Office of Aging and Disability Services
&
Office of MaineCare Services

Study of Services for Persons with Intellectual Disabilities or Autism and Adequacy of MaineCare Reimbursement, in Relation to Challenging Behavior

Pursuant to Public Law 2019 Chapter 290

September 2020

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Overview

This report responds to Public Law 2019, Ch. 290, Section 2 directing the Maine Department of Health and Human Services (the Department) to:

> "…study the existing services for persons with intellectual disabilities or autism and determine the adequacy of the MaineCare reimbursement methodology and rates paid to providers for meeting the needs of persons with intellectual disabilities or autism at risk for out-of-home placement due to challenging behavior that affects health and safety."

This report was prepared in January 2020. Due to the attention directed toward COVID-19 response, its finalization and transmission to the Legislature was delayed. The Department has not taken any position on the content of this report.

Background

Importance of a Comprehensive System of Support

A comprehensive system of support for persons with intellectual disabilities or autism must include specialized supports for meeting the needs of those at risk for out-of-home placement due to challenging behavior. Effective support for challenging behavior is key to successful community living and can prevent unnecessary hospitalization and involvement with the criminal justice system.

Person-centered support underpins the prevention and support for all individuals with intellectual disabilities or autism, including those exhibiting challenging behavior. A person-centered plan reflects the needs, goals and aspirations of an individual, considers health and wellbeing, and identifies risks or concerns relating to safety, community inclusion, relationships, and behavior support needs as appropriate.

It is essential to have a system of support that does not merely focus upon presenting behavior but examines all aspects of a person's life to determine its cause. This work typically requires staff with specialized training who can assess the different factors influencing behavior, develop positive behavioral support and other interventions as needed, and train direct support staff to provide effective behavioral support. Staff with specialized behavioral training command higher wages than direct support staff, but Maine's current rate structure for its two primary waiver programs for adults with intellectual disabilities or autism, MaineCare Benefits Manual (MBM), Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder and Section 29, Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder, include limited mechanisms for reimbursing at a higher rate for such services.

Existing MaineCare Services

Some Home and Community Based Services (HCBS) may not mention challenging behavior as their focus but impact positively on them. For example, assistive technology that improves communication can result in a reduction in challenging behavior. All HCBS waiver services are available to persons experiencing challenging behavior. The current available select services do not, however, provide a mechanism outside of simply increasing staffing, which does not address the underlying need for specialized knowledge and expertise that can be deployed within an individual's setting. Services which include mention of challenging behavior or crisis circumstances within their defined scope:

a) *Crisis Assessment* is available through Section 21. This service includes a clinical evaluation from a team of professionals to identify events that precipitated a crisis, prevention activities, and a plan for early intervention for future events. This service is currently underutilized due to the barriers in implementing, evaluating and monitoring the use of assessment within the individual's environment. Additionally, this service does not address the need for specialized staff who can functionally implement the crisis assessment.
b) *Crisis Intervention Services* is a covered service through Section 21. This service is direct, intensive support immediately available to members experiencing psychological, behavioral, or emotional crisis. It is typically short-term, and it may be implemented outside of business hours if need be, by a phone call to on-call Department staff. This service only provides more direct 1:1 hours than previously authorized. This does not provide the individual with specialized staff.
c) *Consultative Services* are available through Section 21, which include specialties of Psychological and Behavioral Consultation. With Consultative Services, the licensed or certified professional provides expertise and supports to those responsible for developing or carrying out the individual's Person-Centered Plan. Activities may include reviewing evaluations, monitoring data and progress, and providing information and assistance. This service does not include a mechanism to ensure specialized staff who can implement the recommendations of the consultant.

Select services address challenging behavior with increased reimbursement to the provider:

a) *Home Support-Agency Per Diem* is available through Section 21. With this service, individuals receive residential habilitation services that include 24/7 protective oversight and supervision. Currently, when a person with intellectual disabilities or autism living in a group home is at risk of out-of-home placement due to challenging behavior, a provider may submit a request to the Department for increased staffing. Hours of direct support are reimbursed at the regular rate until a threshold of 168 hours per week is reached (which equates to one-on-one staffing, 24 hours per day). Hours beyond 168 per week (two-on-one staffing, for example) are reimbursed at a reduced rate. While increased

staffing is sometimes necessary to ensure the safety of the individual, it may not always address challenging behavior in the most appropriate manner and can exacerbate behavior in certain situations. Furthermore, the additional hours do not support the higher cost of specialists trained in behavioral support.

b) *Shared Living* and *Family-Centered Support* are available through Section 21. When receiving one of these services, individuals receive residential habilitation from a Direct Support Professional with whom they share a home. For both Shared Living and Family-Centered Support, the rate structure includes higher reimbursement for services provided to individuals requiring increased levels of staff support due to intensive behavioral support needs. Please note, while Shared Living is available through Section 29, there is no increased level of support for Shared Living in that waiver program. This increased authorization for direct 1:1 hours does not ensure specialized staff who can implement behavioral support plans.

Existing Crisis Prevention and Intervention Services

The Office of Aging and Disability Services (OADS) operates a Crisis Prevention and Intervention Services (CPIS) program for persons with intellectual disabilities, autism, or brain injury whose crises put them at risk of losing their homes or employment. CPIS include telephonic support for individuals in crisis, their family members and staff. It also includes on-site support at a group home or other setting as appropriate. When needed, it also may include residential services for the individual in a state-operated crisis house or contracted emergency transitional house.

The CPIS program should also help prevent crises by consulting with agencies and families about behaviors to develop strategies to prevent crises, but in recent years, crisis referrals from provider agencies to the CPIS program have increased, leaving little time for prevention work. Anecdotally, providers relate this change to the elimination of a “behavioral add-on” rate adjustment in 2010. Without the rate adjustment, providers state that they are unable to retain staff with specialized training that would enable them to develop effective interventions, and therefore must refer more people in crisis to CPIS. Recognizing the demands on the CPIS program, the Governor proposed and the Legislature approved eight new positions in the current biennial budget to support an intake function. The Department is also contracting with the University of New Hampshire’s Systemic, Therapeutic, Assessment, Resources and Treatment (START) program to train and certify CPIS staff in START’s fidelity-based model of crisis intervention services. While these steps are beneficial and will enhance Maine crisis response system, they will not by themselves decrease demand for the service from providers.

Study

Overview

The Department contracted with a consultant to study the current MaineCare rate structure within Section 21 and Section 29 and recommend changes that would support provider capacity to address challenging behavior within their agencies whenever appropriate, and thereby reduce referrals to CPIS, hospitals, and law enforcement.

Consultant Review

The consultant's initial approach began in August of 2019 with a pilot review of one provider agency's expenditure records to quantify the fiscal implications for a provider supporting individuals with intellectual disabilities or autism and challenging behavior affecting health and safety. The agency was chosen because of its relative success at addressing challenging behavior, and the objective was to identify expenditures that were related to that success. The expenditure records (General Ledger) of the agency were reviewed for each service and site. The expenditure records came directly from the agency's accounting system.

After reviewing the information obtained from interviews and the general ledger, the consultant could not find a demonstrable link between the agency's interventions and expenditures that would support rate development for individuals with challenging behavior. Specifically, the general ledgers did not identify outlying expenditures that could be tied to addressing challenging behaviors. One possible reason for this is that the agency also operates mental health services and a Behavioral Health Home, which may have positive spillover effects for the agencies IDD services without showing unusual expenditures in the General Ledger. The consultant recommended against expanding the pilot analysis to other agencies, suggesting there was little likelihood of different results, since other agencies likely use similar cost categories. Instead, the consultant suggested that the payment for such a new service be based on past or future rate studies for IDD services.

Value-Based Payment for Support Intervention

This gap in the rate structure could be addressed by creating a value-based payment (VBP) related to Support Intervention. Support Intervention would be designed to stabilize a person in a psychiatric, behavioral and/or life event crisis. The Department's working definition for a crisis is a deterioration in a person's ability to manage anger, stress and similar emotions with the concomitant increased risk for self-harm, harm to others, property destruction and elopement, as examples. The primary goal would be to prevent disruption from the person's living environment and to avoid more restrictive out of home placement or discharge. A secondary goal of Support Intervention would support a return to the person's baseline functioning.

A provider's eligibility to receive Support Intervention VBP would be subject to prior authorization and include an immediate preliminary assessment with written documentation in

the person's record, including a description of presenting challenges, attempts at remediation and recommendations, if indicated, for intervention strategies designed to help the person manage future events. Support Intervention services may also include, if appropriate, brief and immediate mental health services or referral, linkage and consultation with other support services.

Support Intervention Measures

The VBP would be contingent on meeting quality measures. The VBP could be implemented progressively to give providers adequate time to adapt before ultimately basing it on outcome measures. Initially, the payment could be based on evidence of specialized training and qualifications for staff performing the service, which could include oversight from a Board Certified Behavioral Analyst as well as evidence of training and experience in applied behavioral analysis and behavioral management techniques to include replacement strategies and decelerative techniques, adaptive self-regulation techniques and/or avoidance in the assessment of the environmental and behavioral management of the individual. Initial metrics could also include successful submission of outcome data related to stabilization of behavior and prevention of institutionalization. These data would be used to develop outcome metrics in the latter phases of VBP implementation.

Conclusion

The current rate structure for MaineCare waiver programs for persons with intellectual disabilities or autism does not include an incentive for agencies to invest in specialized staff and other resources to successfully manage challenging behavior. Adding such an incentive in the form of a value-based payment could relieve pressure from the state-operated crisis system, hospitals, and law enforcement. The development of this payment should include collaboration between the Department, individuals receiving services, family and natural caregivers, advocacy organizations, and provider agencies. It should also be considered in the context of the Department's comprehensive rate system evaluation as well as the new fiscal challenges faced by the State due to the COVID-19 pandemic.