

**West Virginia Bureau for Medical Services
 Responses to Comments Received on the
 Proposed Intellectual/Developmental Disability Waiver Application**

Comment		Response
<p>We received approximately 497 comments against limiting the service of Facility-Based Day Habilitation (FBDH) to two years for individuals currently receiving this service. Many comments stated that there would be no where else for the individuals to go during the day and that the individuals greatly enjoyed the socialization and activities that a FBDH program provides.</p>	<p>Change</p>	<p>A Centers for Medicare and Medicaid Services (CMS) rule went into effect in January 2014 which requires individuals to receive services in a integrated community setting. WV originally proposed a two year transition period for individuals receiving Facility-Based Day Habilitation (FBDH) services to transition to Pre-vocational Centers, Supported Employment or into other integrated community activities. From the public comments received, the transition period was increased to three years.</p> <p>New IDDW individuals will be able to access FBDH services up to three years. Agencies and family members will be provided education on Person-Centered Support Services which can and should be used to assist IDDW individuals to access any and all community activities the person is interested in. PCS services can be provided by family members or agency staff. We heard from several parents that the only way their child was able to access community activities such as movies, pottery classes, etc. was through the help of the FBDH staff. These types of activities are more suited to be provided by the PCS worker.</p> <p>To review the CMS rule which requires us to implement this change, visit : http://www.medicare.gov/HCBS/ Section 441.530 and 441.70 are the specific sections that outline the requirements for a integrated setting.</p>

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<p>We received approximately 757 comments against lowering the amount of respite to an average of two hours per day. The majority of the comments said their respite worker could not continue to provide services if only an average of 14 hours a week was available, and that a parent who works outside the home would have to quit their job if no additional respite was available. We also received approximately 216 comments stating that respite needed to be accessed on the same day as other direct care services, such as Person-Centered Support.</p>	<p>Change</p>	<p>The draft application has been amended to allow respite to be provided on the same day as other direct care services, such as Person-Centered Support and the amount of respite units has been raised to 3,650 units (an average of 2.5 hours a day) per IPP year. The units are flexible and may used as needed up to the annual cap of 3,650 units. If a parent works outside the home and if more than 17.5 hours of respite a week is needed to support the child before the parent leaves for work and until the parent comes home from work, then the child can access Home-Based Person-Centered Support instead of Family Person-Centered Support to assist the working parent.</p>

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<p>We received approximately 560 comments against reducing Person-Centered Support (PCS) Services for children under the age of 18 to a hard cap of four hours a day to coincide with 180 instructional days and six hours a day for 185 non-instructional school days and limiting the hours for an adult to eight hours per day. Commenters were also opposed to not allowing units to be carried over from one day to the next. We also heard that many parents work outside the home and that there would not be enough hours to pay someone else to support their child while the parent worked. We also received approximately 216 comments that parents needed to utilize both PCS and another direct care service, such as Respite on the same day.</p>	<p>Change</p>	<p>For children under age 18, the application was amended to allow an annual cap of 7,320 units (an average of five hours per day). The units may be flexible and used in any amount needed up to the cap of 7,320 and may be accessed on the same day as another direct care service (such as respite). This flexibility would allow an average of 52.5 hours per week (35 hours of PCS and 17.5 hours of respite) to be available to support the child while the parent works outside the home.</p> <p>For members over 18, the application was amended to allow PCS units to be more flexible; however the units remain at 11,680 (an average of eight hours per day) per IPP year. The units may be flexible and used in any amount needed up to the cap of 11,680 units per IPP year and may be accessed on the same day as another direct care service (such as Respite and Facility-Based Day Habilitation). This flexibility would allow an average of 93.5 hours per week (56 hours of PCS, 17.5 hours of respite and 20 hours of day services such as Facility-Based Day Habilitation, Pre-Vocational, Job Development or Supported Employment) to be available to support the individual while the parent works outside the home. If more than 20 hours of day services are requested per week, then the PCS can be modified down to meet this need.</p>

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<p>We received approximately 41 comments against lowering the number of unrelated people who can reside together to three.</p>	<p>Change</p>	<p>The application was changed to allow up to four unrelated people to live together and receive services. A transition period of up to three years will be allowed so individuals can move to smaller 2, 3 and 4 person settings. The CMS Integrated Setting Rule mentioned in the first comment also applies to settings owned and operated by provider agencies. All group homes of four or more individuals are owned and operated by providers. As part of the CMS rule Section 441.710 states in summary that these types of settings must: Ensure an individual's rights of privacy, dignity and respect, have entrance doors that are lockable by the individual, allow individual choices including choice of staff, have the same protections from eviction under landlord/tenant law, privacy in their bedrooms, choice of roommates, freedom to decorate their homes, control over their schedules and activities, access to food at all times, ability to have visitors of their choosing any time, etc. If a provider agency can meet all of these assurances in a setting of more than four individuals, BMS will carefully scrutinize these assurances and make a case by case decision of whether to allow settings with more than four individuals.</p>
<p>We received approximately 212 comments against requiring a psychological re-evaluation of children ages 6, 9, 12 and 15. Many of the commenters stated this was a duplicative service since these children get re-evaluations from the public school system and that it was a waste of money for APS to do an annual assessment the same year that a child would get their psychological completed at school.</p>	<p>Change</p>	<p>The application has been amended to remove this requirement.</p>



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<p>We received approximately 37 comments opposing lowering the minimum age to apply for IDDW to the age of three.</p>	<p>No Change</p>	<p>Children may apply for the IDDW upon reaching age three. Children that are medically fragile may qualify for Private Duty Nursing (PDN) services through the Medicaid state plan. When a child who is age three qualifies for the IDDW, then they may apply for a Children with Disabilities Community Services Program and receive a Medicaid card which will pay for PDN as well as professional therapies, such as Occupational, Speech and Physical Therapy as well as medications, doctor visits, hospital stays, etc. Children have Birth to Three services available up until age three and WV has mandatory Pre-School for children age four.</p>
<p>We received approximately 21 comments regarding APS Healthcare and the cost of their contract. Many people felt that the yearly medical eligibility determinations conducted by APS Healthcare were a waste of time and money.</p>	<p>No Change</p>	<p>It is a federal requirement of this waiver that every individual have a yearly medical eligibility determination. APS Healthcare is the Utilization Management Contractor currently for WVDHHR. This contract is a multi-bureau contract spanning three bureaus (Bureau for Medical Services, Bureau for Behavioral Health and Health Facilities and Bureau for Children and Families). The cost to the state for APS Healthcare to operate the IDDW program on a daily basis which includes authorizations of all services, annual functional assessments of every person, conducting Medicaid Fair Hearings, investigations, grievances, etc. is \$867,000 per year.</p>
<p>We received approximately 11 comments regarding the number of yearly slots in the draft application. The comments were regarding the flat number of 4,634 slots every year and that the numbers should be increased because of the proposed reductions.</p>	<p>No Change</p>	<p>The projections in the application are based on the current level of funding, accounting for increased costs. It is the intent to increase the number of slots when budgetary savings are realized.</p>

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<p>We received approximately 20 comments in favor of adding Pre-Vocational Services as a new service. Several of the comments questioned where this service would take place and what the limits would be.</p>	<p>Clarification</p>	<p>Current FBDH Centers which offer some pre-vocational services now will need to focus and expand more of these services in order to qualify as a provider of Pre-Vocational Services. New Per-vocational sites may be added through the Certificate of Need Program.</p>
<p>We received approximately 17 comments in favor of adding Job Development as an additional Supported Employment Service. One comment questioned if this would take place at a licensed site or at a Supported Employment site.</p>	<p>Clarification</p>	<p>Current Supported Employment agencies which offer some job development services will now need to focus and expand more of these services in order to qualify as a provider of Job Development Services. New Job Development sites may be added through the Certificate of Need Program.</p>
<p>We received approximately 197 comments related to the reduction of Transportation Trips from four trips a day to two trips a day.</p>	<p>No Change</p>	<p>This change only applies to agency-owned mini-buses, it does not apply to the 9,600 miles per IPP year available. If an agency needs more than two trips a day to transport individuals to and from Medicaid approved services listed on the individual's IPP, then the Non-Emergency Medical Transportation service is available to the IDDW agency.</p>
<p>We received approximately 85 comments against limiting Licensed Practical Nursing (LPN) Services to two hours per day unless extenuating circumstances exist.</p>	<p>Clarification</p>	<p>The application does not limit LPN to only two hours a day, but it does-require additional documentation before more than two hours of LPN will be approved.</p>

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We received approximately 36 comments against combining of Therapeutic Consultant and Behavior Support Professional (BSP) into one code and lowering the combined limit to 768 units annually.	Change	The application was amended to clarify the training requirements and a transition period of one year will be added to the policy manual to allow current BSPs to obtain board certification to become BSPII and for Therapeutic Consultants to become BSP I, however the reduction in the rate for BSP I will occur the effective date of the policy manual. It is the intent of BMS to ensure that quality services are being provided to our recipients.
We received approximately 12 comments against removing Agency with Choice from an available service option.	No Change	Only one agency applied to be an Agency with Choice within the last five years and that agency withdrew their application.
We received approximately 56 comments opposing re-categorizing Person-Centered Support into five different categories.	No Change	The purpose of re-categorizing Person-Centered Support into five different categories based on residential site was to allow for better tracking and monitoring of this service.
We received one comment not in favor of splitting Respite into two categories: In-Home Respite and Out-of-Home Respite. We received a couple of comments that Out of Home Respite should not be limited to only Specialized Family Care Providers.	Clarification	The Respite service was re-categorized into two different services in order to allow better tracking and monitoring and to ensure that quality services are providing to our recipients. It has been clarified that Out of Home Respite may be provided in the local public community by someone other than a Specialized Family Care Provider, however, it may not occur in any homes other than the certified Specialized Family Care Homes.
We received approximately 19 comments against removing the requirement for fingerprint-based state and federal checks of employees having direct contact with the person receiving services and replacing it with the requirement for a National Crime Investigation Center background check.	No Change	It is a federal requirement from CMS that employees who have direct access to individuals receiving services have both a state and federal fingerprint-based check. The language regarding the National Crime Investigation Center check was replaced with state and federal fingerprint-based check and it is the intent of BMS to protect this most vulnerable population.

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<p>We received approximately 19 comments against removing the requirement for the WV Protective Record Services Check for employees having direct contact with the person receiving services.</p>	<p>No Change</p>	<p>Individuals receiving services and/or their legal representatives may still request the IDWW Agency or Personal Options agency complete these checks and consider the results on prospective employees. There is no charge for this check and individuals are still required to state and federal fingerprint-based checks.</p>
<p>We received approximately three comments against reducing the direct care service units available to people residing in round-the-clock sites from 35,712 to 35,040.</p>	<p>No Change</p>	<p>35,040 units of 15 minutes each equals 24 hours. Agencies will no longer be able to bill for more than 24 hours of service in a round-the-clock paid settings. Trainings may occur on an individual basis at the residential setting. Any group trainings that are not specific to the individual receiving services must occur outside the residential settings and are not billable to that individual.</p>
<p>We received approximately 273 comments against requiring approval by BMS of any individual receiving more than 12 hours per day of 1:1 services.</p>	<p>Clarification</p>	<p>BMS has not eliminated one person settings nor has BMS eliminated 24 hours of round-the-clock 1:1 services in Intensive Support Services (ISS) and Group Home settings. Increased accountability regarding why a person needs 1:1 services has been instituted because these 1:1 settings cost more than institutional care. The average cost of residing in an ICF/IID facility (which are considered institutions for the individuals receiving services in this program) cost an average of \$121,500 per year. The average cost of a one person ISS is \$194,594 per year with some costing in excess of \$250,000 per year.</p>

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We received approximately six comments against not allowing biological family members to work with their relative in a Licensed Group Home or an Unlicensed Residential setting.	No Change	There has been an increase of parents purchasing homes for their child who is now an adult and also working for an agency as assigned staff in the Intensively Staffed Setting (ISS) or licensed Group Home where the individual now resides. If the parent wants to continue to work with their child outside the natural family setting, then that is considered unpaid, natural support that is similar to what the parent previously provided as a paid support within the family home. The parent could always continue to be an employee of a IDDW provider and provide work in another setting.
We received approximately 10 comments asking that the annual amount of \$1000 for Participant-Directed Goods and Services and/or Environmental Accessibility Adaptations be increased.	No Change	Due to financial constraints it is not possible to make any increases at this time.
We received approximately six comments opposed to lowering the amounts available for Physical, Occupational and Speech Therapies.	Clarification	There was never a proposal to reduce these services in the application.
We received one comment that asked to increase rates.	No Change	This program does not have the ability to do this due to financial constraints. The rates were significantly raised in 2011.
We received one comment opposed to recoupment of payments from agencies through disallowances.	No Change	BMS will continue to disallow for services provided by unqualified staff or for services that do not meet minimum standards.

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We received approximately five comments against Electronic Monitoring and On-Site Surveillance.	Clarification	This is an optional service and no one has to purchase this service. It does provide an option for semi-independent individuals to have more choice and control over their budget and staffing patterns. This has been an approved service since 2010 and about eight individuals are utilizing this service at this time.
We received approximately six comments asking that ABA Therapy be added to the Waiver services.	No Change	BMS cannot add this service at this time due to the financial constraints of this program.
We received approximately 18 comments asking that Music Therapy be added as a service.	No Change	Currently, Music Therapy may purchased through Participant-Directed Goods and Services if the individual self-directs their services.
We received approximately 623 comments that did not give us enough information to understand what the comment regarded.	No Change	These comments could not be considered.
We received a petition opposing adding a minimum age of three to apply, decreasing Respite services and not allowing Respite on the same day as any other direct care service, limiting LPN to two hours a day with out prior approval, reducing the combined limits of BSPI and BSP II, reducing Person-Centered Supports for children and adults and adding re-evaluations of children ages 6, 9, 12 and 15. This petition has 68 signatures and the comments were counted above under the specific section.	See above	All of these issues have been addressed above.

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<p>We received a petition that asked that the proposed renewal be sent back to the draft board, the authors of the proposed draft include providers, families and clients of said services, that a public hearing be held in varied accessible locations around the state of WV to address these concerns and that the deadline for the public comment be extended. This petition had 363 signatures and the comments were counted above under the specific section.</p>	<p>No change</p>	<p>BMS held 18 public forums in nine locations throughout the state in the Spring of 2013. A survey was mailed to every individual on the IDDDW program and we received 192 completed surveys. Every provider also received a survey and we received 157 completed surveys. The surveys focused on the changes that had occurred, but the opportunity was offered to discuss or comment on any topic.</p>
<p>We heard from 1,917 stakeholders* who made 3,770 comments.</p>		
<p>*Many comments are duplicates that have not been removed from the total.</p>		