

# **DAKOTA COUNTY RESPONSE**

## **CDCS Amendments**

### **January 14, 2004**

Dakota County Social Services and Public Health submit the following comments regarding the Consumer Directed Community Supports summary dated December 11, 2003.

### **POSITIVE DEVELOPMENTS:**

CDCS will be available statewide, in all counties, through all waivers.

Parents of minors and spouses will be able to be paid to provide care that the state would otherwise pay someone else to do.

Budgets will be set at the state level, and therefore be consistent across counties.

Employee benefits and retention incentives are allowable.

Recipients whose current spending exceeds their new individual budget limit established by this amendment will have up to 12 months from the date of their next annual review to comply with the new budget limit.

Special diets, therapies and behavioral supports otherwise not available through state plan services will be allowed when prescribed by a medical doctor licensed in Minnesota.

### **DETRIMENTAL EFFECTS:**

The parameters of the current version of the CDCS amendment do not support achievement of the consumer outcomes listed under the criteria for allowable expenditures listed in Appendix B1, Attachment C. Rather, this version promotes the opposite:

- ◆ Rather than maintain the ability of the individual to remain in the community, it diminishes resources to a point where families of high needs recipients, particular adult recipients, will be unable to care for their family members in their homes. It rewards segregated services and promotes a return to more institutional living arrangements.
- ◆ Rather than enhancing community inclusion and family involvement, it restricts access to community environments and pushes families to request placement due to inadequate support resources in the home. While recipients may physically reside in the community, their opportunities to be part of regular community life are diminished.

- ◆ Rather than developing or maintaining personal, social, physical, or work related skills, the amendment severely restricts this by disallowing memberships, tickets, and reimbursement for related community training and expenses.
- ◆ Rather than decreasing dependency on formal support services, the budget setting methodology provides incentives to remain in or return to formal services.
- ◆ Rather than increasing the independence of the individual, it decreases opportunities by disallowing supported opportunities for training in a multitude of community environments.
- ◆ Rather than increasing the ability of unpaid family members and friends to receive training and education needed to provide support, it decreases their ability by disallowing reimbursement for travel, lodging and meals related to training. It also disallows costs related to the Internet.

As the following comments will show, overall there is a significant disconnect between two of the stated goals of CDCS and the implementation details:

- ◆ Creating a very flexible option that supports the policy of consumer control and tailoring of services to meet individual circumstances.
- ◆ Establishing checks and balances, which provide accountability and effective management for public funds.

**Restrictions on participation:**

Waiver recipients residing in a facility licensed by DHS will not be permitted to use CDCS.

- ◆ Dakota County currently has 120 individuals who would automatically be terminated from CDCS. Some of these individuals are original Robert Wood Johnson Foundation Self Determination Grant participants. CDCS has offered an opportunity for a more individualized approach to particular aspects of their service in combination with traditional formal services. Access to CDCS has enhanced their quality of life. To now terminate original grant participants who stepped forward to try a new way of doing things is unconscionable. Many are recipients residing in licensed family foster care. With the added support provided through CDCS they are able to remain in these cost effective living arrangements. Without it, they may not.
- ◆ Currently, it is allowable to use CDCS to pay for support in work enclaves in the community. Enclaves are work sites in a business setting supported by a job coach. Several current CDCS recipients use a program that charges a very reasonable rate of around \$40 per day. The program has CARF certification but is not a DT&H. Because these individuals live in a licensed setting they will be forced to get support through formal services. That will cost around \$80/day. The cost impact of them having to switch to formal DT&H services will be around \$80,000 per year.

Waiver recipients who exit the waiver more than once in a service plan year will be ineligible for CDCS for the remainder of that service year.

- ◆ The two groups for whom this has the most detrimental affect are recipients with severe and persistent mental illness and those with high medical needs. Because individual budgets will include all services, waiver recipients who have been able to access home care or residential treatment services on a short term basis for resolution of a specific situation will be forced to choose between adequate care in an emergency and continued use of CDCS. Failure to be able to address concerns with short-term intervention strategies outside of waived services will result in longer term, higher cost interventions when conditions worsen.
- ◆ Some current CDCS recipients use ICF/MR respite. They would no longer be able to do so, removing a service option they have accessed for years.

**Individual budget setting methodology:**

CDCS becomes an all or nothing proposition. One of the goals of the original Self Determination Project was to offer an alternative to forced service choices of all or nothing. This is a step backwards in designing services and support. The budget setting methodology appears to have a goal of driving MR/RC waiver recipients, particularly adults, off of CDCS while maintaining lower cost CDCS child recipients at significantly decreased budget amounts, and of making the option less desirable than formal services in the other waivers. The old adage applies: you can pay now or you can pay later. When recipients do not receive adequate training and support, their conditions tend to intensify or worsen. Their support needs will be more costly in the future. The state does not have the capacity to accommodate all of the recipients who will be requesting placement in entitled settings. The methodology promotes a trend toward institutionalization, not community living.

Individual budgets will not exceed 70% of the statewide average cost of all services for non-CDCS recipients with comparable conditions and service needs.

- ◆ A very serious concern is the effect of the proposed budget methodology on those who use CDCS in combination with traditional day programming. Because of the reduction factor, recipients will be forced to choose between adequate day program services and adequate support outside of day program hours if they wish to continue using CDCS. For many adults, CDCS will no longer be a viable option.

EXAMPLE: Recipients A and B have similar characteristics. Both have severe retardation, are in their mid twenties, living at home. They attend the same day program. The only difference is that Recipient A has all formal services and Recipient B has CDCS for support services outside of day program. The following table illustrates the effect of the new budget setting methodology on CDCS recipients vs. non-CDCS recipients. If the day program costs remain constant, Recipients B would have to make

cuts the support costs outside of day program, drop CDCS, or make cuts in day program. This methodology has serious drawbacks for CDCS recipients. It comprises their health, safety and/or community inclusion, all stated goals of the waiver program.

#### Non-CDCS and CDCS Recipient Comparison

	Recipient A (non-CDCS)	Recipient B (CDCS)	Recipient A (non-CDCS)	Recipient B (CDCS)
	FY2002 Expend.	FY2002 Expend.	New CDCS amendment	New CDCS methodology 70% of av. FY2002 non-CDCS Expend.
Day Program	\$60/day	\$60/day	\$60/day	<b>\$60/day</b>
Other Support	\$60/day	\$60/day	\$60/day	<b>\$24/day</b>
<b>TOTAL</b>	<b>\$120/day</b>	<b>\$120/day</b>	<b>\$120/day</b>	<b>\$84/day</b>

The proposed budget setting method also does not take into consideration the effect of individualizing DT&H rates to reflect the needs of the recipient. A new law allows counties and providers to individualize the rates. Historically DT&H service recipients, regardless of need, have been charged a single rate at a particular DT&H. With individual rate setting, higher needs recipients will be charged more and lower need recipients less. Because the CDCS budgets are based on historical non-CDCS expenses, lower needs recipients will have an advantage over higher need recipients in their budget allocations. These next tables show that the moderately and higher need recipient will again experience a greater cut in their support costs if the DT&H rates are individualized while the non-CDCS recipient will not experience any change in service, and the lower need CDCS recipient may actually realize a gain. This is not an equitable method of resource allocation.

### Higher Needs Recipients Comparison

	Recipient A non-CDCS	Recipient B CDCS	Recipient A non-CDCS	Recipient B CDCS
	FY2002	FY2002	Individual DT&H rate structure	New CDCS methodology (70% av. FY 2002 non- CDCS Expend.)
DT&H	\$60/day	\$60/day	\$80/day	<b>\$80/day</b>
Other Support	\$60/day	\$60/day	\$60/day	<b>\$4/day</b>
<b>TOTAL</b>	<b>\$120/day</b>	<b>\$120/day</b>	<b>\$140/day</b>	<b>\$84/day</b>

### Lower Needs Recipients Comparison

	Recipient C non-CDCS	Recipient D CDCS	Recipient C non-CDCS	Recipient D CDCS
	FY2002	FY2002	Individual DT&H rate structure-no change in services	New CDCS methodology (70% av. FY 2002 non- CDCS Expend.)
DT&H	\$60/day	\$60/day	\$30/day	<b>\$30/day</b>
Support	\$30/day	\$30/day	\$30/day	<b>\$33/day</b>
<b>TOTAL</b>	<b>\$90/day</b>	<b>\$90/day</b>	<b>\$60/day</b>	<b>\$63/day</b>

- ◆ Waiver recipients enrolled in MnDHO and MnSHO are not subject to the state's budget setting methodology. Waiver recipients with the same needs and conditions will have different methodologies applied to determine their individual budgets. This does not promote statewide equity in resource allocation, a stated goal of the amendment.
- ◆ High-needs CDCS recipients whose needs cannot be met within their new allocation of under \$200/day have an increased risk of institutionalization in ICFs/MR, nursing homes and hospitals. One of the primary reasons current high-needs CDCS recipients chose this service option was because they were unable to get their support needs met safely and consistently through the formal service system. This methodology threatens their health, safety and general well being. It increases overall Medical Assistance costs for the state if they go into higher cost entitlement services. This is in direct conflict with the states goals of decreasing ICF/MR and nursing home placements. It takes recipients out of their families and out of their communities.
- ◆ Recipients with mandated day program services who wish to continue using unlicensed support will have to give up their waiver in order to

access PCA Choice or the Consumer Support Grant. Consequently, they will not have waiver funding to pay for day program. Due to budget cuts, counties do not have adequate resources to provide funding for day program for those who leave the waiver. Recipients are faced with an unacceptable choice: forgo day program or forgo support outside of day program.

**Administrative burden:**

Numerous things in the amendment increase the administration of CDCS, ultimately making it a more costly service.

- ◆ The delineation of duties between required case management and flexible case management, and the inclusion of flexible case management in the individual budget means that recipients will need to clearly understand the difference. They will need to know what they can expect from Dakota County as part of required case management. Currently, Dakota County recipients rely heavily on their social workers for ongoing assistance in developing and implementing their Community Support Plan. The likely result is one of the following, or both: recipients will not ask for the help they need or social workers will not bill for the services they provide. This compromises effective case management services for all waiver recipients. Additionally, when families choose the IIIP process, the county is a required participant. Based on our understanding of the delineation of required and flexible case management, Dakota County would have to charge against a recipient's individual budget for time spent developing the IIIP, even though county participation is mandated. Practically speaking, the tracking of required time vs. flexible time, and the separate billings is unnecessarily burdensome.
- ◆ Service authorizations limited to 3 months at a time across 4 separate service lines will necessitate numerous adjustments across a recipient's budget year. Recipients spend unevenly across a year. Even if the 3-month amounts can vary, expenditures do not always occur in the time frame estimated. Each adjustment means additional communication between fiscal entities and counties. Setting up all of these lines in MMIS is 16 times the work currently required. Additional adjustments will require even more time. The result can be recipients restricted to time frames and categories for purchasing because counties do not have the capacity to make the required adjustments on an ongoing basis. This does not support the stated goal of "a very flexible service option that supports the policy of consumer control and tailoring of services to meet individual circumstances". Three-month service authorizations do not contain costs. The individual budget setting contains cost. In fact, 3-month authorizations in four separate service lines, and the required work and communication surrounding them will likely drive up the cost of the fiscal entity services.

- ◆ The category of "Self Direction Support Activities" requires recipients, fiscal entities and counties to unnecessarily separate expenses directly related to wages for billing purposes, specifically, workers compensation and payroll expenses and benefits from wages. These things are required by law and/or tied directly to wages paid any employee in Minnesota. They are not administrative expenses directly related to CDCS. Their delineation will require administrative work beyond what is currently done, again driving up costs and making CDCS unnecessarily complicated for recipients to manage. The more complicated the management, the more likely recipients will require additional assistance in this category, decreasing the amount of funds available for use in the other three categories.
- ◆ Separating payment for background studies from the individual budget means separate service authorizations will have to be set up for an item that is currently provided by and covered in the fiscal entity fees. It creates another layer of administration contributing to more costly service.
- ◆ Requiring billing for services through one fiscal entity unnecessarily inflates the cost of services CDCS recipients choose to purchase through licensed agencies who already have the ability to bill MMIS directly. It requires an additional layer of involvement that is unnecessary and costs money. Agency 1 must submit billings to Agency 2 who will then bill MMIS and remit payment to Agency 1. A transaction currently done between two parties (Agency 1 and MMIS) would involve three parties. Every party incurs costs to process these transactions. This increases administrative costs and decreases funds available for direct support services for recipients.

**Unallowable Expenditures:**

Based on the number and type of disallowed expenses, it could be said that the title *Community Support Plan* is a misnomer. MA funds paid to licensed service providers can be used to purchase many of the things disallowed for CDCS recipients. Other disallowed expenditures under CDCS are specifically allowed for non-CDCS recipients through other waived services. At the very least, CDCS recipients must be able to purchase the same supports and services as non-CDCS recipients. It appears that the goal of the proposed CDCS amendment is to advantage the formal, more expensive service system and to discourage participation in CDCS by putting more restrictions on use of funds.

These beneficial expenditures for current CDCS recipients will not be allowed:

- ◆ *Membership dues or costs.*  
Many current CDCS recipients have purchased a membership to the YMCA or similar facilities. They find that the outcomes are more beneficial using regular community environments rather than segregated therapeutic service environments. Not only do recipients gain from the physical activity. They gain in social skills by sharing regular community places doing regular community activities. A Y membership is less costly

by far than a year's worth of physical, behavioral or occupational therapy. Provider agencies have no restrictions about purchasing memberships for recipient use.

Many caregivers benefit from memberships in organizations specific to the disability of their family member. They gain valuable information and connections that assist them in providing care. Provider agencies can purchase memberships that their support their work.

- ◆ *Expenses for travel, lodging or meals related to training the individual or his/her representative or paid or unpaid caregivers.*  
Training is an important component of services. This amendment requires that the Community Support Plan designate provider qualifications and required training. The service category of Treatment and Training includes "Training and education to paid or unpaid caregivers and .....to recipients to increase their ability to manage CDCS". Is the expectation that expenses be paid by caregivers and recipients with personal funds? Are state employees who are required to attend conferences and training required to pay their own expenses? Are provider agency staff required to pay their own expenses for state required training under the consolidated rule? This exclusion discriminates against CDCS recipients. These are allowable expenses under the MR/RC waiver's Consumer Training and Education and Caregiver Training and Education services. It doesn't make sense that it can be done there and not with CDCS.
- ◆ *Vacation expenses other than the cost of direct services.*  
If travel costs cannot be covered for support staff, those who need that level of assistance will not be able have a vacation, a regular part of community life. They are essentially trapped in their hometowns unless they happen to be fortunate enough to have families who have sufficient resources to private pay. Additionally, vacations can be excellent relationship building respite experiences for families. They get a break from the daily routine and a chance rejuvenate through a shared enjoyable experience.
- ◆ *Tickets to attend sporting or other recreational events.*  
The ability to attend events enhances community inclusion. It allows recipients to develop and maintain their skills in real environments. Because tickets for support staff will not be allowed, recipients will miss opportunities for participation in regular events of community life. Provider agencies are allowed to reimburse staff for these costs when accompanying recipients.
- ◆ *Costs related to Internet access.*  
Not only is travel for training or vacation disallowed. But this mechanism for accessing information and sights unseen will also be lost. For those



unable to attend training, they can access information through the Internet, including DHS training and information websites. If recipients can't travel, at least they could use the Internet to gain information. They could see places others go, and have some ability to socially relate. They could use email to communicate with others, increasing their skills at the same time. Provider agencies provide are able to provide Internet access to recipients and staff.

The Internet also plays an administrative support role in the management of CDCS. Some fiscal entities are beginning to offer online time reporting for payroll and reports to recipients via email. Dakota County checkbook users can receive notification of deposits into their accounts by email.

In addition, the Internet often allows CDCS recipients to purchase goods at reduced costs.

The amendment identifies Treatment and Training, and Self Direction Support Activities as service categories. The above uses of the Internet meet those service descriptions. The amendment needs to allow CDCS recipients to operate in the 21<sup>st</sup> century.

- ◆ *Services, goods or supports provided to or benefiting persons other than the individual.*

How will this be defined in relation to the stated outcomes? The ability to support caregivers maintains the ability of the individual to remain in the community and decreases dependency on formal services. Currently Chore Services is an allowable waived service, and apparently will be permissible under CDCS. Yet it can be said that this service benefits others.

There are many circumstances in which there may be indirect benefit to others, but the expenditure would not be made if not for the disability of the individual. If the expenditure is not made, the health and safety of the recipient would be compromised. A couple of examples include: replacement of carpeting with flooring due to incontinence and projectile vomiting; installation of air conditioning due to inability to regulate body temperature.

## **ALTERNATE PROPOSALS**

Allow combinations of licensed services and CDCS. Separate formal service costs from CDCS. Determine the average cost of similar non-CDCS recipients. When someone chooses to use CDCS in combination with formal services, determine the cost of any desired formal day or residential services. Apply the 70% factor only to those dollars remaining after the cost of formal services has

been deducted. For example: Typical cost of non-CDCS recipient is \$100/day. CDCS recipient with similar needs wishes to use a day program costing \$55/day. The \$55/day is subtracted from the \$100, leaving \$45/day. The 70% factor is applied to the \$45/day to get \$31.50 per day. The CDCS recipient's budget would be \$86.50 per day, rather than \$70/day under the current method. This would not incur any greater cost than if the recipient decided to stay in the formal system and not use CDCS at all.

When a CDCS recipient chooses their county to provide flexible case management services, allow that amount to be subtracted from the individual budget and combined with the amount for required case management into one service authorization with one billing code.

Rather than disallowing community activity expenditures, set a parameter, such as \$1200 per year as a maximum.

Allow service authorizations to be set up for one year with one billing code.

A number of counties have significant experience setting budgets. A committee made up of stakeholders, including counties with this experience, has made repeated offers to work with DHS to determine an equitable method that maintains cost effectiveness but does not penalize CDCS recipients. Take advantage of the offer and the experience to create a viable CDCS option.

## **SUMMARY**

Overall, Dakota County is incredibly disappointed in the proposal as it stands because it:

- ◆ Takes away flexibility
- ◆ Decreases consumer choice
- ◆ Decreases community involvement
- ◆ Forces recipients into the formal system
- ◆ Adds administrative burden to recipients, counties and fiscal entities.

The proposal is a giant step backwards from the initial goals of Self Determination, and a giant step toward institutional living and segregated care.

The ultimate result of this proposal is that fewer individuals will receive waived services. Increased administrative costs and propelling of recipients into the formal system will mean more costly services. Counties are locked into aggregate budgets that cannot be expanded. CDCS recipients will be forced to use all formal services at higher cost. A county's only choice to manage these costs will be to stop providing waivers to individuals currently waiting. When recipients leave the waiver, their resources will need to be used to cover

the increased costs of those who had to leave CDCS for formal services because CDCS is no longer a viable option.

This is a sad development in a service that has been shown to provide 150% more service per dollar spent than the formal system. A goal of the amendment is to provide this option across all waivers in all 87 counties. According to figures provided by DHS, of the 2,438 current CDCS recipients, approximately 1,000 are expected to leave the service. Eight hundred new CDCS recipients across the other waivers and in other counties are expected to begin. This does not sound like an expansion of the option. Fewer recipients will access CDCS than do today. Making something available but not viable is a slap in the face to the thousands of waiver recipients in Minnesota who are using or have anxiously awaited the opportunity to use this service. This sounds like a march to kill the most successful service option waiver recipients have experienced.

Thank you for the opportunity to review and comment on the proposal.

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