

ICF RESTRUCTURING INITIATIVE

- Q&A -

1. What is the context for the ICF Restructuring Initiative?

- ✓ In Wisconsin, counties have the primary responsibility for the well-being, treatment and care of individuals with developmental disabilities. For over twenty years the Wisconsin Department of Health and Family Services (DHFS) has assisted counties in relocating thousands of individuals with a developmental disability (DD) from institutions into the community. Notwithstanding this history, a significant number of Wisconsin residents with developmental disabilities still remain in institutions and other large/congregate settings. Notice was taken of the fact that the amount of money spent on persons in Intermediate Care Facilities for the Mentally Retarded (ICFs) and nursing homes, at a DD level of care, has been declining each year, due to a variety of factors, (e.g. deaths, change of resident status to “no active treatment” and relocations). As a result of the declining expenditures, less funding was budgeted for the DD population in facilities. It was determined that if the amount of state funding spent on these individuals in facilities could be frozen and not diminished, and could be used for relocations to the community as well as facility care, the pace of relocations could increase.

2. How did the change in state law impact the rights and options for people with developmental disabilities living in institutions?

- ✓ The court must take into account a county prepared plan for home or community based care and the court “shall order that the person be transferred to the non-institutional community setting in accordance with the plan unless the court finds that placement in the intermediate facility or nursing home is the most integrated setting...”s. 55.06(10).

3. What are the new admission restrictions?

- 1.) “no person may place an individual with a developmental disability in an intermediate facility and no intermediate facility may admit such an individual unless, before the placement or admission and after considering a plan developed”.. by the county (for home or community based care) a court finds that placement in the intermediate facility is the most integrated setting appropriate to the needs of the individual...” s. 46.279 ; and
- 2.) No individual requiring active treatment may be placed in a nursing facility, and no nursing facility may admit the individual unless it is determined (via PASARR) that the individual’s need for care cannot be fully met in an intermediate facility or in the community. s. 46.279 (3).

4. Are there any exceptions to these admissions restrictions?

- ✓ There are two exceptions:
 - 1) A person may be admitted without court order in an emergency and subsequent temporary placement within the meaning of s. 55.06 (11) (a) and (c); and
 - 2) A person may be admitted without court order to provide respite for their guardian if they are living with their guardian. These temporary placements are limited to 30 days, with an extension for an additional 30 days, only upon court order.

5. What does it mean to be in the most integrated setting?

- ✓ The most integrated setting is defined as “a setting that enables an individual to interact with persons without developmental disabilities to the fullest extent possible.” It includes more than just where a person lives; it involves who they live, work and recreate with as well as utilizing the same aspects of (community) health care that any person may require s. 46.279

6. What has changed for transfers between facilities?

- ✓ The facility must provide notice to the court and the county no later than 48 hours after transfer. The court must determine whether the receiving facility is the most integrated setting.

7. What funding changes are associated with the initiative?

- ✓ Funding that previously could only be spent on persons in facilities is now available to relocate the remainder of people (with a DD level of care designation) residing in ICFs/NHs to the community, through the CIP 1B waiver program.

8. What is the responsibility of counties in paying the state share of facility placements?

- ✓ Legislation enacted in the 2003-2005 budget bill (2003 Wisconsin Act 33) requires counties to be responsible for the state portion of the Medical Assistance payment made to ICFs and nursing homes for persons at a developmental disability level of care (DD LOC). Since the beginning of the Initiative, the DHFS has been paying the state share of the Medicaid payment to facilities on the counties behalf, to keep this process as simple as possible and to minimize extra tracking burdens on counties. The Department will continue to monitor facility utilization. If it appears that counties are inappropriately admitting persons to facilities the statutory responsibility for payment may be invoked.

9. Who can be relocated from facilities with money from this initiative?

- ✓ The Initiative provides funding to relocate persons who were long term residents in ICF and nursing homes at a DD level of care (DD LOC) in December of 2004. This is a distinct (closed) set of individuals; no one else qualifies for participating in this initiative, including residents of the State Centers.

10. How does the budget for this initiative work?

- ✓ The 05-07 biennial State Budget allocated approximately \$94 million AF (all funds) in FY 06 and \$99 million AF in FY 07 to the ICF Restructuring Initiative. The allocated funding must cover costs for the 1,412 individuals that are part of the initiative including all of the following:
 - All institutional costs (specifically all ICF or nursing home costs billed through Medicaid);
 - All home and community based waiver costs for any individual that relocates to the community;
 - The Medicaid card cost differential (which is the difference between the costs of an individual's card services while they were in the institution versus the cost of their card services in the community);

- Phase-down agreements with facilities which are negotiated between the Department and a facility (which in a safe and effective manner allows facilities to close or downsize within a reasonable timeframe);
- Loss of bed tax revenue due to community relocations and deaths; and
- Funding in facilities for individuals who receive a No Active Treatment determination.

11. Will the ICF Restructuring Initiative receive any of the funding from the nursing home rate increase that was recently approved by the Legislature?

- ✓ The nursing home rate increase that was recently approved by the Legislature is for FY 06 and FY 07. In FY 06 the rate increase is approximately \$3,000,000 AF. This amount is for a one-time supplemental nursing home rate increase. This funding will be distributed to NH, ICFs-MR and managed care entities based on patient days. This amounts to an increase of approximately \$177,000 AF for ICFs-MR funding and should be distributed before June 30, 2006. In FY 07 the rate increase is approximately \$23,000,000 AF. This amount will be used to provide a 2.8% rate increase to fee for service nursing facilities, fee for service ICFs-MR and managed care entities. This means approximately \$1,200,000 AF will be provided for rate increases to ICFs-MR.

12. How do you determine how much money a person gets to relocate from a facility?

- ✓ The county develops a plan that is approved by one of the Department's Community Integration Specialists. The plan is forwarded to central office and once approved there, the plan rate becomes the "approved rate" for that individual.

13. Do counties get to keep the difference between an approved plan rate and actual expenditures?

- ✓ No. Counties will be reimbursed for the costs of people relocated.

14. If a county incurs costs for a relocated individual that are greater than the approved plan rate, can the county be made whole?

- ✓ It is the Department's intent to fully fund people relocated under this initiative. Procedures are being developed to review and adjust individual plans of care on a periodic basis.

15. Do counties ever have any economic risk or financial liability for the cost of persons relocated under this initiative?

- ✓ The intent of the Department is to fully fund costs of care plans for people relocated. We project that sufficient funding is available to do this in the 2005-07 biennium. Our ability to maintain this into the future depends on the cost of community care plans and the budget that is provided for the initiative.

16. How many individuals were relocated in CY 2005? What were the average CIP 1B waiver costs of these individuals?

- ✓ In CY 2005, 287 individuals relocated to the community as part of this Initiative. The average daily care plan amount that was submitted for these individuals was \$213 AF per day.
- ✓ However, based on current HSRS data, the actual average daily paid waiver cost for CY 05 was \$186 AF per day.

- 17. What is the county's response and responsibility when they are informed by an ICF that an application has been made to the ICF by one of the county's residents?**
- ✓ The county must develop a “plan for providing home or community based care in a non institutional community setting.” See s. 46.279 (4)(d).
- 18. Who decides if the ICF is the most integrated or not: counties or the court system of the county?**
- ✓ The court decides. See s. 46.279 (2).
- 19. What is the court process for determining the most integrated setting and what is the county’s responsibility if the county feels the ICF is the most integrated.**
- ✓ The court must take into account information presented by all affected parties. The only specific piece of information identified in state statutes is that a plan for home or community based care must be developed by the county. The county must develop this community plan of care even if they believe that the ICF is the most integrated setting.
- 20. Are most integrated setting orders needed for regular admissions to ICFs?**
- ✓ Yes. The requirement for court determination of most integrated setting for these admissions became effective on January 1, 2005.
- 21. Are DDES-822 forms still needed for all ICF and nursing home admissions of persons with developmental disabilities?**
- ✓ Yes. The form is a multipurpose tool used by counties to acknowledge to facilities and to the Department that the county is aware of and agrees to certain types of facility admissions for persons with a mental illness and/or persons with a developmental disability. The form will likely need to be updated by the Department to reflect nuances created by the Restructuring Initiative.
- 22. Are protective placement and most integrated setting orders needed for short-term care (Medicaid paid) admissions to ICFs from hospitals or nursing homes for temporary medical/rehab care?**
- ✓ There is no exemption in the law for these admissions. The Department is looking at drafting legislation that would permit certain short-term admissions.
- 23. Is Medicaid fee for service funding available to pay for Respite Care services at an ICF?**
- ✓ No. Respite care in an ICF or in a nursing facility is not a Medicaid State Plan covered service in Wisconsin. However, the CIP 1B waiver program covers respite services in community settings and, in some limited circumstances, in institutional settings with prior approval from the Department. County case managers and state Community Integration Specialists are familiar with the requirements for Respite Care under the CIP 1B program.
- 24. Funding follows people out of ICFs to community placements, but none can go back to an ICF unless there is a bed open (i.e. due to a death). What happens to people who fail at their**

community placements? Frail elderly parents with adult children who have significant health or behavioral concerns call about this and complain that their counties have no answers.

- ✓ This initiative, and many similar ones around the country, is an effort to rebalance a system that has relied upon institutions to do what was once the responsibility of families, neighborhoods and communities. Changing the system will take some time. However, we believe that improved funding of community services through this initiative and other long term care reforms will increase the capacity of communities and community providers to respond to the concerns mentioned above, without needing to remove someone from their home. Many aging parents (and younger parents too) have never had a child in an institution, but they have had their child on a long waiting list for services in the community. Our system needs to be responsive to those in need whether or not they have been institutionalized. The Department is now working with counties and other partners to expand managed long term care statewide. This will eliminate waiting lists and will create a broadened provider network to support frail elders, persons with physical disabilities and persons with developmental disabilities.

25. There's a lot of money available now to move people to the community; but also a lot of questions about how long the money will be there. Parents have complained about being persuaded to accept education programs they didn't like, with a promise that there would be funding; then the funding was cut and they, along with their child, were left with no option of going back to their previous service arrangement. What assurances are there, that funding will be maintained for the "high cost" community placements?

- ✓ State budgeting processes do not guarantee funding beyond a biennium. However, Wisconsin has a long-established history and commitment of sustaining funding that provides critical supports to citizens with disabilities. There is no reason to expect that funding will not continue. In addition, as noted above, long term care reform across the state will increase options for community services and will provide for individuals who have significant (and sometimes costly) support needs.

26. Families feel they are not receiving services because of the Initiative. Some (especially those who are single) parents of very medically involved children are complaining that they are forbidden by their counties to admit their child to an ICF and are expected to keep the child at home, but their support services are inadequate and/or are being cut, and their employment status is at risk because they continually have to stay home because of lack of in-home support staff and/or the lack of reliability that those who are scheduled will come to work.

- ✓ While admission to an institution might resolve the work related problem some parents face, it is unlikely to be a satisfying, long term solution for children or their parents. Part of the problem identified in the comments above relates to the funding imbalance in our current system. This initiative, along with the expansion of managed long term care, creates one of the first opportunities in decades to transfer and combine institutional and other funding sources to expand community services. This will improve the ability of counties and providers to offer the kinds of services that families want and need without it being necessary to default to institutional care for the reasons noted in the comment.

27. When families need to move to or from WI (job changes, health crises) is there going to be a legal/funding mechanism for their son/daughter to move with them or do they have to be separated from the rest of the family?

- ✓ Current residency laws and Medicaid rules apply. When a person moves into a Wisconsin county, they are immediately considered the responsibility of that county by their mere presence and intent to live there. Relocations out of Wisconsin are dependent on the receiving state's policies and procedures.