

STATE OF WISCONSIN  
Department of Health Services  
Division of Long Term Care

**DLTC Numbered Memo Series Action 2009-10**  
**Date July 31, 2009**  
**Index Title: Purchase of Service**  
**Contract Policy for the Medicaid**  
**Home and Community-Based**  
**Services Waivers**

To: Listserv

For: Aging and Disability Resource Centers  
Area Administrators / Human Services Area Coordinators  
Area Agencies on Aging  
Children's Long-Term Support Lead Contacts  
County Aging Units / Directors  
County COP Coordinators  
County Department of Community Program Directors  
County Departments of Developmental Disabilities Services  
Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
County Waiver Coordinators  
County DD Coordinators  
Independent Living Centers  
Tribal Chairpersons  
Human Services Facilitators

From: Fredi-Ellen Bove  
Interim Administrator

Subject: **PURCHASE OF SERVICE CONTRACT POLICY FOR THE  
MEDICAID HOME AND COMMUNITY-BASED SERVICES  
WAIVERS**

### **Document Summary**

**This memo announces a policy clarification that has been made to the Community Integration Program (CIP) 1A/1B Waiver, Brain Injury Waiver (BIW), COP Waiver (COP-W/ CIP II) and the Children's Long-Term Support (CLTS) Medicaid Home and Community-Based Services Waivers regarding Purchase of Service Contracts. This is largely the result of federal requirements for Medicaid Home and Community-Based Services Waiver operations clarified by the Centers for Medicare and Medicaid Services**

**(CMS) and communicated to the Department of Health Services (DHS) in the waiver renewal process.**

**The Department's commitment to assure that contracts related to the Medicaid waivers meet federal requirements is detailed in the state's recent renewal of the CIP 1 and BI Waivers and the impending renewal of other waivers including COP Waiver and Children's Long-Term Support Waivers administered by the Bureau of Long-Term Support. This memo is intended to announce one of several policy requirements established by CMS; and to describe the process for county waiver agencies to meet these requirements.**

**This memo is one in a series of memos and related communications to announce and implement the federal requirements that apply to county waiver agencies and Medicaid Waiver service providers who will continue to operate these waivers in 2010. If a county transitions to Family Care prior to December 31, 2009, then this policy does not apply, unless the county issues a new contract after August 1, 2009 which must comply with these federal requirements.**

## **Background**

The Purchase of Service (POS) Contract

<http://dhs.wisconsin.gov/Grants/Administration/FMM/ModelPOS.pdf> is mandated in state statute when county waiver agencies expect to expend more than twenty-five thousand dollars (\$25,000) to a particular vendor in a calendar year. Previously, DHS did not review and approve these contracts, as Wisconsin law accepts county agencies as accountable units of local government created by the Wisconsin Constitution. The presence of required contracts has consistently been a component of the State Single Audit process. County contracts for waiver providers who exceed this expenditure threshold are generally executed at the beginning of each calendar year and adjusted periodically to reflect changes in caseload and projected costs. The amount of funding, type of and units of service and the number of people to be served are based upon choices of waiver participants, the individualized service plans of waiver participants as approved by participants and the participant's guardians and by state waiver staff. These contracts are completed by county waiver agencies relative to other funding sources as well. This memo only applies when the contract is used to purchase services that are reimbursed in part by federal Medicaid waiver funding and appropriate matching funds.

Some county waiver agencies' contracting practices, in addition to activating the local fiscal systems for payment as noted, impose unique requirements, expectations and policies. As a condition of waiver renewal, CMS required that contracts for Medicaid waiver funded services may not contain provisions, beyond those required within federal regulations and Wisconsin's approved

Medicaid Waivers. Specifically, county waiver agencies are prohibited from adding provider qualifications or other provisions in lieu of or in addition to those imposed by the state in the Waiver manual as reflected in the approved Medicaid waivers. The State therefore will collect county contracts to ensure they comply with this expectation and require any inconsistent provision(s) to be removed. Future modifications that a county may want to make must be reviewed and approved by DHS.

#### **A. Changes Impacting County Additions to Waiver Policy**

##### **COUNTIES MAY NOT INSERT LOCAL POLICY (IES) IN WAIVER POS CONTRACTS**

With recent Medicaid Waiver renewals, CMS reinforced that DHS, as the State Medicaid Agency, must exercise administrative authority over the Medicaid Waivers in Wisconsin and must be the sole source of policy and direction for waivers. This responsibility may not be shared with or delegated to any other entity including counties. This has resulted in the following change detailed below.

The State Medicaid Agency must act as the sole authority in waiver administration; all program policy must be promulgated by the Department, and not local agencies. The Medicaid Waiver provider agreements are the vehicle by which providers officially relate to the program, not via county contracts as before. *The county waiver agency will retain the role of detailing fiscal transactions needed to fund waiver services as the only remaining county function for these POS contracts.* The use of these contracts to impose local requirements is barred. The Department has agreed with CMS that state staff will review all relevant contract templates, addendums, appendices and other related components of contracts to assure compliance with this requirement.

#### **B. Policy Change Implementation Steps**

The Bureau of Long-Term Support (BLTS) recognizes that counties may need to update contracts in order to meet the new policy. BLTS staff will work closely with county waiver agency partners to help in this review and to answer questions as they arise.

The following are action steps with related target dates:

1. CMS has required the Department to obtain knowledge of the similarities and differences in existing contract language for waiver services. DHS requests that county waiver agencies submit, by August 31, 2009, all existing contract templates to the BLTS in order to obtain this information.  
**NOTE: If the county uses one standard template for all contracts,**

**only one example needs to be submitted as long as there are no other contracts or addendums with unique requirements, expectations and policies for Medicaid Waiver service providers.**

2. BLTS staff will review the submitted contracts and will work with county waiver agencies by September 30, 2009 to assure CMS compliance.
3. Since the CMS requirement is in effect for new waiver contracts with any old or new provider on or after August 1, 2009, the State will work with County waiver agencies to comply with the requirement. This includes counties that will continue as waiver counties beyond January 1, 2010, as well as those who will end services by transitioning to Managed Care/Family Care by December 31, 2009.
4. DHS must ensure that as of January 1, 2010 all 2010 contracts for Medicaid Waiver services meet the CMS requirement for state approval.
5. After January 1, 2010, County waiver agencies will need to submit any other proposed revisions to current waiver service contracts or templates to DHS for review and approval to assure continued compliance.
6. DHS will add review requirements to the State Single Audit Guidelines <http://www.doa.state.wi.us/section.asp?linkid=81&locid=3>, for audits that occur in 2010 to assure that contracts issued between August 1, 2009 and December 31, 2009 are in compliance with these federal requirements. For audits that occur in 2011, all POS contracts for waiver services must be in compliance.

We appreciate your work and collaboration with the Department on this issue to ensure that we are in compliance with federal requirements. If you have any questions please contact Irene Anderson at [irene.anderson@wisconsin.gov](mailto:irene.anderson@wisconsin.gov) or (608)266-3884

Please send contract information as requested above to:

Attention: Waiver Contract Reviewer  
Bureau of Long-Term Support  
1 West Wilson Street, Room 418  
P.O. Box 7851  
Madison, WI 53707-7851

CENTRAL OFFICE CONTACT: Irene Anderson at [irene.anderson@wisconsin.gov](mailto:irene.anderson@wisconsin.gov) or (608)266-3884

MEMO WEB SITE: [http://dhfs.wisconsin.gov/dsl\\_info/](http://dhfs.wisconsin.gov/dsl_info/)