including the waiver programs, 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:

- 24-hour emergency assistance
- adult companion services
- adult day services

- assistive technology
- behavior programming by professionals
- caregiver living expenses
- case management
- community residential services
- consumer-directed community supports
- crisis respite
- customized living
- day support services
- day training and habilitation services
- employment development, exploration, and support services
- environmental accessibility adaptations
- extended MA home care services, including therapies
- family residential services
- family training and counseling
- home-delivered meals
- homemaking and chore services
- independent living skills training and therapies
- integrated community supports
- night supervision
- positive support services
- prevocational services
- respite care
- specialist services
- specialized supplies and equipment
- transitional services
- transportation services

Not all services are available on every waiver program.

DHS licenses certain HCBS provided to persons with disabilities and persons age 65 and older. The licensing standards provide for recipient protections such as service recipient rights, health services standards, protection standards, service planning and delivery standards, program coordination and oversight standards, record requirements, and facility standards.³

³ See [Minn. Stat. ch. 245D](#).

Participation in Waiver Programs

The number of people served in the waiver programs is determined by DHS. DHS allocates “slots” to counties. If a county determines that it is able to serve more people than the slots it has available under the DD waiver, the county can serve more people as long as it stays within its waiver budget.

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

Waiver Program	FY 2019 Recipients	FY 2020 Recipients	FY 2021 Recipients	FY 2022 Recipients
DD Waiver	21,127	22,131	22,990	24,279
CAC Waiver	649	703	733	815
CADI Waiver	31,773	34,506	37,282	41,841
BI Waiver	1,242	1,171	1,140	1,148
Elderly Waiver	29,341	30,020	29,386	31,746
Total	84,132	88,531	91,531	99,829

Source: Minnesota Department of Human Services, February 2022 Forecast

Note: FY 2022 numbers are estimates. Elderly waiver numbers are for managed care only and do not include fee-for-service.

There is a very high demand for some of the home- and community-based waiver programs. As of March 1, 2022, there were 93 people waiting for the DD waiver in Minnesota.⁴ Individuals on the waiting list 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 DD waiver slot.

The Olmstead Plan established waiting list goals in 2014. As a result, DHS developed new policies for managing the HCBS disability waiver waiting lists and received additional authority and funding from the 2015 Legislature to reduce or eliminate waiting lists. The CAC, CADI, and BI waivers have had waiting lists in the past but no longer have them.

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.

⁴ See the Developmental [Disability Waiver Waiting List](#) on the DHS website.

The Disability Waiver Rate System (DWRS) is Minnesota’s uniform, statewide methodology to determine reimbursement rates for HCBS provided under the four MA disability waivers. Reimbursement rates for HCBS provided under the elderly waiver are determined by a different rate methodology.

Expenditures and Average Recipient Costs for Waivered Programs

Waiver Program	FY 2019 Expenditures (in 000s)	FY 2019 Average Cost per Recipient	FY 2020 Expenditures (in 000s)	FY 2020 Average Cost per Recipient	FY 2021 Expenditures (in 000s)	FY 2021 Average Cost per Recipient	FY 2022 Expenditures (in 000s)	FY 2022 Average Cost per Recipient
DD	\$1,500,009	\$71,000	\$1,614,368	\$72,946	\$1,792,615	\$77,974	\$1,972,717	\$81,253
CAC	46,431	71,542	53,802	76,532	61,769	84,268	70,269	86,230
CADI	1,049,323	33,026	1,261,391	36,556	1,552,422	41,640	1,828,152	43,693
BI	98,217	79,080	102,012	87,115	105,797	92,804	110,027	95,811
Elderly	356,151	12,138	424,171	14,130	375,930	12,793	474,953	14,961
Total	\$3,050,131		\$3,455,744		\$3,888,533		\$4,456,118	

Source: Minnesota Management and Budget and Department of Human Services, February 2022 Forecast

Note: Expenditures represent state and federal funding. FY 2022 expenditures and average cost per recipient are estimates. Elderly waiver numbers are for managed care only and do not include fee-for-service.

Cost-Effectiveness of Community HCBS Waivers to Institutional Service Options

The CMS require HCBS waivers to maintain cost neutrality with institutional care, meaning on average, the HCBS waiver programs must cost no more than it would cost for the same population to receive institutional care. The table below compares the HCBS waiver cost to institutional costs to demonstrate the cost-effectiveness of the disability waivers, using the annual reports, called 372 Reports, submitted by DHS to CMS. DHS is not required to collect this data for the elderly waiver. The table below shows that the CAC waiver provides the largest per capita savings over institutional costs for corresponding populations.

Comparison of Annual per Capita Medicaid Costs for an HCBS Waiver Population and a Corresponding Institutional Population

HCBS Waiver	Level of Care	HCBS Waiver Costs			Institutional Costs			Comparison of Institutional Costs to HCBS Waiver Costs
		Waiver Services	State Plan Services	Total Waiver	Institutional	State Plan Services	Total Institutional	
DD	Intermediate Care Facility (ICF/DD)	\$73,500	\$12,033	\$85,533	\$120,739	\$8,783	\$129,522	\$43,989
CAC	Hospital	75,560	136,209	211,769	731,046	66,770	797,816	586,047
CADI	Nursing Facility	38,252	18,429	56,681	74,872	30,471	105,343	48,662
BI	Nursing Facility and Hospital	86,287	13,063	99,350	190,807	27,635	218,442	119,092

Source: FY 2020 Centers for Medicare and Medicaid Services 372 Reports

The 372 comparison periods are: DD, 7/01/19 to 6/30/20; CAC, 4/01/19 to 3/31/20; CADI, 10/01/19 to 9/30/20; BI, 4/01/19 to 3/31/20.

Recent Changes to Waiver Programs

Programmatic Changes and Legislative Actions

The 2017 Legislature directed the commissioner of human services to conduct two studies related to the HCBS waivers: (1) a study to develop an individual budgeting model for disability waiver recipients and those accessing services through consumer-directed community supports; and (2) a study on consolidating the four disability HCBS waivers into one program.⁵ These two studies resulted in the Waiver Reimagine Project, a project to reconfigure the four HCBS disability waivers into two waivers and transition to individualized budgets.

The 2019 Legislature directed the commissioner of human services to develop a proposal to reconfigure the HCBS disability waivers to simplify administration of the programs, incentivize person-centered supports, enhance each person’s personal authority over the person’s service choice, align services across waivers, encourage equity across programs and populations, and promote long-term sustainability of needed services.⁶

The Waiver Reimagine Project is being implemented in two phases. Phase I was completed in 2021 when DHS implemented a streamlined and simplified common service menu. Also in 2021, the legislature authorized Waiver Reimagine Phase II by directing the commissioner of human services to:

⁵ See [Laws 2017, First Special Session ch. 6](#), art. 18, § 2, subd. 7, paras. (c) and (h).

⁶ See [Laws 2019, First Special Session ch. 9](#), art. 5, § 86.

- 1) implement a two-home and community-based services waiver program structure and an individualized budget methodology;
- 2) offer public stakeholder engagement related to implementation of Waiver Reimagine Phase II;
- 3) convene a Waiver Reimagine Advisory Committee to assist in developing and providing feedback on proposed plans for Waiver Reimagine components;
- 4) submit to the legislature a report on plans for Waiver Reimagine Phase II;
- 5) establish a process to assist waiver recipients and lead agencies in the transition to a two-waiver system with an individual budget methodology;
- 6) develop an online support planning and tracking tool that allows a disability waiver recipient access to the total budget available to the person, the services for which the person is eligible, and the services the person has chosen and used; and
- 7) develop and implement a curriculum and training plan to ensure all lead agency assessors and case managers have the skills necessary to comply with informed decision-making for people who use HCBS disability waivers.⁷

DHS continues to work toward Waiver Reimagine Phase II implementation with rolling implementation of the two-waiver system and individualized budget methodology beginning in 2024.

Potential Legislative Issues

Legislative action may be needed to achieve the Minnesota Olmstead Plan goals related to the HCBS waivers.

Additional potential legislative issues may include:

- modifying the disability waiver rate system;
- modifying the HCBS waiver provider standards; or
- modifying the statutes that govern the HCBS disability waivers in order to fully implement the Waiver Reimagine Project.

⁷ See [Laws 2021, First Special Session ch. 7](#), art. 13, §§ 73 and 75.

Glossary

BI: Brain Injury waiver

CAC: Community Alternative Care waiver

CADI: Community Access for Disability Inclusion

CMS: Centers for Medicare and Medicaid Services

DD: Developmental Disabilities waiver

DHHS: Federal Department of Health and Human Services

Department of Human Services (DHS): Minnesota Department of Human Services

DWRS: Disability Waiver Rate System

HCBS: Home- and Community-Based Services

ICF/DD: Intermediate Care Facility for persons with Developmental Disabilities

MA: Medical Assistance (Minnesota's Medicaid program)

SMRT: State Medical Review Team



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