

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

DLTC Numbered Memo Series 2009-11

Date: August 20, 2009

**Index Title: Medicaid Waiver Wait List
Policy Requirements
Replaces DLTC Information Memo 2009-02**

To: Listserv

For: Area Administrators/Human Services Area Coordinators
Area Agencies on Aging 0067
County Aging Units/Directors
County COP Coordinators
County Departments of Community Program Directors
County Departments of Developmental Disabilities Services
Directors
County Department of Human Services Directors
County Department of Social Services Directors
County Waiver Coordinators
County DD Coordinators
Children's Long-Term Support Lead Contacts
Independent Living Centers
Tribal Chairpersons
Human Service Facilitators

From: Fredi-Ellen Bove
Interim Administrator

Subject: MEDICAID HOME AND COMMUNITY-BASED SERVICES
WAIVERS: STATEWIDE WAIT LIST CRITERIA

Document Summary

This memo provides formal direction for the implementation of the statewide Medicaid Home and Community-Based Waivers (referred to as Medicaid Waivers) first-come, first-served wait list policy. The initial announcement of the policy and limited, preliminary guidance was provided to county waiver agencies in the Division of Long Term Care (DLTC) Information Memo 2009-02, dated May 4, 2009. That memo alerted agencies to the wait list policy changes related to federal requirements for statewide, standardization of wait list policy and process. The current policies described in Chapter I of the Medicaid Waiver Manual are rescinded in part and replaced by the requirements described herein.

The first-come, first-served policy applies to all Medicaid Waiver programs. It does not apply to programs or services fully funded by the Community Options Program (COP), Family Support Program (FSP), or to locally-based programs or services fully funded by local resources. However, when federal waiver funds are claimed, regardless of the source of matching funds, the Medicaid Waiver wait list policy applies. The policy applies to applicants for Medicaid Waiver programs and does not address how current program participants who have changing or increasing needs are served.

The policy does not directly interface with ongoing relocation programs including the Community Relocation Initiative (CRI), ICF-MR Downsizing, Money Follows the Person (MFP), and the Nursing Home Diversion programs. These initiatives are supported by designated funds and the movement of people from institutions to the community does not impact Medicaid Waiver wait list management. Therefore, serving people through the ongoing relocation programs will not require a variance request. Similarly, the policy change does not impact waiver program transitions such as transitions from the Children's Long-Term Support Waiver (CLTS) to the adult Community Integration Program (CIP). County waiver agencies are encouraged to consult with the Department to address transition funding or capacity issues.

With the publication of this memo, the Department policy allowing county Long-Term Support Committee and/or county waiver agency discretion to set wait list policy or priorities in the Medicaid Waiver programs is rescinded and the State Medicaid Agency (DHS) assumes sole policy-making authority.

SUMMARY OF RESCINDED POLICY

The following portions of Chapter 1, Section 1.06 A (2), Waiting Lists for Services are rescinded. The section states, "The only permissible circumstances in which a waiting list for services may be established are when the county agency has:

- b. Determined that the cost of meeting the support and service needs identified in the assessment will cause the agency to exceed the allowable average COP costs for all COP participants and the Department has denied a variance to the allowable average service costs; or ...
- d. Determined that the cost of meeting the support and service needs identified in the assessment will cause the agency to exceed a locally established limit on service expenditures.

Chapter 1, Section 1.06 C is rescinded in its entirety. This provision described the required content of the local policy for "locally created waiting lists." Again, to conform to the federal requirements for a uniform statewide policy under sole State Medicaid Agency (DHS) authority, the state can no longer allow local wait

list policy formation related to Medicaid Waivers. The section will be replaced in an upcoming revision to Chapter I of the Medicaid Waivers Manual provisions for a statewide first-come, first-served Medicaid Waiver wait list policy.

SUMMARY OF RETAINED POLICY

The remainder of Chapter I, Section 1.06 will be retained and revised. The section, entitled Creating County Waiting Lists, addresses the circumstances where agencies may establish a waiting list for assessments and service plan development.

The policy described in Section 1.06 A (1) is retained. County waiver agencies may create a wait list for assessments and services plans when the agency has expended all funds available that were provided for the purpose of assessment and plan development.

In Section 1.06 A (2), entitled Waiting Lists for Services, the policies contained in subsection a. and subsection c. are retained and clarified. An agency may establish a waiting list for Medicaid Waiver participation (“rather than “services”) when:

- a. It determines that the cost of providing the services identified in the assessment will cause the agency to exceed local, state and federal funds available or; ...

Section 1.06 A (2) c. related to significant proportions is retained as there are specific parameters on this state funding under Ch. 46.27 (3) e and the people as defined by significant proportions statute are served by different federal Medicaid Waivers. This section will continue to read as follows: An agency may establish a waiting list for services when:

- c. It determines that serving the applicant will prevent the agency from meeting significant proportions requirements.

Important: The changes to the Medicaid Waiver wait list policy that establish a statewide first-come, first-served policy does not impact the requirements under Ch. 46.27 (3) e. Agencies must continue to use the waiver funds allocated to them to serve eligible persons in proportion to their representation in the population.

Section 1.06 B of the waiver manual is retained and clarified. The section describes the procedures to be followed when county waiver agencies place people on the waiting list for Medicaid Waiver participation (rather than “services”). The procedures include: A preliminary determination of financial and functional eligibility; documentation of the contact and the date of placement on

the waiver Medicaid Waiver wait list; offer an assessment; update the Medicaid Waiver wait list every six months and provide each applicant with notification of his/her status including an estimate of when funding for Medicaid Waiver participation (rather than “services”) may be available; and ensure that participants from another county who move into a county are placed on the Medicaid Waiver wait list for the person’s Medicaid Waiver services to be funded by the receiving county waiver agency while funding from the sending county waiver agency continues.

Further summarized, the provisions above allow placement on a Medicaid Waiver wait list for assessment/service planning or Medicaid Waiver enrollment for the provision of services in only those circumstances where funds designated for those purposes have been expended or are insufficient to provide the services needed. Persons may not be placed on a Medicaid Waiver waiting list for any other reason. The statutory requirement to meet significant proportions remains in effect. Placement on any Medicaid Waiver wait list must be based solely on the date of the request or the date a current waiver participant from another county moves to a new county.

REVISED POLICY: PROCEDURES FOR SERVING PERSONS FROM COUNTY MEDICAID WAIVER WAIT LIST

To establish uniform, statewide procedures to serve persons from the Medicaid Waiver wait list Chapter 1, Section 1.06 C is rescinded and revised as described below. As noted in DLTC Information Memo 2009-02, the Department has incorporated key principles commonly used in previous county waiver policies in the development of a statewide policy. The most basic of these is that persons must be served in the order of placement on the list, the first-come, first-served principle. Exceptions to this standard may only be made for people who meet the state Medicaid Agency’s (DHS) criteria for crisis situations.

When Medicaid Waiver funds for services become available, the next person on the Medicaid Waiver wait list must be offered the opportunity to receive Medicaid Waiver services. This funding is unique to the various Medicaid Waivers, specifically CLTS, CIP, COP-W and CIP II and therefore the allocations to serve the various program populations are distinct. Therefore, a CIP II eligible person would not be served from the CIP allocation. Rather, when the specific Medicaid Waiver funds become available, the next person on the Medicaid Waiver wait list eligible for that Medicaid Waiver is to be served. In all cases, when serving people from the Medicaid Waiver wait list the following requirements apply:

1. The individual must receive all of the services necessary to meet assessed need as identified in his/her current assessment.

2. The high cost of a person's assessed service needs cannot be used as a reason to bypass the person to serve someone on the Medicaid Waiver wait list with lower service costs.
3. When full program funding is not available to serve the next person on the Medicaid Waiver wait list, the county waiver agency must wait for sufficient funds to become available to provide for all assessed needs and assure health and safety.
4. Once service funds are available, the application, eligibility and planning process as described in Chapter VI of the Medicaid Waiver Manual must occur for that person on the Medicaid Waiver wait list.

EXCEPTIONS TO THE FIRST-COME, FIRST-SERVED MEDICAID WAIVER POLICY: CRISIS NEEDS

The only exception that can be made to the first-come, first-served Medicaid Waiver wait list policy allowing waiver agencies to bypass others is when a person meets a crisis need criteria. These criteria are to be applied in all such circumstances and may not be modified or expanded by the county waiver agency. The only permissible reasons a person may bypass the Medicaid Waiver wait list and/or be served out of the first-come, first-served order are as follows:

1. Crisis conditions are present in the person's life situation. The need shall be classified as a crisis if an urgent need is identified as a result of any of the following:
 - a. Substantiated abuse, neglect or exploitation of the individual in his/her current living situation; or
 - b. The death of the individual's primary caregiver or the sudden inability of that caregiver/support person to provide necessary supervision or support and there is no alternative caregiver available; or
 - c. The lack of an appropriate residence or placement for the person due to a loss of housing; or
 - d. The person has a documented terminal illness with a life expectancy of less than six months, based upon the opinion of a medical professional appropriately qualified to make such a determination; or
 - e. A sudden change in the person's behavior or the discovery that the person has been behaving in a manner that places the individual or the people with whom the individual shares a residence or the community at large at risk of harm.

2. An exception may also be made if there is a finding by the county waiver agency that there the health and safety of the individual is in jeopardy due to the primary caregiver's physical or mental health status; or
3. A determination by the county waiver agency that the person is at imminent risk or a more restrictive placement to an ICF-MR or nursing home or other institutional setting; or
4. A finding by the county waiver agency that other emergency or urgent conditions exist that place the individual at risk of harm and a variance is approved by DHS.

When the county waiver agency intends to use one of these criteria to bypass the Medicaid Waiver wait list policy, the agency must request and receive approval from DHS prior to initiating county waiver services. A variance may be requested prior to, or as part of, the service plan application process. If approved, the county waiver agency must maintain documentation of the variance request and approval in the participant record for monitoring or audit purposes.

COMPLETING THE VARIANCE REQUEST

The Department expects requesting county waiver agencies to submit a completed F-00076 form (Attachment 1 below), including identifying information about the applicant, the waiver program and a narrative summary outlining the reasons for the exception to the Medicaid Waiver wait list policy. The narrative need not be lengthy but should clearly describe the nature of the crisis situation. The simple insertion of one of the crisis criteria will not be acceptable. The forms may be faxed, mailed or electronically submitted to the state quality assurance staff as designated by program.

MEMO SUMMARY AND EFFECTIVE DATES

This memo announces and provides formal direction to county waiver agencies as to the revision of the Medicaid Waiver wait list policy. To meet requirements for statewide uniformity in the creation and management of the Medicaid Waiver wait list, DHS has rescinded previous policy allowing local wait list decision-making. County Waiver Agencies may no longer set local requirements or priorities. Persons are to be served from the Human Services Reporting System (HSRS)-based Medicaid Waiver wait list in a first-come, first-served manner. Applicants served through one of the relocation initiatives are not impacted by this policy change and will not need a variance from DHS. Exceptions to this policy may only be made with a DHS-approved variance for applicants whose life situation meets one of the crisis conditions defined above. The Department

expects county waiver agencies to begin to implement these changes and come into full compliance within sixty (60) days of this memo.

REGIONAL OFFICE CONTACTS: Human Services Area Coordinators
Regional Waiver Program Quality Assurance Staff

CENTRAL OFFICE CONTACTS: Beth Wroblewski, Director
Bureau of Long Term Support
Phone: (608) 267-5139 or
beth.wroblewski@wisconsin.gov

Irene Anderson, CIP II, COP-W, BLTS
Phone: (608) 266-3884 or
irene.anderson@wisconsin.gov

Marcie Brost, CIP, BIW, BLTS
Phone: (608) 266-9366 or
marcella.brost@wisconsin.gov

Julie Bryda, CLTS, BLTS
Phone: (608) 266-7469 or
julie.bryda@wisconsin.gov

ATTACHMENT: Variance Request – Wait List
<http://dhs.wisconsin.gov/forms/f0/f00076.doc>