#04-56-07

Bulletin

September 7, 2004

Minnesota Department of Human Services 444 Lafayette Rd. St. Paul, MN 55155

OF INTEREST TO

- County Directors
- Administrative Contacts: LTCC, CAC, CADI, DD, EW, TBIW
- DD Waiver Contacts
- County CDCS Contacts
- County Public Health Nursing Services and Social Services
- Health Plans
- Tribal Health Directors

ACTION

Please read this bulletin and implement changes as specified.

EFFECTIVE DATE

October 1, 2004

Implementation of Consumer-Directed Community Supports (CDCS) Across AH Waivers, MSHO and MnDHO

TOPIC

Announcing a waiver service available through CAC, CADI, TBI, MR/RC, EW, MSHO and MnDHO beginning 10/01/04 that gives waiver recipients more flexibility and responsibility for directing their services and supports.

PURPOSE

To inform counties about a new waiver service, and the materials and training that will be made available.

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SIGNED

LOREN COLMAN
Assistant Commissioner
Continuing Care

DEFINITION OF CONSUMER-DIRECTED COMMUNITY SUPPORTS

Consumer-directed Community Supports (CDCS) is a service option within the home and community-based waivers that gives individuals more flexibility and responsibility for directing their services and supports, including hiring and managing direct care staff. CDCS may include traditional goods and services, as well as additional allowable services that provide needed support to recipients.

BACKGROUND

Consumer-directed Community Supports (CDCS) is a service currently available through the Home and Community-Based Waiver for Persons with Mental Retardation and Related Conditions (MR/RC) waiver. It has been available on the MR/RC waiver since 1998. CDCS is currently offered in thirty-seven Minnesota counties to persons receiving services under the MR/RC waiver. The CDCS service has been managed at the county level, with each county developing their own policies on administration of the service through a Memorandum of Understanding with the state.

In an effort to expand Consumer-directed Community Supports (CDCS) to all counties and available individuals on any Medical Assistance (MA) home and community-based waiver program, the Department of Human Services (DHS) submitted amendments to all of the home and community-based waiver programs to the Center for Medicare and Medicaid Services (CMS). The amendment, as approved, changes some aspects of CDCS in the MR/RC waiver and expands the CDCS service. The amendment includes state-level oversight of CDCS, with administration continuing at the county level.

The programs affected by the approved amendments are:

- Mental Retardation and Related Conditions (MR/RC) waiver,
- Community Alternative Care (CAC) waiver,
- Community Alternatives for Disabled Individuals (CADI) waiver,
- Traumatic Brain Injury Waiver (TBIW),
- Elderly Waiver (EW),
- Minnesota Disability Health Options (MnDHO), and
- Minnesota Senior Health Options (MSHO).

There are slight differences in how CDCS applies to each waiver and health plan program because of the different requirements for each. These differences will be indicated in each of the sections, as they apply.

IMPLEMENTATION OF CDCS

DHS is in the process of developing the elements necessary to implement CDCS, as approved by CMS, across all waivers and in all counties by April 1, 2005. There are two phases in the CDCS implementation plan.

The first phase involves the thirty-seven counties that are currently authorized to provide CDCS under the MR/RC waiver. Based on feedback from a recent Legislative Auditor's Report on the waiver programs, DHS will begin implementing CDCS across all waivers in the thirty-seven counties that are currently authorized to provide CDCS under the MR/RC waiver effective October 1, 2004. This initial implementation phase will include transitioning individuals who are currently receiving CDCS under the MR/RC waiver to the new policies, as well as implementation of CDCS across all waiver programs, MnDHO and MSHO.

The second phase of implementation will involve the remaining fifty counties and, for EW, interested tribal health entities. These agencies will begin to implement CDCS across all waiver programs, MnDHO and MSHO by April 1, 2005.

Beginning with the first phase of implementation, an independent evaluation of the modified policies and procedures will occur. The resulting recommendations will be considered before the second phase of implementation begins.

ELIGIBILITY FOR CDCS

CDCS is one service available under the federally approved MA waiver plans. Therefore, an individual who wants to access CDCS must either already be receiving services on a waiver or must meet all eligibility criteria for that waiver and be authorized to receive waiver services by the county.

Ineligibility for CDCS effective October 1, 2004

- CDCS services are not available to waiver recipients living in residential settings licensed by the Department of Human Services (DHS) or licensed or registered with the Minnesota Department of Health (MDH), such as: family or corporate foster care, board and lodge facilities, supported living service facilities, and housing with services/assisted living establishments.

- CDCS services are not available to an individual if the Primary Care Utilization Review (PCUR) has at any time restricted the individual or their representative. Individuals may have a PCUR assignment due to activities, including fraud and misuse of public funds. An edit in MMIS will be established to prevent identified individuals from accessing CDCS

services, although this may not be available on October 1 ,2004. County workers should check the Recipient Primary Care Utilization Review (RPCR) screen in MMIS to determine whether the individual has been involved with PCUR before discussing the CDCS option with that individual.

- If a CDCS recipient exits the waiver more than once during the recipient's service plan year, the recipient is ineligible for CDCS for the remainder of that service plan year. This does not preclude the individual from using other waiver services for the remainder of the service plan year.

CDCS SERVICE CATEGORIES AND PROVIDERS

Consumer-directed Community Supports (CDCS) includes a range of allowable services and supports that can be tailored to meet an individual's needs. The brief definitions that follow are intended to broadly describe each category. Recipients are able to describe service and supports in ways that are meaningful to them and customize supports to best meet identified needs. This includes identifying staff training requirements when staff are used. Part of the flexibility built into CDCS is the ability to completely customize one's community support plan, including designing supports that are unique to the recipient or choosing to purchase federally approved waiver services under CDCS.

A person using CDCS as their service option is choosing to receive all of their waiver and state plan home care supports and services as CDCS. In this case, all reimbursement will be through the CDCS HCPC, with modifiers for the different service categories that are defined below. Although provided and paid through CDCS, a person selecting services ordinarily available through the waiver or state plan home care is making the choice to purchase a service or support that must meet all provisions of that waiver or state plan home care service, including the service description, provider qualifications and quality assurance mechanism of the service.

When authorizing services and billing for CDCS, services must fit into one of four categories of covered services:

- Personal Assistance
- Treatment and Training
- Environmental Modifications and Provisions
- Self-direction Support Activities.

See *Attachment A* for criteria for approval of allowable expenditures as part of an approved Community Support Plan, as well as a list of specific allowable and unallowable expenditures. Case Managers must apply the criteria outlined in *Attachment A* for allowable expenditures to all potential CDCS services, supports, and items to determine if the services, supports, or items requested may be authorized in the Community Support Plan.

If the service, support, or item requested by the recipient does not meet the criteria or is included in the list of unallowable expenditures, it may not be authorized. The case manager must provide the recipient or the recipient's representative notice of appeal rights related to this decision.

The following are explanations of the four service categories under which all CDCS services must be billed and examples of services that fit into each category, as well as provider qualifications for each category. These categories broadly describe service areas for CDCS. The categories are intended to promote flexibility in service planning. If a CDCS recipient chooses other waiver services, the services need to be identified within one of the CDCS service categories and be included in the CDCS budget.

For example, if the CDCS recipient chooses to have their neighbor help them get up in the morning, that would fall under the Personal Assistance category and the recipient would be able to determine the requirements and qualifications for their provider. If a CDCS recipient chooses to have a PCA help them during the day, that would fall under the Personal Assistance category for billing and the PCA provider would be required to meet all current PCA requirements.

Personal Assistance

Personal Assistance includes a range of direct assistance services provided in the consumer's home or community. The assistance provided may include hands-on, cueing, monitoring, supervision and behavioral interventions. The following is a list of services that could be covered under this category, but is not limited to these examples:

- Assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs)
- Respite care
- Homemaking
- Extended transportation
- Behavioral aide services

Recipients or their representative determine the provider's qualifications/Services and supports included in this category do not require a professional license, professional certification, or other professional credentials, unless required by the recipient or their representative. However, when choosing other waiver services within this category, all provisions of the waiver service must be following including the services description, provider qualifications and quality assurance mechanisms of the service.

The Community Support Plan will include a description or definition of the qualifications that the direct care worker or provider must meet for the individual recipient. The recipient or their designee must maintain the documentation indicating how the qualifications are met

Treatment and Training

Treatment and Training includes a range of services that promote the consumer's ability to live and participate in the community. Examples of services that could be covered under this category include:

- Specialized health care
- Extended therapy treatment
- Habilitative services
- Day services/programs
- Training and education to paid or unpaid caregivers
- Training and education to recipients to increase their ability to manage CDCS

For services and supports that require the person or entity providing the service or support to be professionally licensed, credentialed, or otherwise certified to perform the service under state law, the provider must meet all applicable standards. The following service providers are typically covered in this category: therapists, physicians, nurses, and dieticians.

The Community Support Plan may identify additional qualifications that the person must meet to provide the service for the individual recipient.

For services and supports that do not require professional licensing, credentials, or certification, the community support plan will define the qualifications that the direct care worker or provider must meet, as identified by the recipient or their representative. Documentation must be maintained by the recipient or their designee indicating how the qualifications are met.

Environmental Modifications and Provisions

Environmental Modifications and Provisions include supports, services, and goods provided to the recipient to maintain a physical environment that assists the person to live and participate in the community or are required to maintain the health and well-being of the recipient. The following services are examples of services that could be covered under this category:

- Assistive technology*
- Home and vehicle modifications*
- Environmental supports (snow removal, lawn care, heavy cleaning, etc.)
- Supplies and equipment
- Special diets
- Adaptive clothing

*Costs exceeding $5,000 may be negotiated with the county of financial responsibility and provided outside of the consumer's individual budget. The county of financial responsibility may authorize additional funding for assistive technology and home and vehicle modifications within the county's overall waiver allocation. This exception does not apply to the Elderly Waiver (EW). For EW, environmental modifications up to the maximum amount allowed in the

waiver plan per service agreement year may be paid. This amount includes all environmental modifications to be paid for by the waiver per service agreement year. This amount is $4,634.00 for state fiscal year 2004.

Providers of home and vehicle modifications must have a current license or certificate, if required by Minnesota Statutes or administrative rules, to perform their service. A provider of modification services must meet all professional standards and/or training requirements that may be required by Minnesota Statutes or administrative rules for the services that they provide. Home modifications must meet building codes and be inspected by the appropriate building authority.

Standards for common carrier transportation are bus, taxicab, other commercial carrier, private automobile, and county owned or leased vehicle. Private individuals may be designated to provide transportation when they meet the consumer's needs and preferences in a cost-effective manner. Drivers must have a valid driver's license and meet state requirements for insurance coverage.

Self-direction Support Activities

Self-direction Support Activities include services, supports and expenses incurred for administering or assisting the consumer or their representative in administering CDCS. The following services are examples of services that could be covered under this category:

- Liability insurance and workers compensation
- Payroll expenses including FICA, FUTA, SUTA, wages and processing fees
- Employer's share of benefits
- Assistance in securing and maintaining workers
- Development and implementation of the community support plan
- Monitoring the provision of services beyond the required monitoring by the county

COMMUNITY SUPPORT PLAN

The CDCS recipient or his/her representative directs the development of their Community Support Plan (CSP). The development process must be person-centered, where the person is the focus of the planning and directs the development of the plan with support from the people who know him or her. The plan may contain a mix of paid and non-paid services, formal and informal supports. The CSP must identify:

- Goods and services that will be provided to meet the recipient's assessed needs
- Safeguards that are required to reasonably maintain the recipient's health and safety
- Emergency needs of the recipient and how they will be met
- Overall outcomes of the recipient's plan
- How monitoring will occur

- Provider qualifications, including training requirements
- Who is responsible to assure that the qualification and training requirements are met
- For persons receiving services under the MR/RC waiver, the plan must contain a habilitative component

Service Revisions and Plan Changes

The recipient or their representative may minimally revise the way that a CDCS service or support is provided without the involvement or approval of the local county agency, when the revision does not fundamentally change what was authorized by the county case manager in the Community Support Plan. Examples include:
- Changing workers
- Shifting time of day service is delivered
- Changing wages while staying within the individual CDCS budget, unless the wages were specifically approved by the required case manager

If a revision results in a significant change or modification of the approved Community Support Plan, the recipient or their representative will work with the local county agency to have the Community Support Plan reviewed and re-authorized. Examples include:
- Changing the way that needs are being met
- Using technology instead of staff to meet needs
- Using staff instead of home modifications
- Increase or decrease in staff hours
- Change in background checks
- Adding new service
- Change in qualifications and/or training

The recipient's Community Support Plan delineates individual specific parameters. Parameters include the service outcome, how it will be met, what training and qualifications are required, how the service will be monitored, and what the payment will be. Within the Community Support Plan parameters, the recipient has the flexibility to change caregivers, hire additional caregivers, or pay one caregiver who has more experience a higher rate, while staying within their personal budget. However, the caregivers) must meet the qualifications and training requirements that the county agency approved in the Community Support Plan (i.e. parameters that are defined in the Community Support Plan cannot be altered without agreement from the county agency).

INDIVIDUAL CDCS BUDGETS

The Department will set individual budgets for CDCS. The individual budget limit for a person using CDCS includes the costs of waiver services and state plan home care services. All

services must be provided within this budget amount, with the exception of:

- Assistive Technology, home or vehicle modification and provisions over $5000 if approved by the county for persons supported under the CAC, CADI, MR/RC, or TBI waivers (see the CDCS Service Categories and Providers section of this bulletin under Environmental Modifications and Provisions).
- Required county case management functions.
- Costs for criminal background checks, if requested by the recipient and not otherwise required through a specific waiver service.

CAC, CADI, TBI and MR/RC Waiver Recipients

For recipients who are not enrolled in MnDHO, expenses covered outside of the individual budget (i.e. required case management; assistive technology, and home and vehicle modifications over $5000; and costs for criminal background checks as specified above) must be managed within the County of Financial Responsibility's (CFR) allowable waiver budget. These supports, whether included in the individual budget or not, must be identified in the Community Support Plan.

The recipient, county and FSE are responsible to assure service utilization is consistent with the approved plan and is in a manner that assures CDCS resources will be available for the entire plan year. A CDCS recipient whose spending exceeds their established individual budget is not eligible for any increase in their CDCS budget to cover that spending.

When a CDCS recipient experiences a significant change in need, the case manager must reassess the recipient's needs.

EW Recipients

Individual budgets may not exceed the length of the recipient's MMIS Service Agreement span (i.e., a maximum of 365 days). If the span is less than 365 days, the budget amount will be prorated. The recipient cannot carry forward unspent budget amounts from one plan year to the next.

If a recipient experiences a significant change in need or condition that requires a reassessment, or they are otherwise reassessed, and their case mix classification changes, his/her budget amount will be adjusted.

The county case manager conducts assessments. Expenses covered outside of the individual budget (i.e., required case management and criminal background checks) must be managed within the individual's case mix classification amount. The supports identified in the assessment as something the person needs, whether included in the individual budget or not, must be identified on the Community Support Plan.

FLEXIBLE CASE MANAGEMENT

Under CDCS, Case Management is separated into activities that are required and those that are flexible. *Attachment B* provides examples of what is included in each of the case management categories.

Required Case Management Activities

Required case management activities are provided by county agencies, health plans, or tribal health entities who have entered into contracts with DHS. Required Case Management includes monitoring and screening activities, determining whether the Community Support Plan assures the recipient's health and safety, authorizing services, completing an annual reassessment, and other activities outlined in *Attachment B.* These activities are not included in the recipient's individual CDCS budget.

Flexible Case Management Activities

Flexible case management activities are provided by an individual or entity chosen by the recipient and are additional to required case management activities. If a CDCS recipient decides to pay for this service, the costs of Flexible Case Management supports are included in the recipient's individual CDCS budget. Flexible Case Management may include, but is not limited to, assistance in Community Support Plan development, assistance in determining what services and goods will best meet the recipient's needs, accessing goods and services, coordinating service delivery, advocating and problem solving, and other activities outlined in *Attachment B.*

The recipient or his/her representative chooses who will provide the service, how much will be paid for the service, and what services and supports will be provided by the Flexible Case Manager. This support may be provided through care coordination (or case management) through the local county agency, another entity, or by an individual.

Financial Interest in the Delivery of Service

Flexible Case Managers must not have any direct or indirect financial interest in the delivery of services in the plan. This does not prevent them from receiving payment for their work in providing Community Support Plan development services. Flexible Case Managers or agencies providing flexible case management may not be the employer of record for any recipient they provide FCM to.

Flexible Case Management Provider Requirements

People who are paid as Flexible Case Managers through CDCS to assist with the development of the recipient's person-centered Community Support Plan must:

- be at least 18 years of age
- successfully pass a training module approved or developed by DHS on person-centered planning approaches including the vulnerable adult or maltreatment of minors act
- provide a copy of their training certificate to the recipient
- use the community support plan template or a community support plan format that includes all of the information required to authorize CDCS
- be able to coordinate their services with the county case manager to assure that there is no duplication of functions.

Recipients may request additional provider qualifications of the Flexible Case Manager that are tailored to their individual needs. These will be defined in the recipient's Community Support Plan. The provider must provide the recipient or their representative with evidence that they meet the required qualifications.

Parents of minor children and spouses cannot be paid for Flexible Case Management under the current amendment language.

FISCAL SUPPORT ENTITY (FSE)

Fiscal Support Entity (FSE) Continuum of Services

A CDCS recipient is required to have an FSE in order to access CDCS. There is a range of services that the FSE can provide to a CDCS recipient, which vary in the amount of support provided. Every CDCS recipient must at least access the FSE as a fiscal conduit to pay providers. FSEs must provide, at a minimum, payroll assistance and must offer a range of services that allow the recipient to select how much autonomy they want in employing, managing, and paying for services, supports, and goods.

CDCS recipients or their representative have the responsibility to hire, discharge, manage and direct their support workers. The recipients or their representative may choose to purchase assistance with these functions through an (FSE). Whoever provides these services is considered the Employer of Record.

The employer of record must be identified and documented in the recipient's Community Support Plan (CSP). Fiscal Support Entities that act as the employer of record for a CDCS recipient may not also provide flexible ease management to that same recipient.

The FSE may not in any way limit or restrict the recipient's choice of service or support providers. FSEs must have a written agreement with the recipient or their representative that identifies the duties and responsibilities to be performed and the related charges.

Counties may choose to enroll as an FSE.

MA-enrolled Provider

The FSE must be an MA-enrolled provider. They are then able to pay for authorized CDCS services. CDCS claims are paid through the FSE, with the following exception. For EW, all state plan home care services will continue to be billed directly by the home care providers. State plan services or the health plan responsibility for the equivalent service will be authorized on the Service Agreement and claims will decrement against the CDCS individual budget total.

Disclosure of Financial Interests

FSEs who have any direct or indirect financial interest in the delivery of personal assistance, treatment and training or environmental modifications and provisions provided to the recipient must disclose in writing the nature of that relationship and must not assist in the development of the recipient's Community Support Plan.

Documentation and Reporting Requirements

The FSE must provide the recipient and county of financial responsibility with a written summary of what CDCS services were billed, including charges from the FSE. FSEs must establish and make public the maximum rate(s) for their services. The rate for and scope of FSE services is negotiated between the recipient or the recipient's representative and the FSE and included in the Community Support Plan. FSE rates must be on a fee-for-service instead of a percentage of the recipient's payroll budget and may not include set up or base rate or other similar charges.

The FSE must maintain records to track all CDCS expenditures including time records of people paid to provide supports and receipts for any goods purchased. The records must be maintained for a minimum of five years from the claim date and available for audit or review upon request. The FSE must also receive a copy of the recipient's Community Support Plan approved by the county. Claims submitted by the FSE must correspond with services, amounts, time frames, etc. as authorized in the Community Support Plan.

Fiscal Support Entity Provider Criteria

The FSE must meet or follow these criteria:

- Be knowledgeable of and comply with Internal Revenue Service requirements necessary to process employer and employee deductions
- Provide appropriate and timely submission of employer tax liabilities
- Maintain documentation to support the MA claims
- Have current and adequate liability insurance and bonding
- Have sufficient cash flow
- Have on staff, or by contract, a certified public accountant or an individual with a baccalaureate degree in accounting.

The state agency determines if these criteria and the provider standards are met through a written readiness review submitted by the FSE.

CRIMINAL BACKGROUND STUDIES

If a criminal background study is requested by the recipient or their representative, or when the recipient has chosen a waiver service that requires background studies, Minnesota Statutes Chapter 245 A, the Department of Human Services Licensing Act apply to determine if the person is disqualified or not. An individual who is disqualified through that process may not be paid under CDCS.

CAC, CADI, TBI, and MR/RC Waiver Recipients
The cost of background studies is not included in the individual budget amount when the recipient elects to use a background study as a staff requirement for an individually designed service and will be covered as a service expense through the counties' waiver budget allocations. However, if the recipient chooses to use an agency with choice that agency requires background checks or selects a waiver service in which a background study is a required provider qualification, the cost is within the recipient's CDCS budget.

EW Recipients
For recipients who are not enrolled in MSHO, the cost of background studies is not included in the individual budget amount but will be covered as a service expense within the individual's case mix classification amount.

MnDHO and MSHO Enrollees
The cost of background studies will be covered as a service expense through the health plan.

PAYING PARENTS OF MINORS OR SPOUSES

Through CDCS, recipients or their legal guardians may elect to receive support through the ability to pay parents of minor recipients or spouses of recipients for services that fall under the Personal Assistance category of service.

Determining if this option is available- Paying the Spouse of a Recipient

To determine if this option is available to the adult recipient who would like to pay his or her spouse for services that fall under the Personal Assistance category, the case manager will complete the Long-term Care Consultation Screening Document (DHS 3427). This form is used to identify activities in which the recipient is dependent. The Required Case Manager should use the results of the LTCC Screening Document to distinguish between activities that a spouse would ordinarily perform and those activities that go beyond what is normally expected to be performed.

Determining if This Option is available- Paying the Parent of a Minor Recipient

To determine if this option is available to the minor recipient who would like to pay his or her parent for services that fall under the Personal Assistance category, the case manager will complete the Long-term Care Consultation Services Form: Supplemental Form for Assessment of Children Under 18 (DHS 3428C). This form is used to identify activities in which the minor recipient is dependent. The Required Case Manager should use the results of the supplemental form to distinguish between activities that a parent of a minor would ordinarily perform and those activities that go beyond what is normally expected to be performed. The Required Case Manager will also use the supplemental form to identify areas in which the level of assistance or supervision required exceeds what is typically required of a person of the same age. DHS 3428C provides information on what activities can typically be completed by children of different ages.

Service Authorization Requirements

For a parent of a minor recipient or recipient's spouse to be paid under CDCS, the service or support must meet all of the following authorization criteria. The service must:

- meet the definition of a service/support as outlined in the federal waiver plan and the criteria for allowable expenditures under the Personal Assistance category of service.
- be a service/support that is specified in the individual plan of care (Community Support Plan)
- be provided by a parent or spouse who meets the qualifications and training standards identified as necessary in the individual's Community Support Plan
- NOT be an activity that the family would ordinarily perform or is responsible to perform
- be necessary to meet at least one identified dependency in activities of daily living as assessed using the Long Term Care Consultation Screening Document (DHS-3427) or the Supplemental Form for Children Under 18 (DHS-3428C).

Provider Requirements

- The parent of a minor or the spouse providing the service must meet the qualification or training standards necessary to perform the service or support which must be described in the individual's Community Support Plan.
- The parent of a minor or the spouse must be paid at a rate that does not exceed that which would otherwise be paid to a provider of a similar service and does not exceed what is allowed by the department for the payment of personal care attendant (PCA) services, which is currently $ 14.92 per hour, including all benefits.
- Parent/parents in combination or a spouse may not provide more than 40 hours of services in a seven-day period. For parents, 40 hours is the total amount regardless of the number of children who receive services under CDCS.
- The parent of a minor or spouse must maintain and submit time sheets and other required documentation for hours paid.
- Married individuals must be offered a choice of providers. If they choose a spouse as their care provider, it must be documented in the Community Support Plan.

Monitoring Requirements

In addition to the already specified requirements for reporting and monitoring when selecting CDCS as an option, including the required case management activities outlined in *Attachment B,* these additional requirements will apply to consumers electing to use legally responsible family members as paid service providers:

- monthly reviews by the FSE of hours billed for family provided care and the total amounts billed for all goods and services during the month
- at least quarterly reviews by the county on the expenditures and the health, safety, and welfare status of the individual recipient
- face-to-face visits with the recipient by the county on at least a semi annual basis.

MSHO, MnDHO, PMAP, or CBP

When a county or tribe receives a request from a person to receive CDCS, DHS recommends counties call the DHS Eligibility Verification System (EVS) to verify Minnesota Health Programs eligibility. Minnesota Senior Health Option (MSHO) and Minnesota Disability Health Option (MnDHO) enrollees receiving services on a waiver may be eligible to choose CDCS as a service and the county or tribe should refer the person to their health plan to access the CDCS service.

The health plan or the health plan's designee (usually the care coordinator) is responsible for the health coordination or case management functions will establish an individual's waiver budget. Costs related to required case management and criminal background studies will be excluded from that budget and are paid as a service expense through the heath plan. The cost for MSHO and MnDHO enrollees, who choose to have additional flexible case management support beyond their health plan coordinator for development and implementation of their community support plan, will have these costs included in their individual budget. Recipients or their representatives have the right to select and work with providers in their health plan's network. To use an out-of-network provider, recipients must follow procedures delineated in the health plan's *Certificate of Coverage.*

If EVS indicates the person is an enrollee of the Prepaid Medical Assistance Program (PMAP) or County-Based Purchasing (CBP), the county or tribe should administer the CDCS waiver service when it administers all other waiver services. The county or tribe must continue to coordinate their activities with the appropriate health plan to insure continuity of care and that efforts are not duplicated.

Please note: During the first quarter of 2005, changes will be made to the entity administering the Elderly Waiver in some counties. CBP counties who are also MOU counties (there are five-Freeborn, Steele, Brown, Goodhue and Itasca) will begin to administer all waiver services,

including CDCS, through the CBP organization. In addition, some non-CBP MOU counties (unnamed at this time) may be selected to participate in a managed care/county partnership plan in which the managed care provider will manage both state plan and waiver services, including CDCS. Expansion of this deliver system model is expected to occur throughout 2005. Details of these changes will be shared with counties as they become available.

TRANSITIONING CURRENT CDCS RECIPIENTS

The individual support plans for current CDCS recipients on the MR/RC waiver must be in compliance with the policies outlined in this bulletin by October 1, 2004. This may involve making changes to an individual's plan to ensure that they are in compliance with the CDCS requirements.

Current CDCS recipients whose service spending exceeds the new individual budget limits, will have up to twelve months from the date of their next annual review, or April 1, 2006, whichever is earlier, to comply with their individual CDCS budget limit. However, if an individual's budget amount increases from their current budget amount, that new amount will be available to the recipient on October 1, 2004.

The following is a list of suggested activities that counties may want to consider performing as they prepare for the October 1, 2004 implementation date:

- Review each current CDCS plan and identify what is currently being paid for that will not be allowable after October 1, 2004.
- Meet with each consumer to discuss the effect that the changes in CDCS will have on them and their plan.
- Meet with the consumer to discuss options and identify other ways to get the needs met that can no longer be met through CDCS (natural supports, informal supports, other waiver services, etc.).
- Make a plan for alternative supports to replace the unallowable expenses that are currently being paid for through CDCS.
- Provide a notice of appeal ten days in advance of any reduction or change in service, regardless if the change is required due to waiver language change.

It is important to consider whether a recipient's needs could be met through traditional waiver services, especially if the recipient or their representative are not satisfied with the individual budget amount. There are several options in traditional waiver services and state plan Medical Assistance that are person-centered and may meet an individual's needs.

LIABILITY

According to MN Statute 256B.0916 Subd. 6a (c), MN Statute 256B.49 Subd. 16 (e), and MN Statute 256B.0915 Subd. 8 (c), the state of Minnesota, county agencies, tribal governments, or administrative entities under contract to participate in the implementation and administration of the home and community-based waiver for persons with mental retardation or a related condition, persons with disabilities, and the elderly waiver, "shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, legal representative, or the authorized representative with funds received through the consumer-directed community support service under this section. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA)."

LEGAL AUTHORITY

Waiver for Persons with Mental Retardation or Related Conditions (MR/RC), CMS control number 0061.90.R3.02
Community Alternatives for Disabled Individuals (CADI), CMS control number 0166.90.R2.02
Traumatic Brain Injury (TBI), CMS control number 4169.90.R1.04
Elderly Waiver (EW), CMS control number 0025.91.R3.06
Community Alternative Care (CAC), CMS control number 4128.90.R2.06
MN Statute 256B.0916 Subd. 6a (a)
MN Statute 256B.49 Subd 16 (c)
MN Statute 256B.0916 Subd. 6a (c)
MN Statute 256B.49 Subd. 16 (e)
MN Statute 256B.0915 Subd. 8 (c)

RESOURCES ON THE INTERNET

Minnesota Statutes and Rules: www.leg.state.mn.us

DHS bulletins: www.dhs.state.mn.us Click on "Bulletins"

ALTERNATIVE FORMATS

This information is available in other forms to persons with disabilities by contacting us at (651) 297-4112 (voice), toll free at 1 (800) 747-5484, or through the Minnesota Relay Service at 1-800-627-3529 (TDD), 7-1-1, or 1-877-627-3848 (speech-to-speech relay service).

Consumer Directed Community Support Service
Criteria for allowable expenditures

The Purchase of goods and service must meet all of the following criteria:

1. Must be required to meet the identified needs and outcomes in the individual's community support plan and assures the health, safety and welfare of the individual; AND
2. Goods and services collectively provide a feasible alternative to an institution; AND
3. Be the least costly alternative that reasonably meets the individual's identified needs; AND
4. Be for the sole benefit of the individual

If all the above criteria are met, goods and services are appropriate purchases when they are reasonably necessary to meet the following consumer outcomes:

- Maintain the ability of the individual to remain in the community;
- Enhance community inclusion and family involvement;
- Develop or maintain personal, social, physical, or work related skills;
- Decrease dependency on formal support services
- Increase independence of the individual
- Increase the ability of unpaid family members and friends to receive training and education needed to provide support

Allowable Expenditures

Consumer directed community supports (CDCS) may include traditional goods and services provided by the waiver as well as alternatives that support recipients. There are four general categories of services which may be billed:

- Personal Assistance
- Treatment and training
- Environmental modifications and provisions
- Self direction support activities

Additionally, the following goods and services that may also be included in the individual's budgets include as long as they meet the criteria and fit into the above categories:

- Goods and services that augment State plan services or. provide alternatives to waiver or state plan services
- Therapies, special diets and behavioral supports not otherwise available through the State plan that mitigate the individual's disability when prescribed by a physician who is enrolled as a MHCP provider
- Expenses related to the development and implementation of the community support plan
- Costs incurred to manage the individual's budget

Unallowable expenditures

Goods and services that shall not be purchased within the individual's budget are:

- Services provided to people living in licensed foster care settings, settings licensed by DHS or MDH, or registered as a housing with services establishment;
- Services covered by the State plan, Medicare, or other liable third parties including education, home based schooling, and vocational services;
- Services, goods or supports provided to or benefiting persons other than the individual;
- Any fees incurred by the individual such as MHCP fees and co-pays, attorney costs or costs related to advocate agencies, with the exception of services provided as flexible case management;
- Insurance except for insurance costs related to employee coverage;
- Room and board and personal items that are not related to the disability;
- Home modifications that adds any square footage;
- Home modifications for a residence other than the primary residence of the recipient or, in the event of a minor with parents not living together, the primary residences of the parents;
- Expenses for travel, lodging, or meals related to training the individual or his/her representative or paid or unpaid caregivers.;
- Services provided to or by individuals, representatives, providers or caregivers that have at any time been assigned to the Primary Care Utilization and Review Program
- Experimental treatments;
- Membership dues or costs;
- Vacation expenses other than the cost of direct services;
- Vehicle maintenance, does not include maintenance to; modifications related the disability;
- Tickets and related costs to attend sporting or other recreational events;
- » Pets and their related costs;
- Costs related to internet access.

CASE MANAGEMENT FUNCTIONS

The term case management is being used for purposes of common understanding in this document. Case management or other direct support functions provided as a CDCS service are flexible and may be provided by traditional or nontraditional providers.

Direct support functions are flexible in terms of who provides them and whether they are covered as a paid service. CDCS consumers must have a care plan that is developed through a person-centered process. Consumers must also manage and monitor their CDCS services. If consumers need assistance with these tasks, support may be purchased through traditional county case management, or provided by private providers, or someone else the consumer may make arrangements with and not pay. If the service is paid for, the cost related to flexible case management tasks are included in the consumer's budget. A nonexclusive list of flexible direct support functions is included in the following table.

There are some case management functions performed by the county that are *not* included in the consumer's CDCS budget. These functions are required if a person chooses to use CDCS. A list of many of the required county functions is included in the following table.

REQUIRED	FLEXIBLE
COUNTY FUNCTIONS	DIRECT SUPPORT FUNCTIONS
not included in the consumer's CDCS budget	*included in the consumer's CDCS budget*
Screen and determine if individuals are MA eligible	If the consumer elects waiver services, provide information about CDCS and provider options
Screen and assess to determine if the individual is eligible for waiver services including level of care requirements	Facilitate development of a person centered community support plan
Provide the consumer with information regarding HCBS alternatives to make an informed choice	Monitor and assist with revisions to the community support plan
If the consumer elects CDCS, provide them with their maximum budget amount	Assist in recruiting, screening, hiring, training, scheduling, monitoring, and paying workers
Provide CDCS consumers with resources and informational tool kits to assist them in managing the service	Facilitate community access and inclusion (i.e., locating or developing opportunities, providing information and resources, etc.)
Evaluate that the consumer's health and safety needs are expected to be met given the care plan including provider training and standards	Monitor the provision of services including such things as interviews or monitoring visits with the consumer or service providers
Evaluate if the plan is appropriate including that the goods and services meet the service description and provider qualifications, rates appear to be appropriate, etc.	Provide staff training that is specific to the consumer's plan of care
Review the service plan and MMIS service agreement, review rates, and set limits by service category	
Authorize waiver services (prior authorized in the MMIS service agreement)	
Review and authorized additional funding for environmental modifications or assistive technology	

exceeding $5,000 and additional quality assurance if it is manageable within the county's overall waiver allocation

Manage waiver spending (authorizations for CAC, CADI, TBIW) within the county's allowable waiver allocation

Monitor and evaluate the implementation of the community support plan, including health, safety and welfare, satisfaction, and the adequacy of the current plan and the possible need for revisions (this includes taking action, when required to address suspected or alleged abuse, neglect, or exploitation of a consumer as a mandated reporter according to the maltreatment of minors or vulnerable adult acts)*

At a minimum, review the consumer's budget and spending before the third, sixth, and twelfth month of the first year of CDCS services and at least annually thereafter*

Monitor the maintenance of financial records, and the management of the budget and services

Provide technical assistance regarding budget and fiscal records management and take corrective action if needed

Investigate reports related to vulnerability or misuse of public funds per jurisdiction

Contract with providers and monitor provider's performance

Complete satisfaction measurements

Report satisfaction, utilization, budget, and discharge summary information to the state agency

Have a system for consumers to contact the local agency on a 24-hour basis in the case of a service emergency or crisis.