



DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

Don Jordan, Secretary

**HCBS Oversight Committee**

**August 16, 2010**

**Home and Community Based Services Waivers**

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# Home and Community Based Services Waivers

## HCBS Oversight Committee

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Chairman Bethell and members of the Committee, thank you for the opportunity to appear before you today to discuss the Home and Community Based Services (HCBS) waivers and the Money Follows the Person (MFP) grant. I will present information today regarding six Home and Community Based Service Waivers that provide services to persons with disabilities, including the number of individuals served and funding for each of the programs. I will also provide information regarding the MFP grant which impacts the HCBS waivers. I have included a chart with more detail on the waivers impacted by the MFP grant in Attachment A.

### **Background**

Medicaid waivers are federally approved requests to waive certain specified Medicaid rules. For instance, federal Medicaid rules generally allow states to draw down federal Medicaid funds for services provided in institutions for persons with severe disabilities. Many of the community supports and services provided to persons with disabilities such as respite care, attendant care services, and assistive services, are not covered by the regular federal Medicaid program. HCBS waivers give the state federal approval to draw down federal Medicaid matching funds for community supports and services provided to persons who are eligible for institutional placement, but who choose to receive services that allow them to continue to live in the community. The Centers for Medicare and Medicaid Services (CMS) requires that the cost of services paid through HCBS waivers be, on the average, less than or equal to the cost of serving people in comparable institutions.

### **Developmental Disability (DD) Waiver**

The DD waiver serves individuals with significant developmental disabilities. At this time there are 2,444 people on the waiting list receiving no waiver services, and another 1,047 people receiving some services who are waiting for additional services. In FY 2010 there were 295 individuals who left waiver services. These positions were filled by individuals in crisis situations. SRS maintains one statewide waiting list for HCBS-DD services which includes both the unserved and the underserved. A person's position on the waiting list is determined by the request date for the service(s) for which the person is waiting. Each fiscal year, if funding is made available, people on the statewide waiting list are served, beginning with the oldest request dates at the top of the list. An additional \$3.3 million SGF was allocated to the DD waiver for FY 2011. SRS is in the process of working with the Community Developmental Disability Organizations to offer services to individuals on the waiting list. At this time we know at least 145 individuals will be served with this funding. The exact number



taken off of the waiting list will be determined by the projected annualized cost to serve each person that is offered and accepts services.

On January 1, 2010 and on February 1, 2010, there were waiver changes implemented by SRS to assist in avoiding further overspending. The waiver changes included:

- On January 1, 2010, Oral Health Services were eliminated.
- On February 1, 2010, Temporary Respite Care services were eliminated.

### **Physical Disability (PD) Waiver**

During FY 2008 the rate of growth in the waiver increased significantly and on December 1, 2008, SRS implemented a waiting list for the PD waiver. The waiting list was implemented not to cut the budget, but to avoid further overspending. With the implementation of a waiting list approximately 7,300 individuals have been able to continue receiving services. In December 2008 when the waiting list was implemented only persons in a crisis situation were allowed to access new waiver services. On March 2, 2009, the “rolling” waiting list methodology was implemented whereby one consumer was offered services for every two terminations. On January 1, 2010, due to the budget situation, the rolling waiting list methodology was terminated and only persons meeting the crisis criteria were allowed to access PD waiver services (the only other opportunity to access these services was through the MFP grant). As of August 1, 2010, there were 2,286 individuals on the PD Waiver waiting list.

The PD waiver received an additional \$3.6 million SGF, which will allow for the start of a rolling waiting list in October 2010. The rolling waiting list will be implemented in this way: for every two people leaving the waiver, one person from the waiting list will be added. It is anticipated that through implementing this rolling waiting list approximately 321 people can be put into service from the waiting list. 153 people would be removed from the waiting list, in the chronological order in which they were placed on the waiting list. Approximately 168 people would be removed from the waiting list and added to the PD waiver in other than waiting-list order, due to crisis situations. The actual number that could be added will be dependent on several variables, including the service needs and resulting average cost per person, and the number of people added to the PD waiver other than in waiting-list order, due to crisis situations.

On January 1, 2010, there were waiver changes implemented by SRS to assist in avoiding further overspending. The waiver changes included:

- Eliminating Oral Health Services.
- Limiting personal services to 10 hours per day unless there is the determination of a crisis situation.
- Limiting assistive services to crisis situations only, with approval by the program manager.
- A change in the crisis criteria was made to eliminate the criteria that a person could enter services if the individual was at significant, imminent risk of serious harm because the primary caregiver(s) were no longer able to provide the level of support necessary to meet the consumer’s basic needs due to the primary caregiver(s): own disabilities, return to full time employment, hospitalization or placement in an institution, moving out of the area in which the consumer lived, or death.



## **Traumatic Brain Injury (TBI) Waiver**

The TBI waiver is designed to serve individuals who would otherwise require institutionalization in a Head Injury Rehabilitation Hospital. The TBI waiver services are provided at a significant cost savings over institutional care and provide an opportunity for each person to live and work in their home communities. Each of these individuals is provided an opportunity to rebuild their lives through the provision of a combination of supports, therapies and services designed to build independence.

A significant difference in this program is that it is not considered a long term care program. It is considered a rehabilitation program and consumers are expected to transition off the program or to another program upon completion of rehabilitation. Individuals currently receive up to four years of therapy and, if by that time progress in rehabilitation is not seen, the individual is transitioned to another program. In FY 2010 the average length of stay in this program was 1.9 years. This number is based on the consumers who transitioned from services during FY 2010. There is currently no waiting list for this program.

On January 1, 2010, there were waiver changes implemented by SRS to assist in avoiding further overspending. The waiver changes included:

- Elimination of Oral Health Services.
- Limiting personal services to 10 hours per day unless there is the determination of a crisis situation.
- Limiting assistive services to crisis situations only, with approval by the program manager.
- Moving third year continuation of service review to program manager as opposed to committee.

## **Technology Assisted (TA) Waiver**

The TA waiver is designed to serve children ages 0 to 22 years who are medically fragile and technology dependent, requiring intense medical care comparable to the level of care provided in a hospital setting, for example, skilled nursing services. The services provided through this waiver are designed to ensure that the child's medical needs are addressed effectively in the child's family home, thereby eliminating the need for long term and or frequent hospitalization for acute care reasons. There is no waiting list for this program. The TA waiver served 483 (unduplicated) children in FY2010 at a total cost of \$ 24,594,116 and an average monthly cost per person of \$ 5,418.

## **Serious Emotional Disturbance (SED) Waiver**

The HCBS waiver for youth with a Serious Emotional Disturbance allows federal Medicaid funding for community based mental health services for youth who have an SED and who are at risk of being placed in a state mental health hospital. The SED waiver determines the youth's Medicaid eligibility based on his/her own income separate from that of the family. Once the youth becomes a Medicaid beneficiary he/she may receive



the full range of all Medicaid covered services including the full range of community mental health services. In addition, the youth is eligible for specific services only available to youth on the SED Waiver. The services offered through the SED waiver and other community mental health services and supports are critical in assisting the youth to remain successfully in his/her family home and community. During FY 2010, \$48,448,927 was paid through the SED waiver to serve a total of 6,021 children.

### **Autism Waiver**

The autism waiver is the newest of our HCBS waivers with the first funding approved for FY 2008. The target population for the autism waiver is children with autism spectrum disorders (ASD), including autism, Aspergers' Syndrome, and other pervasive developmental disorders. The diagnosis must be made by a licensed medical doctor or PhD psychologist using an approved autism specific screening tool. Children are able to enter the program from the age of diagnosis through the age of five. Children receiving services through this waiver would be eligible for placement in a state mental health hospital if services were not provided through the waiver. A child will be eligible to receive waiver services for a time period of three years with an exception process in place to allow children who demonstrate continued improvement to continue services beyond the three year limit.

The autism waiver was implemented on January 1, 2008. At that time 25 children were selected through a random process to receive services. The other applicants were placed on the waiting list. The 2008 Legislature approved funding for an additional 20 children to be served by the autism waiver in FY 2009. The waiver is now serving 45 children. There are 247 children waiting for services through this waiver. Since this waiver was implemented, 166 children have aged off of the waiting list before services could begin. The total expenditure for the waiver in FY2010 was \$743,673 with the average monthly cost per person being \$1,546.

### **SRS Fee Fund**

Over the past several years SRS fee fund balances have been used to fill the gap between available SGF and waiver spending and the funds allocated for the HCBS Waivers. The fee fund balance has now been depleted and SRS will be \$11 million short for FY 2012. SRS will be requesting an enhancement to replace the \$11 million shortfall with the next budget submission. SRS's options regarding changes that may be made to fill this gap are limited by federal regulations that have been implemented through the Recovery Act and the Affordable Care Act. These regulations do not allow states to change the waiver eligibility requirements without loss of federal funding. Under the Recovery Act the number of persons served by the waivers may not drop below the number of individuals that were being served on July 1, 2008. The only options that are available to SRS to control spending are through serious rate reductions and then to evaluate what additional service limitations could be implemented.

### **Money Follows the Person (MFP) Grant**

The federally funded Money Follows the Person (MFP) demonstration grant is designed to enhance participating states' ability to increase the capacity of approved HCBS programs to serve individuals that are



currently residing in institutional settings. The benefit for Kansas is enhanced federal funding to create additional community capacity, facilitate private Intermediate Care Facilities for people with Mental Retardation (ICFs/MR) voluntary bed closure, train staff, and ensure individuals have the supports in their homes to be successful, reducing the risk of re-institutionalization.

Target populations for this grant include persons currently residing in nursing facilities and ICFs/MR. Individuals must have resided in the facility for a minimum of 90 days, which is a decrease from a minimum of six months. The federal Affordable Care Act reduced the length of stay in order to enhance the program and decrease the cost of institutional placement. Persons must also have been Medicaid eligible for a minimum of 30 days to be eligible to move into the community through this program.

SRS and Kansas Department on Aging (KDOA) are working together with the LTC Ombudsman office to identify individuals that are currently residing in qualified institutional settings and assist them to move into home settings of their choice.

SRS, as the lead agency for the demonstration grant, has partnered with the KDOA to develop benchmarks and implementation strategy. Additionally, Kansas Health Policy Authority is an integral partner as the Single State Medicaid Agency.

The individuals transitioning into the community are representing the mentally retarded/developmentally disabled, traumatic brain injury, physically disabled and elderly population groups. Kansans who have chosen community living in FY 2010 include 38 persons with physical disabilities, 4 persons with a traumatic brain injury, 25 individuals with developmental disabilities, and 40 persons that are elderly.

The MFP movement report, which includes data on numbers of individuals transferred from institutions to community based care and the resultant costs is attached as Attachment B.

## **Executive Order 10-01; Kansas Neurological Institute and Parsons State Hospital Consolidation**

On January 28, 2010, after considerable review and thought, Governor Parkinson responded to the report of the Kansas Facilities Realignment and Closure Commission by issuing Executive Order 10-01. That order set the stage for focused work that will eventually lead to the downsizing and consolidation of the two remaining state developmental disability hospitals in Kansas: Kansas Neurological Institute (KNI) and Parsons State Hospital (PSH).

Since the Executive Order was issued SRS has been working both internally and with stakeholder representatives to implement the 11 directives of the order, all designed to enhance opportunities for Kansans with developmental disabilities to experience effective community services.

One of the first activities conducted was convening parent and guardian listening sessions. In order to effectively capture a broad array of information and input from the parents and guardians of people currently receiving state hospital services, SRS worked with the Wichita State University Center for Community Support and Research to conduct listening sessions with the parent/guardian groups at both KNI and PSH. The



concerns and suggestions identified in these sessions were provided to the Executive Order Advisory Group to consider as they developed recommendations, and also will be used by SRS as the implementation of consolidation continues.

The second action taken by SRS was to convene an advisory group which was charged with assessing and developing recommendations regarding the directives in the Executive Order. The PSH/KNI Executive Order Advisory Group was comprised of parents/guardians, CDDO Directors, community service providers, the hospital superintendents, and SRS representatives.

After working from March 4, 2010 through May 13, 2010, the advisory group developed 15 recommendations that will significantly support the consolidation of KNI/PSH services and the successful transition to community services for people who are well prepared to make that change. In summary, the recommendations include robust information/education processes for people who currently receive state hospital services; effective transition planning and the safety net features that will help ensure strong and person-centered community services for each person making the change; and post-move monitoring processes that will support long-term success for each person and their parents/guardians.

The Executive Order Advisory Group report has been presented to Governor Parkinson and SRS will continue to use the report as a guide for implementation of the Executive Order.

This concludes my testimony; I will stand for questions.

Attachment A - Overview of Medicaid Home & Community Based Services Waivers Operated by DBHS/CSS and KDOA

Updated 8-11-10

Long Term Care Services	DEVELOPMENTAL DISABILITY WAIVER	PHYSICAL DISABILITY WAIVER	TRAUMATIC BRAIN INJURY WAIVER	FRAIL ELDERLY WAIVER (operated by KS dept. on Aging)
<b>Institutional Equivalent</b>	Intermediate Care Facility for Persons with Mental Retardation	Nursing Facility	Head Injury Rehabilitation Facility	Nursing Facility
<b>Eligibility</b>	<ul style="list-style-type: none"> <li>➤ Individuals age 5 and up</li> <li>➤ Meet definition of mental retardation or developmental disability</li> <li>➤ Eligible for ICF/MR level of care</li> </ul>	<ul style="list-style-type: none"> <li>➤ Individuals age 16-64*</li> <li>➤ Determined disabled by SSA</li> <li>➤ Need assistance with the activities of daily living.</li> <li>➤ Eligible for nursing facility care</li> </ul> <p><i>*Those on the waiver at the time they turn 65 may choose to stay on the waiver</i></p>	<ul style="list-style-type: none"> <li>➤ Individuals age 16-65</li> <li>➤ Have traumatic, non-degenerative brain injury resulting in residual deficits and disabilities</li> <li>➤ Eligible for in-patient care in a Head Injury Rehabilitation Hospital</li> </ul>	<ul style="list-style-type: none"> <li>➤ Individuals age 65 or older</li> <li>➤ Choose HCBS</li> <li>➤ Functionally eligible for nursing care</li> <li>➤ No waiver constraints</li> </ul>
<b>Point of Entry</b>	Community Developmental Disability Organization	Case management Entities	Case management Entities	Case management Entities
<b>Financial Eligibility Rules</b>	<ul style="list-style-type: none"> <li>➤ Only the individual's personal income &amp; resources are considered</li> <li>➤ For individuals under age 18, parent's income &amp; resources are not counted, but are considered for the purpose of determining a family participation fee</li> <li>➤ Income over \$727 per month must be contributed towards the cost of care</li> </ul>	<ul style="list-style-type: none"> <li>➤ Only the individual's personal income &amp; resources are considered</li> <li>➤ For individuals under age 18, parent's income &amp; resources are not counted, but are considered for the purpose of determining a family participation fee</li> <li>➤ Income over \$727 per month must be contributed towards the cost of care</li> </ul>	<ul style="list-style-type: none"> <li>➤ Only the individual's personal income &amp; resources are considered</li> <li>➤ For individuals under age 18, parent's income &amp; resources are not counted, but are considered for the purpose of determining a family participation fee</li> <li>➤ Income over \$727 per month must be contributed towards the cost of care</li> </ul>	<ul style="list-style-type: none"> <li>➤ Only the individual's personal income &amp; resources are considered</li> <li>➤ Income over \$727 per month must be contributed towards the cost of care</li> </ul>





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	<b>DEVELOPMENTAL DISABILITY WAIVER</b>	<b>PHYSICAL DISABILITY WAIVER</b>	<b>TRAUMATIC BRAIN INJURY WAIVER</b>	<b>FRAIL ELDERLY WAIVER</b> <small>(operated by Kansas Department on Aging)</small>
<b>Services/ Supports</b> Additional regular Medicaid services are provided	<ul style="list-style-type: none"> <li>➤ Assistive Services</li> <li>➤ Day Services</li> <li>➤ Medical Alert Rental</li> <li>➤ Sleep Cycle Support</li> <li>➤ Personal Assistant Services</li> <li>➤ Residential Supports</li> <li>➤ Supported Employment</li> <li>➤ Supportive Home Care</li> <li>➤ Wellness Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>➤ Personal Services</li> <li>➤ Assistive Services</li> <li>➤ Sleep Cycle Support</li> <li>➤ Personal Emergency Response</li> <li>➤ Personal Emergency Response Installation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Personal Services</li> <li>➤ Assistive Services</li> <li>➤ Rehabilitation Therapies</li> <li>➤ Transitional Living Skills</li> <li>➤ Sleep Cycle Support</li> <li>➤ Personal Emergency Response</li> <li>➤ Personal Emergency Response Installation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Adult Day Care</li> <li>➤ Assistive Technology*</li> <li>➤ Attendant Care Services</li> <li>➤ Comprehensive Support*</li> <li>➤ Medication Reminder</li> <li>➤ Nursing Evaluation Visit</li> <li>➤ Oral Health*</li> <li>➤ Personal Emergency Response</li> <li>➤ Sleep Cycle Support*</li> <li>➤ Wellness monitoring</li> </ul> <p>*demotes suspended service; must meet crisis exception</p>
<b>Average Monthly Number Persons Served FY 10</b>	7669	6964	323	5813
<b>FY 10 Expenditures (All funds)</b>	\$311,275,963	\$140,511,241	\$13,085,895	\$74,476,067
Estimated Average <b>Waiver</b> expenditure Mo/year	\$3,382 / \$40,589	\$1,681 / \$20,176	\$3,376 / \$40,514	\$ 1,068/ \$12,812
Institutional Setting Total Cost / Annually Per Person	Private ICF/MR \$13,606,580 / \$79,571  Public ICF/MR (combined)* \$54,088,890 / \$154,540	Nursing Facilities \$358,545,585/ \$33,863  (Includes persons who are aging)	Head Injury Rehab Facility \$10,047,478 / \$257,628	Nursing Facilities \$358,545,585/ \$33,863  (Includes persons with Physical disabilities)

\*KNI/Parsons FY 2010 Expenditures & Daily Census Data