NORC at the UNIVERSITY of CHICAGO

Research Summary

ACA *SECTION 2401, COMMUNITY FIRST CHOICE OPTION* (Section 1915(k) of the Social Security Act)*;* **MARYLAND** STATE PLAN AMENDMENT SUMMARY

OVERVIEW

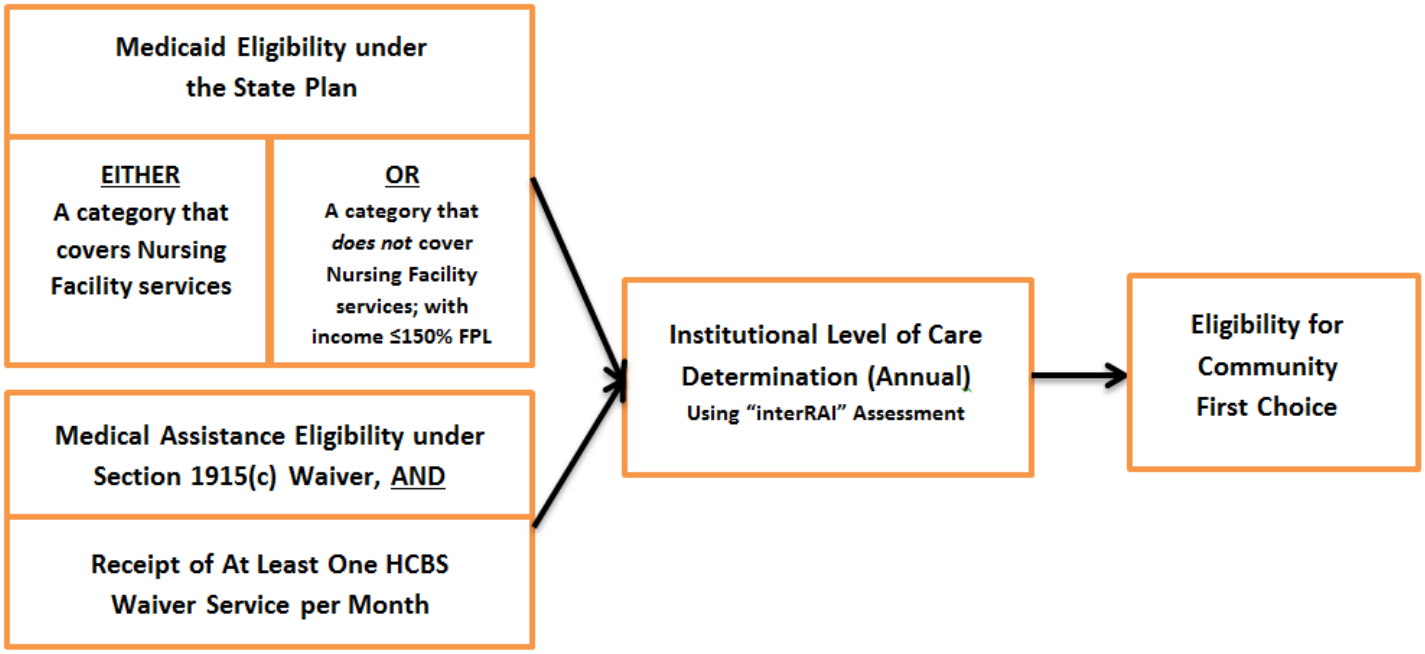
Maryland is the third state to implement the Community First Choice Option, Section 2401 of the Affordable Care Act and Section 1915(k) of the Social Security Act. Maryland's Medicaid State Plan Amendment adding Community First Choice services was approved on April 2, 2014, with an effective date of January 1, 2014. As specified in the ACA and regulations, Maryland's program covers home and community-based attendant services and supports to assist individuals with activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related tasks.

By implementing the CFC option, Maryland is able to cover a range of home and community-based services under its State Plan, which were previously covered through 1915(c) waivers. Concurrent with implementation of CFC, the state merged two 1915(c) waivers that offered similar services to different populations, to create a new waiver which covers services that are not permissible under CFC. State Plan personal assistance was retained to provide services to individuals who do not meet the institutional level of care but need assistance with at least one ADL. The State will align procedures in the State Plan personal care program (Medical Assistance Personal Care, or "MAPC") with those in CFC in order to facilitate transitions between the two programs. For example, a common assessment tool will be used to determine participants' level of care needs. Participants in CFC and MAPC will also receive select services—including supports planning and nurse monitoring—from the same pool of service providers, Area Agencies on Aging, and health department nursing staff.

ELIGIBILITY

Eligibility for Community First Choice services in Maryland follows the federal regulations at 42 CFR §441.510. Medicaid beneficiaries must be eligible for medical assistance in an eligibility group whose benefits include nursing facility services, or have countable income below 150 percent of the federal poverty level if their eligibility group does not cover nursing facility services. All individuals must meet an institutional level of care to qualify for CFC services.

Exhibit 1. Maryland Community First Choice Eligibility Pathways



Individuals who qualify for Medicaid through a 1915(c) waiver must continue to meet all waiver criteria and must receive at least one waiver service per year. Medicaid eligibility through a 1915(c) waiver remains an important Medicaid eligibility pathway for individuals who meet an institutional level of care, but would otherwise have too much income to qualify for Medicaid in the community.

The State determines initially, and at least annually, that individuals require the level of care provided in a hospital, a nursing facility, an intermediate care facility for individuals with intellectual disabilities (ICF/ID), an institution providing psychiatric services for individuals under 21, or an institution for mental diseases for individuals age 65 and older. Maryland uses the interRAI Home Care assessment as the standardized assessment tool for CFC, to determine Medical Assistance Personal Care or nursing facility levels of care. Other assessment tools are used to determine ICF/ID and IMD levels of care, depending on an individual's functional abilities.

SERVICE DELIVERY MODELS

Maryland uses two models of service delivery, the agency model and a self-directed model; both utilize service budgets, which employ a fiscal intermediary to provide financial management services. Participants choose which service delivery model they will use in their Plan of Service. While both models allow for some self-direction over the participant's care, under the agency model, services and supports are provided by staff employed by provider agencies. For the self-directed model with service budget, the fiscal intermediary administers payroll for independent providers and makes payments for transition services. The fiscal intermediary also assists participants in both models by making payments for items and services that substitute for human assistance.

SERVICE PACKAGE

The statute and regulations require states to provide community-based attendant services and supports to assist in accomplishing ADLs, IADLs, and health-related tasks, through cueing and supervision, as well as hands-on assistance. In addition, supports must include acquisition, maintenance, and enhancement of ADLs, IADLs, and health-related tasks; back-up systems to ensure continuity of services and supports; and voluntary training on selecting, managing, and dismissing attendants. States also have the option to provide two types of permissible services; Maryland has opted to pay for costs associated with transitioning beneficiaries from institutions to community living, and to pay for certain goods and services that increase an individual's independence or substitute for human assistance.

Maryland claims the enhanced CFC match for these services:

- **Assistance with ADLs, IADLs, and health-related tasks through hands-on assistance, supervision and/or cueing:**
  - Personal Assistance Services (PAS) through an agency or the self-directed model provides assistance with ADLs, IADLs, and health-related tasks, through hands-on assistance, supervision, and/or cueing.
  - Nurse Monitoring provided by local health departments includes delegation of nursing tasks to personal assistance providers through initial training and instructions and subsequent visits to evaluate providers, update instructions, and offer provider training as needed.

- **Acquisition, maintenance and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks:**
  - Consumer training targeted to participants' individual needs provided in participants' homes by self-employed trainers or qualified trainers employed by agencies.
  - Personal assistance services that will aid in the acquisition, maintenance, and enhancement of skills.

- **Back-up systems or mechanisms to ensure continuity of services and supports:**
  - Personal Emergency Response Systems (PERS) to enable participants to summon assistance in an emergency. This service may include purchase and installation, and monthly maintenance and monitoring for a PERS device.

- **Support System Activities:**
  - Participants have a choice of supports planning agencies, services will be provided by Area Agencies on Aging or by other providers identified through a competitive solicitation.
  - Supports planners to engage participants to:
    - Assess and counsel individuals prior to enrollment.
    - Identify goals, strengths, risks, and preferences.
    - Coordinate community supports and services from various programs and payment sources.
    - Locate and access housing, identify barriers to securing housing, and resolve identified barriers.
    - Develop a comprehensive Plan of Service that includes both State and local community resources, and coordinate the transition from an institution to the community.
    - Ensure that individuals are able to manage their services and budgets by providing information, counseling, and training.

Maryland does not claim enhanced match for voluntary training on attendant selection and oversight, a required CFC service which is provided by the Maryland Department of Disabilities at the administrative claiming rate:

- **Voluntary training on how to select, manage and dismiss attendants.** Training is offered in many formats including individual training, group training, and by webinar on request.

Permissible CFC Services. In addition to the required CFC services described above, Maryland provides and claims enhanced match for the following permissible CFC services:

- **Expenditures that substitute for human assistance**, related to needs identified in the individual's person-centered plan:
  - Home-delivered meals.
  - Environmental assessments by a licensed occupational therapist or a group employing a licensed occupational therapist to determine the participant's need for assistive devices and equipment.
  - Assistive technology that empowers participants to live in the community or engage in community activities.
    - Assistive technology, including environmental controls for the home or vehicle; personal computers, software and accessories; augmentative communication devices; self-help aids that assist with performing ADLs and/or IADLs; maintenance or repair of devices; and assessments and training.
    - Capped at $15,000 per participant every three years.

- **Expenditures for transition costs** for individuals transitioning from institutions to residence in community settings:
  - Covered based on assessment of need and the participant's recommended plan of care.
  - Administered by the fiscal intermediary, and may be used up to 60 days after transition.
  - Limited to $3,000 per transition and may not include televisions, television access, or gaming units.

Maryland does not make direct cash payments prospectively to CFC participants.

ASSESSMENT AND SERVICE PLAN

Responsibilities for assessments and development of the Plan of Service are divided between local health departments and agencies providing supports planning:

- Participants' initial and annual assessments are conducted by a nurse or social worker from the local health department or a State contractor, using a standardized assessment instrument—the interRAI Home Care. Assessors also prepare a Recommended Plan of Care. The assessment and recommended plan of care are entered into the Long Term Services and Supports tracking system.

- Applicants choose a supports planning agency after Medicaid eligibility and functional eligibility have been determined. The supports planner schedules a face-to-face meeting with the participant and their representatives to determine needs, goals, strengths, risks and preferences.

- The supports planner accesses the recommended plan of care through the tracking system and uses that information and the participant's input to help develop a plan of service through a person-centered planning process.

- The supports planner coordinates community services and supports from various programs and payment sources and helps participants identify providers and make referrals, including referrals for voluntary training on self-direction, if needed.
- The plan of service includes back-up plans to ensure the participant's health and safety, such as back-up staffing, assistive technology, and training for the participant and family.
- Budgets for PAS are based on Resource Utilization Groups (RUGs) to match the level of services with functional needs as determined by the interRAI Home Care assessment. There is an exceptions process for requesting additional PAS based on medical necessity. Home-delivered meals are paid from the same RUG-allocated budget as PAS.

HOME AND COMMUNITY-BASED SETTINGS

Section 2401 of the ACA requires that CFC services are delivered "in the most integrated setting appropriate to the individual's needs." The Maryland SPA states that CFC services are "provided to individuals residing in settings that meet the federal regulatory requirements for a home and community-based setting, and include, but are not limited to, single family homes, duplexes, apartments, and congregate settings serving three or fewer unrelated individuals." Assisted living remains a waiver service and is not included in CFC. CFC participants may receive services in the workplace or other community settings. The choice of settings is documented in the individual's person-centered service plan and is based on the individual's needs and preferences as well as their available financial resources to cover room and board in various residential settings.

QUALIFICATIONS OF PROVIDERS OF CFCO SERVICES

Several existing types of certified provider agencies may deliver CFC personal assistance services, including residential service agencies, Medicaid personal care providers, and other public and private agencies employing in-home attendants. Agency-based personal assistants must be: at least 18 years of age, able to communicate in English, able to pass a criminal background check, certified in first aid and CPR, and trained by the delegating nurse in all services identified in the plan of service. Some delegated tasks require certification as a certified nursing assistant, certified medicine aide, or medication technician.

Under the self-directed model, participants may waive the criteria for personal assistants listed above by submitting a request to the Department. If the age requirement is waived, the attendant may be no younger than 16 years old and have an approved work permit. Participants may waive the results of criminal background checks and hire their provider of choice regardless of felony convictions, except for providers convicted of fraud, elder abuse, and specified child abuse who are excluded under federal law and regulations. CFC participants may not waive any qualifications for agency-based personal assistants.

QUALITY ASSURANCE AND IMPROVEMENT PLAN

Maryland adopted the 1915(c) waiver Quality Management Strategy for CFC and added CFC to the responsibilities of the Waiver Quality Council, a cross-agency group overseen by the Medicaid agency. The council meets regularly to address issues through data analysis, review of program information, and refinement of the quality management system. The Office of Health Services (OHS) in the Department of Health and Mental Hygiene is the lead entity that reviews and monitors program data, determines the need for system improvements and develops recommendations.

Data sources monitored by OHS include a provider database, audits, reviews by the Quality Care Review Team, and activities and reports submitted to the Department's web-based tracking system—known as LTSSMaryland—which tracks many long-term services and supports. The system is used by nurse monitors, the utilization control agent, the fiscal intermediary, and supports planners to report CFC activity and complete forms. A reportable events module was added to the tracking system in order to coordinate review of incidents in a centralized location.

The State does not list specific quality measures in the SPA, but describes data sources and examples of quality measures. The tracking system and the interRAI HC assessment instrument are used for measuring performance, such as the timeliness of assessments, utilization control reviews, and tasks performed by the supports planners. Assessment data are used to measure outcomes such as changes in medical status and needs across time and between jurisdictions; RUG levels are used to compare levels of need and changes in need. To measure beneficiary satisfaction, the State uses an amended Money Follows the Person Quality of Life survey with additional questions from the Participant Experience Survey, conducted by an independent contractor.

The health and welfare of CFC participants will be monitored in the field by periodic nurse monitoring visits and supports planning contacts. The tracking system enables the State to monitor frequency of contacts, reportable events, whether services delivered conform to the plan of service, and whether congregate settings meet the HCBS settings requirements. A telephonic timekeeping system is used to verify personal assistance hours and nurse monitoring visits.

Exhibit 2. Matrix of Maryland Community First Choice SPA

Matrix of Community First Choice SPA
Maryland

Service Delivery Model	
Agency Model	X
Self-Directed Model	
Direct Cash	
Vouchers	
Financial Management Services	X
State elects to disburse cash prospectively	

Service Package	Claiming Service Match	Service Type
ADLs, IADLs, health-related tasks	X	Assistance with ADLs, IADLs, and health-related tasks is provided through Personal Assistance Services (PAS), which may include nursing tasks Nurse Monitoring, including delegation of nursing tasks, instruction to personal assistants, and evaluation of the provision of services
Acquisition, maintenance and enhancement of skills	X	Trainers can provide in-home consumer training. PAS may be used to work on skills Items that substitute for human assistance may be used to acquire, maintain or enhance skills
Development of Back-up systems	X	Personal emergency response systems
Voluntary training		Training on selecting and managing attendants
Support-system activities	X	Assessment & counseling prior to enrollment Development and implementation of plan of service through person-centered planning process
Permissible CFC services provided by State:		
Expenditures for services substituting for human assistance	X	■ Home-delivered meals ■ Environmental modifications ■ Assistive devices

Service Package	Claiming Service Match	Service Type
Expenditures for transition costs	X	Rent and utility deposits, first month's rent and utilities, household supplies, etc.

Assessment and Service Plan	
Participants can appoint a representative to direct services	X
Uniform assessments	X - Conducted by local health departments using interRAI HC assessment

CFCO Provider Qualifications	
Service providers	Agency-based personal assistants must be: 18 or older; certified in first aid and CPR; pass criminal background check; able to communicate in English; and trained by the delegating nurse to perform all services in the service plan. CFC participants cannot waive qualifications for agency-based personal assistants, but participants who self-direct can waive most requirements

Quality Assurance and Improvement Plan	
Participating entities	Department of Health & Mental Hygiene; Waiver Quality Council; local health departments; supports planning agencies; Community Options Advisory Council
Activities	Home visits, monitoring and analysis of data, verification of service, remediation, system improvements
Data Collection	Performance measures, outcome measures, satisfaction measures
Data Sources	Provider database, LTSSMaryland tracking system, Quality Care Review Team reviews, interRAI HC assessment data

Stakeholder Involvement	
Beneficiaries and beneficiary advocates	Participate in developing plans of service, and may direct their own services Participate in implementation monitoring
Local health departments	Conduct assessments and develop recommended plans of care Provide nurse monitoring services
Supports planning agencies	Assess and counsel individuals prior to enrollment Assist participants through person-centered planning process
MD Department of Disabilities	Provides voluntary training to participants on self-directing PAS
Agency providers	Provide personal assistance services, and other services
Independent providers (attendants)	Provide personal assistance services
Fiscal intermediary/financial management services	Provide payroll services for participants who self-direct, make payments for transition costs and items that substitute for human assistance
MD Department of Health & Mental Hygiene	Program operations, provider certification, quality assurance and improvement
Family Members	May provide CFC services if not legally responsible, may be designated by participant as an authorized representative to direct services
AFSCME (union representing independent providers)	Bargains on behalf of home care workers