



DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

February 20, 1998

Dear State Medicaid Director:

This letter is one of a series of State letters that provides guidance on the implementation of the Balanced Budget Act (BBA) of 1997.

On October 14, 1997, we issued a State Medicaid Directors letter outlining the legislative change made by section 4743 of the Balanced Budget Act of 1997, Public Law 105-33. Section 4743 of the Act removed the requirement for prior institutionalization in a NF or ICF/MR before an individual is eligible for expanded habilitation services (prevocational, educational and supported employment) under a home and community-based services waiver program. The purpose of this letter is to provide you with revised streamlined format pages that reflect this statutory change.

Since States have the option to retain or remove the prior institutionalization requirement, we have modified the definition of expanded habilitation services in Appendix B of the current streamlined application (6/95 version) to provide States this option. We have indicated where text has been deleted and added to the definition. Please replace the current streamlined definition with the revised pages (attached).

Should you wish to retain the prior institutionalization requirement in your currently approved waiver, no further action is required. However, if you opt to delete the prior institutional requirement, submit the revised format pages as an amendment to your waiver.

We are working on a further streamlining of the total Home and Community Based Waiver application. Once all revisions to the streamlined application have been completed, we will reissue the format in its entirety under cover of a separate State Medicaid Directors letter. In addition, we will provide the streamlined application in WordPerfect 6.0 on personal computer disk.

Should you have any questions regarding these changes, please contact Mary Jean Duckett on (410) 786-3294.

Sincerely,

/s/

Sally K. Richardson

Director

Center for Medicaid and State Operations

Attachment

cc:

HCFA RAs

HCFA ARAs

Jennifer Baxendell, NGA

Lee Partridge, APWA

Joy Wilson, NCSL

Bob Gettings,

NASDDDS

HCFA Press Office

therapies indicated in the individual's plan of care will be furnished as component parts of this service.

Transportation between the individual's place of residence and the adult day health center will be provided as a component part of adult day health services. The cost of this transportation is included in the rate paid to providers of adult day health services. (Check one):

1. Yes 2. No

Other service definition (Specify):

Qualifications of the providers of adult day health services are contained in Appendix B-2.

g. Habilitation:

Services designed to assist individuals in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community-based settings. This service includes:

Residential habilitation: assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the preparation of food, and the social and adaptive skills necessary to enable the individual to reside in a non-institutional setting. Payments for residential habilitation are not made for room and board, the cost of facility maintenance, upkeep and improvement, other than such costs for modifications or adaptations to a facility required to assure the health and safety of residents, or to meet the requirements of the applicable life safety code. Payment for residential habilitation does not include payments made, directly or indirectly, to members of the individual's immediate family. Payments will not be made for the routine care and supervision which would be expected to be provided by a family or group home provider, or for activities or supervision for which a payment is made by a source other than Medicaid. Documentation which shows that Medicaid payment does not cover these components is attached to Appendix G.

Day habilitation: assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills which takes place in a non-residential setting, separate from the home or facility in which the individual resides. Services shall normally be furnished 4 or more hours per day on a regularly scheduled basis, for 1 or more days per week unless provided as an adjunct to other day activities included in an individual's plan of care.

Day habilitation services shall focus on enabling the individual to attain or maintain his or her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies listed in the plan of care. In addition, day habilitation services may serve to reinforce skills or lessons taught in school, therapy, or other settings.

Prevocational services not available under a program funded under section 110 of the Rehabilitation Act of 1973 or section 602(16) and (17) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(16 and 17)). Services are aimed at preparing an individual for paid or unpaid employment, but are not job-task oriented. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Prevocational services are provided to persons not expected to be able to join the general work force or participate in a transitional sheltered workshop within one year (excluding supported employment programs).

(TEXT DELETED)

Check one:

Individuals will not be compensated for prevocational services.

When compensated, individuals are paid at less than 50 percent of the minimum wage.

Activities included in this service are not primarily directed at teaching specific job skills, but at underlying habilitative goals, such as attention span and motor skills. All prevocational services will be reflected in the individual's plan of care as directed to habilitative, rather than explicit employment objectives.

Documentation will be maintained in the file of each individual receiving this service that:

1. The service is not otherwise available under a program funded under the Rehabilitation Act of 1973, or P.L. 94-142

(TEXT DELETED)

Educational services, which consist of special education and related services as defined in sections (15) and (17) of the Individuals with Disabilities Education Act, to the extent to which they are not available under a program funded by IDEA. Documentation will be maintained in the file of each individual receiving this service that:

1. The service is not otherwise available under a program funded under the Rehabilitation Act of 1973, or P.L. 94-142

(TEXT DELETED)

Supported employment services, which consist of paid employment for persons for whom competitive employment at or above the minimum wage is unlikely, and who, because of their disabilities, need intensive ongoing support to perform in a work setting. Supported employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Supported employment includes activities needed to sustain paid work by individuals receiving waiver services, including supervision and training. When supported employment services are provided at a work site in which persons without disabilities are

employed, payment will be made only for the adaptations, supervision and training required by individuals receiving waiver services as a result of their disabilities, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

Supported employment services furnished under the waiver are not available under a program funded by either the Rehabilitation Act of 1973 or P.L. 94-142. Documentation will be maintained in the file of each individual receiving this service that:

1. The service is not otherwise available under a program funded under the Rehabilitation Act of 1973, or P.L. 94-142

(TEXT DELETED)

FFP will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following:

1. Incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;
2. Payments that are passed through to users of supported employment programs; or
3. Payments for vocational training that is not directly related to an individual's supported employment program.

(TEXT ADDED) The State will require prior institutionalization in a NF or ICF/MR before a recipient is eligible for expanded habilitation services (prevocational, educational and supported employment).

1. _____ Yes 2. _____ No

Transportation will be provided between the individual's place of residence and the site of the habilitation services, or between habilitation sites (in cases where the individual receives habilitation services in more than one place) as a component part of habilitation services. The cost of this transportation is included in the rate paid to providers of the appropriate type of habilitation services.

1. Yes 2. No

Other service definition (Specify):

The State requests the authority to provide the following additional services, not specified in the statute. The State assures that each service is cost-effective and necessary to prevent institutionalization. The cost neutrality of each service is demonstrated in Appendix

G. Qualifications of providers are found in Appendix B-2.