

**CHAPTER V MANAGING  
THE HCB WAIVER PROGRAM**

## V. MANAGING THE HCB WAIVER PROGRAM

Because of the growth of the HCB waiver program, states have had to devote increased attention to managing waiver services. With the number of program participants, providers, and the types of services being furnished all on the upswing, administration of the waiver program in many states has changed from a part-time task to a full-time enterprise. Our 1989 report only touched briefly on this aspect of the program. In preparing for the current report, we decided to explore this area. Consequently, several questions along these lines were included in NASMRPD's 1990 HCB Waiver Survey to probe various administrative dimensions of the waiver program.

In particular, we wanted to learn more about the relationship between state MR/DD agencies and state Medicaid agencies in administering the waiver program. We also asked states to supply information regarding the number of staff they assign to managing their programs. Questions regarding the state experiences with HCFA's periodic reviews of waiver programs also were raised in the survey questionnaire, as were the extent to which, if any, states may have incurred the loss of federal financial participation as a result of HCFA actions. States also were queried regarding the innovative practices that they had instituted to manage their programs more effectively and efficiently. In this section of the report, we discuss the results of this portion of the 1990 survey and we also summarized other information related to program administration.

### A. Responsibility for the Waiver Program

Under federal law, responsibility for the delivery of Medicaid services must be assigned to a single state agency. The state's Medicaid agency must assure that all services furnished to eligible recipients comply with applicable federal laws and regulations as well as the provisions of the State's own Medicaid plan. This agency must pay or arrange to pay all claims, issue provider agreements, and conduct a host of other tasks.

Since the onset of the HCB waiver program, state MR/DD agencies in many states have played a fairly direct role in the administration of waiver programs on behalf of persons with mental retardation and other developmental disabilities. In many instances, a state's HCB waiver request was drafted by personnel from the state MR/DD agency. In several cases, these officials are responsible for the day-to-day operation of such waiver programs. When the state MR/DD agency is located in an organizational entity that is different from the single state Medicaid agency, the two agencies usually enter into an agreement that describes the administrative activities that the MR/DD agency will perform on behalf of the single state agency. Such agreements spell out the waiver-related responsibilities of each agency, although the single state Medicaid agencies must retain ultimate authority over the program.

The use of this shared responsibility model is an outgrowth of several factors. First, the state MR/DD agency has primary responsibility under state law for organizing and managing the delivery of specialized ser -

vices to persons with developmental disabilities. Second, it is typically more efficient to graft the HCB waiver program onto an existing purchase of service programs within a state's developmental disabilities system than to develop an entirely new, duplicative structure. Third, case management services for people with developmental disabilities are typically managed and administered by the MR/DD agency, so it makes sense to have the HCB waiver program (which relies extensively on the use of case management) operated by the same agency. Fourth, Medicaid agencies often face such an unwieldy agenda that they are unable to devote a great deal of time and attention to the day-today management of an MR/DD HCB waiver program. Fifth, usually the state MR/DD agency has a larger stake in the success of the waiver program, particularly when it is linked to such strategic goals as deinstitutionalization or the expansion of various types of community services.

Still, the model of assigning primary administrative responsibility to the state MR/DD agency is far from universal. In several states, the responsibilities of the MR/DD agency in the overall management of an HCB waiver program serving people with developmental disabilities are more limited, extending in some instances to managing only the programmatic aspects of the program.

To better gauge the extent of the involvement of the state MR/DD agencies in administering HCB waiver programs serving people with developmental disabilities, we asked program managers to describe their roles. The following table summarizes the responses to this survey question:

| <u>Table V:</u>  |    |
|--|----|
| <b>Which of the following best describes your agency's role in managing the HCB waiver program on behalf of persons with developmental disabilities?</b> |    |
| Fully responsible and accountable  | 15 |
| Lead agency for most issues  | 14 |
| Programmatic lead agency only  | 5  |
| Medicaid agency is lead agency   | 4  |

In a large majority of states, the state MR/DD agency exercises a significant leadership role in managing and administering HCB waiver services for people with developmental disabilities. Among the respondent states, there is a fairly noticeable tendency for the state MR/DD agency to play a more extensive role in HCB waiver program management and administration when the waiver program is relatively large compared to the totality of state-financed services for people with developmental disabilities. In a number of states, units within the state MR/DD agency have been set up which have as their principal function management of the waiver program.

Even though a state MR/DD agency might be responsible for the management of an HCB waiver program, coordination with the single state Medicaid agency is still necessary in such areas as claims processing, executing

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provider agreements, and communications with HCFA. Generally speaking, state MR/DD waiver managers report that there is an effective cooperation with officials at the single state Medicaid agency. In many cases, Medicaid agency officials are pleased that another agency has relieved them of the responsibility for managing a relatively complex program that falls outside the mainstream of their activities.

Still, problems do arise in maintaining effective interagency relations. The generation of federal HCB waiver reports sometimes is a cause of friction between agencies, especially when the MR/DD agency assigns higher priority to the preparation and submittal of such reports than the single state Medicaid agency which must consider other competing priorities. Several states have encountered difficulty, for example, in having HCFA's basic HCB waiver report (the HCFA 372) prepared in a timely fashion due to this problem. In other cases, policy disagreements between the state MR/DD agency and the single state agency have arisen that have stymied waiver applications or delayed desired changes.

By and large, however, these types of problems appear to be diminishing. Because the waiver program has now been in operation in many states for eight years or more, the interagency distribution of responsibilities for various administrative functions has more or less been sorted out. The principal actors on both sides of the fence have gained sufficient experience in managing HCB waiver programs to be able to resolve most issues.

### B. Operational Resources and Responsibilities

In NASMRPD's 1990 HCB Waiver Survey, HCB waiver program managers also indicated the number of staff positions in their agencies assigned to operate the waiver program. In asking this question, we hoped to gauge the level of effort needed to operate HCB waiver programs on behalf of persons with developmental disabilities. Thirty-six states responded to this element of the survey. On average, state program managers reported that 4.2 staff positions are dedicated to managing a state's HCB waiver program, ranging from a low of 0.2 staff positions up to fourteen. In 21 of the 36 states, three or fewer staff are directly assigned to waiver program management.

Generally (but only generally), the number of staff assigned to manage the HCB waiver program is related roughly to the overall size of a state's MR/DD waiver program. At the same time, the number of staff directly allocated to this function also is strongly influenced by the range of responsibilities shouldered by the state MR/DD agency in managing the program. For example, states that characterize their role as being the "programmatic" lead agency only usually have relatively fewer staff assigned to the HCB waiver program than states that portray the role of the MR/DD agency as "fully responsible and accountable."

The full range of administrative responsibilities associated with operating an HCB waiver program is extensive. They include:

Drafting the HCB waiver request and negotiating its approval with HCFA;

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Preparing amendments to the waiver request and negotiating their approval with HCFA;

Preparing any necessary state regulations needed to implement the program;

Designing the forms required to document various aspects of service delivery (e.g., the plan of care, recipient freedom of choice, claims, provider record keeping of services furnished, and so forth);

Conducting state-level reviews and approval of plans of care;

Executing provider agreements with agencies which will furnish services to program participants as well as assuring that such agencies are duly certified and have been assigned Medicaid provider numbers so that their claims can be processed;

Arranging training sessions for case managers to familiarize them with program procedures;

Organizing applicable policies and procedures into a manual or set of program instructions;

Arranging training for provider agencies concerning applicable procedures;

Assuring that applicable federal reports are prepared and submitted;

Conducting on-site reviews of provider agencies to assure that policies are being followed;

Responding to the results of federal on-site reviews;

Establishing and updating payment rates; Trouble-shooting claims processing problems;

Tracking program utilization and spending to assure that federal limitations are being observed; and,

A variety of other tasks.

This range of responsibilities can be daunting. For example, the simple statutory requirement that plans of care be subject to State approval can trigger an enormous paperflow/processing responsibility. Even a moderately sized HCB waiver program may entail the execution of provider agreements with more than 100 separate vendor agencies.

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States typically experience an enormous amount of upfront work in initiating an HCB waiver program. During this process, it is not unusual to see program procedures and practices altered as a result of the initial experience gained in managing the program.

In some states, the MR/DD agency has established a distinctive "quality control/quality assurance" function that focuses solely on the delivery of HCB waiver services. Administrative staffing levels typically are higher in these states than in states that lack a similar capability or address this area through other means. In Wisconsin, for example, the Developmental Disabilities Office has a very active quality assurance program for waiver services (see below). In Texas, the HCS Program Office is similarly active in conducting provider reviews. In other states, quality assurance/quality control activities are blended into the state's overall quality assurance program, rather than conducted as a distinct part of administering the HCB waiver program.

The staffing levels reported by program managers probably understate the full administrative effort associated with running an HCB waiver program in most instances. Again, we asked managers to report the number of personnel whose job duties are directly tied to the HCB waiver program. Given the growing size of HCB waiver programs serving people with developmental disabilities, typically many other agency personnel have to devote considerable time and effort to managing and administering the program as well.

In general, program managers report that the resources available to manage their programs are less than ideal. Typically, administrative resources are the last to be increased and the first to be cut back in times of fiscal stress. In several instances, administrative staffing levels have been held constant despite growth in the number of program participants and the proliferation of HCB waiver programs operated by the state. Several program managers report a certain amount of frustration in being unable to implement long overdue changes that would improve the effectiveness of their programs or provide for their more efficient operation. At the same time, this problem is far from unique to the HCB waiver program.

By and large, the picture that emerges from the data reported by states and the comments of program managers is that administration of the HCB waiver program is modestly staffed at best, given its overall size and the wide range of activities that must be performed in order to manage the program effectively.

### C. Other Management Dimensions

In our 1990 HCB Waiver Survey, we asked states to indicate what they regarded to be exemplary practices in managing their HCB waiver programs: namely, steps that they had taken to improve the overall effectiveness and efficiency of program administration or, which in their view, contributed to the general effectiveness of the HCB waiver program in meeting the needs of people with developmental disabilities.

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States reported that they have taken a number of steps along these lines. Some of these include:

Maine employs a "turn-around", pre-printed billing form that reduces the workload of provider agencies in completing Medicaid claim forms. All a provider agency need do is update this claim form for any changes that occurred since the prior month. The use of such a claim form minimizes the chances of clerical errors that might lead to a delay in payments to provider agencies. Missouri employs the same practice. In Alabama, electronic billing of claims directly from the service provider to the State has been instituted in order to reduce the paperflow and speed up payments. Provider agencies simply transmit claims via computer modem to the State where they are immediately processed, thus avoiding data entry at the State level.

Wisconsin points to the decentralization of responsibility for rate determination to the local level as a key factor contributing to an improved array of services and resources available to program participants. State officials point out that this approach gives county offices the flexibility to work out the most flexible and cost effective arrangements possible. Vermont officials indicate that its straight-forward rate setting methodology has simplified the HCB waiver payment process enormously. North Dakota officials point to the State's method of individually contracting for supported living services assures that "money does follow the client" (Smith, 1990).

Texas officials say that the State's newly adopted "Consumer Principles of Evidentiary Certification" represents a particularly constructive step toward emphasizing outcomes rather than process in assuring the overall quality of HCB waiver services and compliance with applicable requirements. Provider agencies are given the flexibility of deciding how best to meet any of a host of HCB waiver program requirements; state reviews focus on determining whether there is sufficient evidence to determine that the provider agency is in compliance, rather than determining whether the agency has implemented a proscriptive set of state-determined policies, procedures, and practices. Texas officials also regard the standards developed in conjunction with the state's new HCB waiver program for persons with "related conditions" as particularly consumer-oriented.

- 1 Wisconsin also points to its focus on furnishing local agencies with significant levels of technical assistance as a key ingredient in long-term improvements in the effectiveness and quality of waiver services.

Illinois officials are at work on a new data system which is being designed to substantially increase the overall efficiency of its HCB waiver program.

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Michigan and Wisconsin have developed clear manuals that assist local agencies in handling the various processing and paperwork requirements associated with delivering HCB waiver services.

Other states report that they have made considerable progress over the life of their waiver programs in simplifying administrative requirements. Many program managers report that, when their waiver programs were first implemented, providers were required to complete far more paperwork than is presently the case. Because the HCB waiver program is a Medicaid program, an enormous amount of paperwork is required to satisfy a host of federal requirements. As best they can, many states have reduced this paperwork to as low a level as possible.

Because the states' waiver programs vary so enormously, it is difficult to judge one state's practices as clearly superior to another state. Moreover, in many states, HCB waiver programs have benefitted from exemplary practices that were broad-based in scope rather than solely undertaken for purposes of improving the waiver program.

### D. Dealing with HCFA

A good deal of attention regarding the HCB waiver program quite naturally focuses on the process of obtaining HCFA's approval to initiate or modify an HCB waiver program. There is no doubt that this attention is well-deserved because it is at this level of key decisions are made concerning the number of people with developmental disabilities who may receive services and how many dollars are available to serve them. However, a state's involvement with HCFA does not end once it has obtained approval for its program.

In particular, periodically each of HCFA's ten regional offices conducts a field review of each approved waiver program to determine whether the state is following the policies and practices outlined in its waiver application during its implementation and subsequent operation. These "target area" or "compliance" reviews generally consist of HCFA regional office personnel reviewing selected records and procedures at the state level and then selecting a sample of program participants in order to perform on-site reviews of documents. On occasion, these reviewers visit program sites. While HCFA has issued guidelines to be followed during these reviews, it also gives each regional office a wide degree of latitude in conducting these surveys. As a consequence, there frequently is a considerable degree of variability from region-to-region regarding the scope and content of such reviews. In addition, regional offices conduct separate "financial reviews" aimed at testing the validity of state claims for federal financial participation in the costs of these services.

Typically, these reviews culminate with a *brief report in which the regional office describes its findings regarding particular elements of*

*the the program (e.g., is there evidence that program participants meet ICF/MR level of care?). In instance where the regional office discovers a problem or a weakness, it makes a recommendation about cor-*

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recting the problem to which the state must respond (either by agreeing to the finding and outlining a corrective action plan or disagreeing). Adverse findings as a result of these reviews do not result in the withholding of federal funds, but may result in a recommendation that the state pay back a specified amount of FFP. If the state does not agree to do so, the regional office might issue a formal disallowance letter. In addition, regional offices sometimes conduct formal field audits of state HCB waiver programs. Generally, these formal audits are more in-depth and can result in findings leading to a proposed disallowance of federal financial participation.

In our 1990 HCB waiver survey, we asked state program managers selected questions regarding their experiences with these regional level reviews. In particular:

First, we asked program managers whether the regional office had conducted a targeted area of review of the state's waiver program within the past twelve months. Of the 36 states which responded, twelve indicated that such a review had been conducted, two reported that one was currently underway, and the remaining 24 said that a review had not been conducted in the past year.

Second, we asked program managers to categorize the quality of the reviews that had been conducted of their waiver programs. Twenty-six states responded to this survey question. More than one-half (14) characterized HCFA's reviews as "professional, helpful, accurate." Another four states said the reviews as "appropriate, but not helpful" while nearly one-third (8) termed them "perfunctory." These different reactions probably reflect differences among the regional offices themselves. In addition, even within regions, different federal staff members might be assigned to review various waiver programs operated by the states in the region. In addition, there is turnover in regional staff. Obviously, such categorizations regarding the tenor of federal reviews are subjective. Nonetheless, they indicate mixed reactions on the part of state waiver program managers to these reviews.

Next, we asked states whether an audit had been conducted of their waiver program within the past two years. Only four states reported that such an audit had been completed (one additional state reported that an audit was underway).

Fourth, program managers were asked whether HCFA had disallowed federal financial participation in the costs of HCB waiver services (i.e., recovered federal dollars) or taken a "deferral" of federal payments (i.e., suspended federal payments until an issue of potential non-compliance was resolved), again within the past two years. Two states reported that they had incurred disallowances and no states reported deferrals. In one case, the disallowance involved a small dollar amount; in the other case, the state pre-

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vailed in appeal to the Department of Health and Human Services' Grant Appeal Board.

Based on the preceding information, there is no particular evidence that states are encountering serious problems due to HCFA's oversight of approved waiver programs. At the same time, it seems clear that HCFA itself has limited capacity to review the states' performance in administering HCB waiver programs.

Individual states have reported that have encountered difficult problems in dealing with some regional offices. In some cases, these issues have festered for a considerable period of time without reaching the point of an adverse action on the part of HCFA. Some states report that they have made changes in their waiver programs to placate the regional office, even though they did not believe such changes were necessary. On the other side of the coin, some states report that regional offices have been particularly helpful in pointing out practices adopted by other states that might assist a state in administering its program or suggesting constructive solutions to problems.

Again, the record of federal oversight once a waiver is approved is spotty at best. Some regional offices are far more actively involved in overseeing waiver programs operated by states in their regions than others. State officials obviously have mixed feelings about this involvement.

The fact that relatively few states seem to be encountering major problems with HCFA as a result of regional office oversight activities again reflects the fact that the waiver program has matured considerably. Such problems were more frequent during the program's early years in operation when, understandably, all parties were still learning about the program's various aspects.

### E. Conclusion

Taking the long-view, it seems clear that states' administration of the HCB waiver program has settled into a somewhat steadier routine and, despite problems that arise from time-to-time, so have relationships with HCFA regional offices. In most states, the state MR/DD agency plays a significant role in managing the HCB waiver program.

Among the states, the "administrative" overhead associated with managing the waiver program appears to be modest at best, even given the likelihood that the total number of staff assigned to the program is somewhat greater than the levels reported by program managers, taking into account time spent by other personnel not directly assigned to HCB waiver administration.

States have instituted measures to minimize paperwork and taken other steps to improve the effectiveness of their waiver programs. By and large, the "technology" of HCB waiver procedures in the states has stabilized.

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HCFA regional offices continue to exercise oversight of state programs, with mixed reactions by the states. Based on the reports of state program managers, however, this oversight does not appear to be uncovering substantial problems in the states' administration of these programs.

Left unexamined in this analysis, of course, is the consequences of state and federal policies on the administrative burdens that provider agencies must shoulder. These burdens can be considerable and should not be discounted. While the states have taken steps to reduce these burdens, most remain inherent elements of employing any type of Medicaid financing, although some are unique to the HCB waiver program.