Assessment of 1915(c) Home and Community-Based Services Waivers

Commonwealth of Kentucky
Cabinet for Health and Family Services

Summary of Phase One Recommendations

May 2018

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Introduction and Assessment Approach

In April 2017, the Commonwealth of Kentucky Department for Medicaid Services (DMS) contracted with Navigant Consulting, Inc. (Navigant) to assess the potential for operational efficiencies while enhancing home and community based (HCBS) delivery within Kentucky's 1915(c) waivers. The overall goal of the project is to identify ways to optimize the Kentucky 1915(c) waiver programs, including program oversight and administration, quality of care and service delivery - to improve provider and participant experience.

Navigant's review considered several areas as requested by the Cabinet, including ways to improve service, efficiency and cost effectiveness across the 1915(c) waivers. To provide recommendations in these areas, Navigant reviewed both the operations of Kentucky's 1915(c) waiver programs as well as the structure and contents of Kentucky's six 1915(c) waivers. Navigant completed several parts within its assessment to inform recommendations being considered:

1. ***Internal Structure and Administration Assessment*** - Navigant reviewed the operational processes within the Cabinet for Health and Family Services (the Cabinet) for administering the waivers to identify areas for refinement, including:
    - Completing dozens of staff interviews within the Cabinet
    - Targeted workflow assessment across approximately a dozen work areas across Cabinet departments
    - DMS study and consideration of waiver configuration and service delivery model options using the Kepner-Tregoe decision making methodology
    - Ongoing planning and strategy sessions with sister agencies and with project Governance, including ongoing meetings with the Secretary of CFHS, and sessions with the Governor's office, and legislators
2. ***1915(c) Waiver Assessment*** - Navigant reviewed the current 1915(c) waivers in Kentucky and assessed waiver content, including:
    - A complete appendix by appendix review of all 1915(c) waiver language across the six current HCBS waivers
    - Conducting a study of peer state regulations and their contents, along with a scan of the contents of Kentucky Administrative Regulations
    - Data collection and research on 1915(c) waiver participant demographics and profiling, HCBS utilization and other program information
    - Comparative research of other states' waiver components and policy across a number of waiver design and policy areas
3. ***Stakeholder Engagement*** –
    - 40 focus groups were held with nearly 500 participants across the State, findings were summarized in a report of stakeholder themes released to the public in March 2018.

- Navigant and DMS reviewed all public comments sent to the DMS public comment inbox
- DMS continues to engage with and receive input from the Medicaid Advisory Committee, technical assistance committees, and has presented project status updates at other meetings as requested.

Throughout the assessment, stakeholders stressed how important it was to be included in the process, including Cabinet leadership's consideration of stakeholder input during decision making. The Cabinet is committed to meaningful and ongoing stakeholder engagement – throughout the assessment and beyond.

DMS is releasing the following preliminary recommendations as the first step in the process of deciding which recommendations to implement. Coming steps will include:

1. DMS will release the summary of recommendations to the public
2. DMS will hold public town hall meetings to present recommendations and obtain additional stakeholder feedback
3. Navigant will revise recommendations, as needed, based on public comment and stakeholder feedback
4. DMS will select which of Navigant's recommendations it wishes to implement and determine the order and timing of implementation

The Cabinet welcomes stakeholder feedback regarding these recommendations. Stakeholders have been invited to provide comments during Town Hall meetings, which will be held in 10 locations around the Commonwealth in May, or via email: Medicaidpubliccomment@ky.gov

FOR TOWN HALL MEETING INFORMATION PLEASE GO TO:

http://chfs.ky.gov/NR/rdonlyres/976BD528-623D-46B6-859B-ABFCB0409C72/0/Townhallnotification.pdf

In addition to participating in town hall meetings, written comments and questions may be emailed at any time to: Medicaidpubliccomment@ky.gov

Preliminary Recommendations

1.1 Standardize provider and service definitions across 1915(c) waivers, including waiver-specific regulations to be promulgated in Kentucky Administrative Regulation (KAR)

Today, the Commonwealth's 1915(c) waivers have unique language and requirements across all six waivers. Navigant recommends revision of the waivers to standardize terms and definitions, improve clarity in processes and expectations within applicable waiver appendices, and reduce the contents of the KAR as part of the Governor's "Red Tape Reduction Initiative."

We propose moving the bulk of operational protocols and regulatory interpretations out of regulation and into user-friendly provider handbooks and operating procedures, developed and reviewed by a single designated team within the Cabinet. This team would review these tools on a yearly basis and propose updates that would then undergo public review and comment. We recommend improving consistency within the 1915(c) waivers, writing waiver

applications that can serve as the primary source of guidance. This would reduce the system's heavy reliance on state regulations, which have been described by most stakeholders as cumbersome, not user-friendly, and subject to misinterpretation. It is important to note that each waiver serves unique disability groups with specialized needs, so specialized language and processes would still be included in each waiver, tailored to respective populations and services.

What would this mean for stakeholders? Terms and definitions would be similar across programs to help improve consistency and standardization across the waivers. This should help participants to better understand programs, making it easier if a participant must change waivers. In addition, providers who serve multiple waivers would experience less confusion and conflicting rules between programs. Standardizing waivers should also help address stakeholder concerns that some waivers offer more generous service access and allotments, driving consistent approaches to service planning and provider reimbursement.

1.2 Move to need-based care planning with a universal assessment tool, with the assessment to be completed by an independent entity

Participant assessments are conducted using several assessment tools depending upon the waiver. While assessments need to be able to assess the unique needs of the people receiving services through the waivers, collecting a foundation of core information that is consistent across waivers is also important. Currently, this core information is not collected in a user-friendly way and cannot be broadly analyzed to understand needs across waiver populations.

One fundamental weakness of the current assessment process is the lack of a pediatric-appropriate tool to assess individuals under the age of 18, who comprise nearly 20 percent of the waiver population. Additionally, several types of entities conduct assessments today, all with varying degrees of potential conflict of interest. This has created a disjointed set of assessment practices, leading to concerns that assessment practices may not adequately capture needs sufficient to drive person-centered planning. Many stakeholders believe the process is unfair and/or unclear.

Navigant recommends moving to a validated universal assessment tool that has sub-parts to assess the unique needs of specific disability populations (e.g., individuals who have acquired brain injury, individuals who have intellectual or developmental disabilities, etc.). Additionally, we recommend identifying a standard approach to independently assessing participants, using conflict-free entities who would collaborate with case managers to help better incorporate assessment activities into the case management and service planning process. We recommend appointing an advisory panel of stakeholders to work with the Cabinet to make recommendations as to which tool may be the best fit for the Commonwealth. Strategies would be implemented so that case managers and support brokers are better linked into the process to mitigate concerns from case management providers about being excluded from the assessment and/or lacking important assessment information after the assessment is complete.

What would this mean for stakeholders? Participants across all 1915(c) waivers would be assessed using the same tool, likely with specialized sub-sections to population-specific

needs. This approach would more consistently capture information that applies to all participants, like activities of daily living, health status, etc. Using a validated, reliable tool should reduce any potential bias or assessor discrepancy that occurs within current assessment processes. Case managers and support brokers would be better linked into the annual assessment process, so that a conflict-free, independent assessment can be done, without impeding person-centered planning.

1.3 Implement needs-based individual budgeting methodology, moving away from retrospective budgeting

Once a universal assessment tool has been identified and implemented across waivers, Navigant recommends implementing an individual budgeting methodology to objectively allocate waiver resources based on an individual's needs, within the cost neutral limits agreed to by CMS. This would be a significant change from the current *retrospective* approach, which establishes budgets based on estimates driven by past utilization, which may not reflect the actual needs of each participant. Navigant strongly recommends developing a methodology that can be understood by participants and their informal supports, who currently struggle to understand how service limits and budgets are established. We heard strongly from stakeholders that while they understand resources are limited, they want a system based on needs and evidence instead of arduous standards, like the Michele P waiver's 40-hour rule.

What would this mean for stakeholders? This recommendation should result in a system where it is clear how resources are assigned to a participant based on their individually assessed needs. We expect better understanding among participants, caregivers and providers, who would have more confidence in how budgets are established and when changes in needs may result in changes to a participant's budget. A strong budgeting methodology may lead to increases in services for high needs members (within cost neutrality limits), address waste and abuse issues, and make best use of limited resources.

1.4 Develop a sound rate-setting methodology, informed by a study of the reasonable and necessary costs incurred by providers to serve waiver participants

One area of opportunity identified by both Cabinet leadership and providers is the need to examine the Commonwealth's rate-setting methodology across all service types. It has been multiple years since a rate methodology was last considered, and providers are frustrated with lagging rates and the lack of historical basis for rates. Navigant recommends that the Cabinet conduct a comprehensive rate study, including a provider cost survey, further provider engagement, data analysis and financial modeling to establish a methodology for CMS review. The study would focus on the importance of establishing rates that are consistent with the efficiency, accessibility and the quality of care standards established under the federal requirements described in U.S.C. § 1396a (a)(30)(A), and updating payment practices to align with the reasonable and necessary costs to provide these critical services.

What would this mean for stakeholders? Providers would have the opportunity to share information on their reasonable and necessary costs, which would be used to inform a sound rate-setting methodology, using a transparent process that the public understands.

Sound rates that are reasonable, and consistent between waiver programs, may encourage providers to provide services to more waivers than they do today. The identified rate methodology would be incorporated into state regulation to ensure that the agreed upon method is documented transparently and adhered to in future rate adjustments.

1.5 Develop consistent operational guidelines and update training and workflows for each waiver oversight unit within the Cabinet

Several departments within the Cabinet contribute to administering and operating HCBS waiver programs. Both Cabinet staff and stakeholders described inconsistency in how each department carries out oversight activities, often leading to stakeholder confusion. There are multiple processes that lack defined procedures, or existing procedures that are carried out differently across Cabinet departments. Navigant recommends establishing standard operating procedures to be implemented across all teams administering waivers. These procedures should enhance efficiency and customer service to stakeholders, driving consistent approaches that can be easily explained to participants, their caregivers and providers. They would also be a foundational element for future Cabinet staff training. Overall, standard procedures should make day-to-day interactions much easier for all stakeholders, including participants, providers and Cabinet staff.

What would this mean for stakeholders? Stakeholders working on waiver related processes with the Cabinet would more clearly understand how the Cabinet and DMS staff complete their work. This should minimize inconsistencies and individual interpretations among staff, reducing confusion and improving the public's confidence in how the Cabinet administers and operates the 1915(c) waivers.

1.6 Establish and implement case management standards and training for both traditional case management and support brokers

During focus groups, participants advised that they consider case management and support brokers services to be critical, but that these services vary in effectiveness across the Commonwealth. Navigant recommends introducing strengthened tools for case management, including more robust training, support and oversight of case management and support broker providers. Improvements to the Commonwealth's case management approach would ensure that case managers and support brokers have the skills, tools and guidance needed to fully support participants as they conduct person-centered planning, and monitor service implementation. Additionally, we recommend implementing systems, training and support strategies that address ongoing concerns that some providers attempt to influence service planning in a way that could be considered a violation of federal conflict-free case management requirements. We believe implementing comprehensive practice standards and performance management would help improve case management and address the training and development needs that exist today.

What would this mean for stakeholders? Case managers and support broker providers would receive more support and training to help improve their service delivery. Providers would have clear service expectations, including standardized tools and templates (which may be required for ongoing use), clarifying practice and documentation requirements, to bolster compliance. This should result in improved support for case managers and support

brokers and greater assistance to participants and their caregivers, who rely on case managers as their primary liaison to HCBS management.

1.7 Streamline Participant Directed Service (PDS) delivery by reducing the disparity between fiscal management agency (FMA) operations, and strengthening program policies and procedures

Many waiver participants utilize the PDS model, which allows individuals to self-direct their services, offering more autonomy. PDS is also used by participants to overcome the lack of traditional providers in many areas of the Commonwealth. Navigant recommends improving Kentucky's PDS program through a blend of policy and programmatic changes. We believe several policies require better definition, including:

- Who is eligible to self-direct their services?
- What self-directed tasks are allowable, who can assist with these tasks?
- What family members may and may not be employed as a provider?
- What criminal background related restrictions should disqualify a person from being a PDS provider?

We also have operational recommendations that we believe would improve Kentucky's PDS system. Today, the Commonwealth has 15 FMAs, all with varying levels of technology and systems for processing documents and performing administrative responsibilities. We recommend developing a clearer contract with defined performance standards, to identify those willing and qualified FMAs who can manage their administrative responsibilities in a timely and efficient manner that does not over-burden participants and their informal supports. DMS leadership should also consider strategies to address the costs and fees associated with onboarding new PDS providers, which participants have advised is a deterrent to selecting PDS.

What would this mean for stakeholders? If improvements are made in PDS, participants would be better informed about the PDS program and their responsibilities so they can make informed decisions, and potentially enhance their access to optimal support and care. Those who choose PDS would have stronger FMA providers who can demonstrate efficient, timely completion of assigned tasks. Additionally, DMS would clarify policies to minimize public confusion and reduce the number of grievances related to PDS denials. Participant burdens, such as driving extended distances to drop off paperwork, would be eliminated.

1.8 Centralize operations and oversight under one quality management business unit

Currently, the Cabinet has several teams across three departments contributing to compliance and quality management activities, including provider certification, surveying, technical assistance, billing review and other activities. Having multiple teams assigned to quality management functions has the potential to create inconsistency with program oversight. Uneven approaches in the level of support and technical assistance and the inconsistent application of penalties and sanctions have led to chronic confusion, conflict and frustration for all parties. This is problematic for DMS – who, as the Single State Medicaid Agency, is solely accountable to the Centers for Medicare and Medicaid Services (CMS) for federal compliance. We recommend consolidating compliance and quality

monitoring responsibilities into a single team, with decision-making authority centralized within DMS. This team, along with field staff from designated operating agencies, would be responsible to drive high-quality service delivery using consistent approaches across all waivers.

What would this mean for stakeholders? This recommendation would positively impact providers, to drive consistent monitoring approaches to assess compliance and quality. Centralization reduces the likelihood of mixed-messaging and the individual interpretations that are commonplace today. All guidance would come from a single unit and oversight source, who would be responsible to support all provider types similarly using training, technical assistance, and other support methods – eliminating today's siloed approaches where some providers get more support than others. We are optimistic that balanced approaches to provider support, coupled with more consistency across waivers, may encourage providers to offer services through more than one or two waivers, as they typically do now.

1.9 Implement an ongoing, formal stakeholder engagement process including improved use of the Technical Assistance Committees (TACs) and Medicaid Advisory Committee (MAC)

Throughout the 1915(c) waiver assessment process, Navigant has emphasized the importance of stakeholder engagement. Stakeholder engagement is not a "one and done" process – we believe a permanent strategy is needed for ongoing, meaningful stakeholder engagement with ALL stakeholders, including participants, caregivers, providers, advocates and concerned citizens. We believe stakeholders should be better involved, informed and encouraged to provide their insights and recommendations to DMS and the Cabinet. We recommend implementing strategies, including improved communications via written and in-person engagement, along with optimization of how the MAC, TACs and other participant-driven boards and organizations are engaged in program design, evaluation and decision-making. Finally, we encourage the Cabinet to improve the representation of waiver participants, their natural supports and other stakeholder types beyond providers into TACs, to assure diversity in stakeholder input and engagement.

What would this mean for stakeholders? Improvements in stakeholder engagement should lead to better ongoing communication and relationships between the Cabinet and waiver stakeholders, help engage under or dis-engaged stakeholders, and offer ongoing opportunities to provide input into and receive education about HCBS design and delivery. Participants' input would be essential to educate and guide the Cabinet, as they attempt to drive long-term improvements in participant outcomes. Allowing stakeholder insights to guide program design and operations, would improve service delivery for. A long-term goal is to drive culture change – where stakeholders work collaboratively with the Cabinet to address challenges, identify solutions and strengthen HCBS across the Commonwealth.

1.10 Implement a quality improvement strategy to increase emphasis on improving service outcomes and participant experience

One topic that universally inspires interest and passion is improving the quality of the Commonwealth's HCBS, specifically improving participant outcomes. Navigant knows there

are best practices and great work being performed in many areas, and understands the desire to pivot from today's compliance-only focus to one that also drives improvements, embracing modernization and positive impacts. Navigant recommends developing a sustainable quality improvement strategy that can be incorporated into waiver oversight, identifying specific quality improvement initiatives for system improvement using evidence-based approaches and strategies.

What would this mean for stakeholders? The Cabinet and DMS would implement strategies that focus more on systems improvement as opposed to just compliance. Stakeholders would collaborate with the Cabinet on focus areas where quality improvement is needed and would help improve participant care and/or quality of life.

1.11 Conduct a future assessment of the need for waiver reconfiguration, once aforementioned recommendations are implemented and reviewed for effectiveness

Recommendations 1.1 – 1.10 reflect a series of improvements that, based on our assessment, should substantially improve waiver management and service delivery. These recommendations do not require changing the current configuration of HCBS waivers, including the number of waivers, their targeted populations and other core design elements. We recommend implementing this first series of 10 recommendations before considering waiver reconfiguration. This two-phased approach would enable the Commonwealth to better assess the current waivers before considering changes as fundamental as waiver reconfiguration.

Reconfiguration would entail significant change for stakeholders and the Cabinet. After implementing the 10 first-phase recommendations, the current waivers would be operating more effectively and efficiently. Then, Navigant, the Commonwealth and stakeholders can better assess the current waiver configuration and the likely impact of any waiver reconfiguration. Phasing-in changes should support long-term success in improving HCBS waiver programs.

Several phase one recommendations, including introducing standardized methods for participant assessment, individualized budgeting and HCBS rate setting, would equip DMS leadership with improved data and information. Stronger data would allow the Cabinet to properly assess and project the impacts of a waiver reconfiguration, to ensure that reconfiguration is in the best interest of all stakeholders, especially participants.

What would this mean for stakeholders? At this time, DMS would be leaving the current waiver configuration intact. Until fully assessed, DMS would *not* be:

- Increasing the number of waivers or adding new waivers
- Decreasing the number of waivers or eliminating existing waivers
- Consolidating waivers into a "super-waiver" or any other merged waiver

The need for waiver reconfiguration would be assessed in a second phase of assessment, to occur after recommendations chosen by DMS and Cabinet leadership are implemented and reviewed for effectiveness. Stakeholders would have input opportunities throughout this second phase, which would occur at a date to be determined.

Conclusion

The Commonwealth is embarking on an important new phase in its HCBS system. It is a time when all stakeholders, DMS and Cabinet leadership understand the opportunity to improve a critical group of programs that serve some of Kentucky's most vulnerable citizens. Navigant encourages stakeholders to consider the recommendations summarized above, and offer constructive, helpful feedback to help guide coming HCBS improvements and adjustments. We value the insights of those who participate in HCBS delivery each day, and welcome your thoughts on what changes are highest priority. We often heard during focus groups, "Nothing about us, without us." We welcome continued partnership and ideas as we consider the future of Kentucky's 1915(c) waiver programs.