

Federal Perspectives

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NASDDDS
National Association of State Directors of Developmental Disabilities Services

HELP Committee Passes WIA Reauthorization

The Health Education Labor and Pensions (HELP) Committee has passed a bill reauthorizing of the Workforce Investment Act (WIA). The WIA reauthorization passed the committee by an 18-3 vote, and will now be considered by the full Senate.

In the bill, the National Institute on Disability and Rehabilitation Research (NIDRR) will be moved to the Administration on Community Living (ACL) in the Department of Health and Human Services (HHS). NIDRR is renamed the National Institute on Disability and Independent Living Research (NIDILR). Updates to the bill also focus on creating better alignment of government programs at the national level that are focused on employment and independent living for people with disabilities.

Title V of the WIA reauthorizes the Rehabilitation Act, including vocational rehabilitation (VR) programs. The bill requires state VR agencies, in conjunction with local educational agencies, to make "pre-employment transition services" available to students with disabilities. One part of Title V, Section 511, has

stirred considerable controversy among disability advocacy groups. This section includes provisions that allow VR programs to consider a case successfully closed by placement in a sheltered workshop, but creates a number of requirements VR agencies must follow in order to demonstrate that competitive employment options were exhausted before the sheltered workshop placement. Proponents of Section 511 contend that individuals with disabilities are already employed in great numbers in sheltered workshops, with no involvement by VR or particular requirements to exhaust other options before being hired there, and that the new provisions will encourage VR to intervene and search for competitive employment options, thereby reducing the number of people with disabilities who enter sheltered workshops instead of employment in the most integrated setting possible. Detractors argue that the requirements VR programs must meet before they can place an individual in a subminimum wage job are insufficient to ensure real effort to find other types of employment, and that allowing sheltered workshop placement

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Senate Approves DSP Week Resolution

The U.S. Senate this year unanimously approved a resolution designating the week beginning September 8 as "National Direct Support Professional Recognition Week." This year's resolution marks the sixth consecutive year of recognition by the U.S. Senate for this workforce. The legislation's main sponsors were Senators Ben Cardin (D-MD) and Susan Collins (R-ME).

Senate Resolution 208 recognizes Direct Support Professionals (DSPs) for their commitment to supporting individuals and promoting community-inclusion for individuals with disabilities of all ages. The resolution was also co-sponsored by Senators Elizabeth Warren (D-MA), Chuck Grassley (R-IA),

Sherrod Brown (D-OH), Jay Rockefeller (D-WV), and Chris Murphy (D-CT).

Spearheaded by ANCOR, with partners including the National Association of Direct Support Professionals (NADSP) and the National Association of State Directors of Developmental Disabilities Services (NASDDDS), National Direct Support Professional Recognition Week is celebrated annually across the country with special events and ceremonies earmarked to honor the tens of thousands of workers who enable people with intellectual, developmental and other significant disabilities and their families to live healthy community-oriented lives. 

(WIA Resolution continued from page 1)

to count as successful closure will incentivize VR programs to place people in sheltered workshops while meeting the requirements through superficial activity, and will therefore increase the number of people entering sheltered workshops without any real attempt to enter the competitive job market. The inclusion of similar provisions in the 2011 attempt at WIA reauthorization divided the disability community and was one factor that led to the reauthorization failing.

FMI To read the bill or track its progress, go to thomas.loc.gov and search for Bill Number S 1356. 

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CMS Employment Systems Transformation Affinity Group Initiative

The Centers for Medicare and Medicaid Services (CMS), through a contract with Mathematica, is working to develop an Employment Systems Transformation Affinity Group with six states that provide Medicaid funded home and community-based services (HCBS) who have made progress developing systems focused on integrated employment for individuals with intellectual and developmental disabilities. The states that are included are Washington, Oregon, Indiana, Minnesota, Kentucky, and the District of Columbia.

Through this Affinity Group, CMS indicated that Mathematica will contact the director of developmental disabilities services in each state to request a meeting with program staff designated to

work on employment supports to "gather background information about the status of the state with regards to facility-based employment related services versus community-based employment related services, including the successes and challenges faced by the organization with regard to shifting services from facility to community-based services." In addition, Mathematica will organize a virtual meeting with the small group of states "to share ideas on best practices, challenges...and considerations for policy change for states who seek to transform their service delivery system from facility-based to community-based." CMS asked states to consider inviting their states' Medicaid staff to join in the discussions for participation as well. ↗

New Web Address for Waiver Materials

The Centers for Medicare and Medicaid Services (CMS) has changed their web portal for access to waiver materials as part of their shift to the Medicaid and CHIP Program System (MACPro), a web-based electronic process for accepting and adjudicating program changes in Medicaid and CHIP. As a result, the URLs to reach waiver applications and guides have changed. The new address is www.medicaid.gov/State-Resource-Center/Medicaid-and-CHIP-Program-Portal/Medicaid-and-CHIP-Program-Portal.html.



This page contains a number of relevant resources; to specifically find waiver application materials, the address is 157.199.113.99/WMS/help/35/appOnlineHelp.html#pageOne.jsp.

FMI For a summary of MACPro, go to www.mesconference.org/wp-content/uploads/2012/08/Wednesday-MACPro-Appold-Hatzmann.pdf. ↗

SSA to Adopt Intellectual Disability as Official Terminology

In a final rule published in the *Federal Register*, the Social Security Administration officially announced it will begin using the term "intellectual disability" to replace "mental retardation." This change, according to the rule, "reflects the widespread adoption of the term 'intellectual disability' by Congress, government agencies, and various public and private organizations."

"Advocates for individuals with intellectual disability have rightfully asserted that the term 'mental retardation' has negative connotations, has become offensive to many people, and often

results in misunderstandings about the nature of the disorder and those who have it," the rule explains. Under the rule, all references to "mental retardation" and "mentally retarded children" will be replaced with "intellectual disability" and "children with intellectual disability" within Social Security's *Listing of Impairments* and other agency rules. The change will not impact how claims are evaluated for those with the developmental disability. The new rule will take effect in 30 days.

FMI To see the rule, go to www.gpo.gov/fdsys/pkg/FR-2013-08-01/pdf/2013-18552.pdf. ↗

CMS Updates States on T-MSIS Plans

The Centers for Medicare and Medicaid Services (CMS) has issued a State Medicaid Director letter on the status of upcoming changes to the Medicaid Statistical Information System (MSIS), which will be known as Transformed-MSIS or T-MSIS. CMS is implementing T-MSIS with states on a rolling basis, with the goal of having all states submitting data monthly by July 1, 2014.



Over the last two years, CMS has been working with pilot states and other stakeholders to refine and enhance the MSIS data set and to modernize the ongoing submission and quality review process for the data set. The result is T-MSIS, which encompasses the set of data produced in the daily operation of the Medicaid and CHIP programs. These are the data about enrollees, services, and costs, including: fee-for-service (FFS) claims, encounters performed under managed care arrangements, beneficiary eligibility and demographic information, and provider enrollment data.

CMS is currently building hardware and software to receive, store, and analyze the data, and will also be implementing automated tools to check, review, and provide near real-time feedback to states on their T-MSIS submissions, as well as developing a basic data analytic capability. As soon as states demonstrate they are operationally ready, states will begin monthly T-MSIS submission. When states comply with the T-MSIS data submission requirements and are able to submit T-MSIS data on a monthly basis, CMS will work with state staff to halt MSIS data submissions to avoid redundant state reporting requirements.

To assist states, CMS has created a suite of tools to accelerate and guide states in preparing to submit T-MSIS data, including:

- A collaboration site including an implementation toolkit, templates, project outlines, directions, and recommendations to assist the state project teams in implementing T-MSIS.
- CMS state liaisons assigned for each state to assist in T-MSIS communication, coordination, planning, and oversight.
- Technical assistance including support in overall project management, subject matter expertise during all project phases, support of data mapping of T-MSIS data, and oversight of file submissions.
- A T-MSIS state collaboration workgroup whose purpose is to provide guidance and inform project decisions.

Initially, the enhanced data available from T-MSIS will support improved program and financial management and more robust evaluations of demonstration programs. It will also enhance the ability to identify potential fraud and improve program efficiency. Ultimately, the transformed infrastructure will offer states, CMS, and others the ability to do the following at the state and national levels:

- Study encounters, claims, and enrollment data by claim and beneficiary attributes;
- Analyze expenditures by medical assistance and administration categories;
- Monitor expenditures within delivery systems and assess the impact of different types of delivery system models on beneficiary outcomes;
- Examine the enrollment, service provision, and expenditure experience of providers who participate in Medicaid programs (as well as in Medicare);
- Observe trends or patterns indicating potential fraud, waste, and abuse in the programs.

FMI The letter is available at www.medicaid.gov/Federal-Policy-Guidance/Downloads/SMD-13-004.pdf.



Mathematica Releases Final Medicaid Buy-In Report

Mathematica has released its final Medicaid Buy-In (MBI) report as part of a contract associated with the Medicaid Infrastructure Grant (MIG) program. It provides a comprehensive review of the Medicaid Buy-In programs operating within MIG states in 2011. The Medicaid Infrastructure Grant was an 11-year grant program, funded by the Ticket to Work and Work Incentives Act (TWWIA) that provided more than \$450 million to strengthen state infrastructures in the area of promoting and supporting employment for people with disabilities

Highlights of the report include:

- Medicaid Buy-In programs have increased significantly since the Medicaid Infrastructure Grants began more than 10 years ago.
- MBI enrollment continues to grow; trending to nearly 193,000 nationally in 2011. This figure does not include the four states without MIG No Cost Extensions in 2012 Colorado, which implemented Medicaid Buy-In March, 2012, or the few states with MBIs without MIG grants.
- According to the Internal Revenue Service (IRS), total earnings amount for 2011 Medicaid Buy-In beneficiaries was about \$1.15 billion, a 5.5 percent increase from 2010; the largest state contributions coming from Pennsylvania (\$329 million), Massachusetts (\$157 million), New York (\$85 million), Minnesota (\$55 million), and Indiana (\$53 million).

FMI The report is available at www.mathematica-mpr.com/publications/pdfs/health/medicaid_buyin_enrollment.pdf. 

Social Security Board of Trustees Releases Annual Report on Trust Fund Outlook

The Social Security Board of Trustees has released its annual report on the long-term financial status of the Social Security Trust Funds. The combined assets of the Old-Age and Survivors Insurance, and Disability Insurance (OASDI) Trust Funds are projected to become depleted in 2033, unchanged from last year, with 77 percent of benefits still payable at that time. The OASDI Trust Fund will become depleted in 2016, also unchanged from last year's estimate, with 80 percent of benefits still payable.

The combined trust fund reserves are still growing and will continue to do so through 2020. Beginning with 2021, the cost of the program is projected to exceed income. The projected point at which the combined trust fund reserves will become depleted, if Congress does not act before then, comes in 2033 — the same as projected last year. At that time, there will be sufficient income coming in to pay 77 percent of scheduled benefits. The projected actuarial deficit over the 75-year long-range period is 2.72 percent of taxable payroll — 0.05 percentage point larger than in last year's report.

Other highlights of the trustees report include:

- Income including interest to the combined OASDI Trust Funds amounted to \$840 billion in 2012. (\$590 billion in net contributions, \$27 billion from taxation of benefits, \$109 billion in interest, and \$114 billion in reimbursements from the General Fund of the Treasury — almost exclusively resulting from the 2012 payroll tax legislation).
- Total expenditures from the combined OASDI Trust Funds amounted to \$786 billion in 2012.

(Annual Report continues on page 7)

GAO Assesses SSA Management Challenges

The Government Accountability Office (GAO) has issued a report examining key management challenges the Social Security Administration (SSA) faces in meeting its mission-related objectives, and the extent to which SSA's planning efforts address these challenges. Over the next decade, GAO concludes, SSA will experience management challenges in four key areas: (1) human capital, (2) disability program issues, (3) information technology, and (4) physical infrastructure.



In the section of the report focusing on SSA's disability programs, GAO cites concerns that "the medical listings being used lack current and relevant criteria to evaluate disability applicants' inability to work, and that by failing to consider the role of assistive devices, and workplace accommodations, SSA may be missing opportunities to help individuals with disabilities return to work." GAO notes, however, that SSA "has recently taken steps toward comprehensively updating the medical and labor market information that underlie its disability criteria" and has "completed comprehensive revisions of

its medical criteria for 10 of the 14 adult body systems and initiated targeted reviews of certain conditions under these systems."

GAO Criticizes SSA's Management of the Representative Payees Program

The Government Accountability Office (GAO) has released a report examining the Social Security Administration's (SSA's) management of its Representative Payees Program. The report describes administrative challenges facing the program and steps SSA has taken to address them, as well as long-term challenges and actions SSA has taken or could take to address them.

GAO found that despite steps taken to address its challenges in identifying, selecting, and monitoring representative payees, SSA "struggles to effectively administer its Representative Payee Program." SSA has also experienced an increasing number of beneficiaries who may not have a suitable payee available and faces challenges ensuring that payees who are selected are suitable for the task. SSA also faces challenges monitoring payees' use of beneficiaries' SSA funds. GAO suggests that SSA "has done little to position itself for the long term." While recognizing that SSA has made some effort to meet future management challenges, the watchdog agency points out that SSA "has not projected the future need for payees, the likely characteristics of beneficiaries, or the resources needed to administer the program."

SSA has also taken steps, GAO found, to "more fully consider individuals' ability to function with medical impairments in their work or other environments," which the report describes as "consistent with modern views of disability." For example, SSA has "incorporated into some of its medical criteria an assessment of whether a claimant's impairments result in functional limitations that can limit the ability to work and is sponsoring research to more broadly consider how to incorporate these types of assessments in determining disability."

GAO also noted that although SSA has reported progress with its disability hearings backlog reduction plan, the agency still "faces challenges managing significant and persistent disability workload increases, both in terms of initial claims and hearings for appealed claims." SSA has generally increased the number of initial disability claims it has processed annually — completing more than 3 million claims each year since fiscal year 2010 — but the number of initial claims submitted by applicants has outpaced SSA's effort.

FMI GAO's report is available at www.gao.gov/assets/660/654893.pdf.

FMI The report is available at www.gao.gov/products/GAO-13-459.

CMS and Mathematica Examine State Options for Providing PAS

The Centers for Medicare and Medicaid Services (CMS) and Mathematica Policy Research recently released an issue brief entitled, "Implications of State Methods for Offering Personal Assistance Services." The brief examines different state methods for providing personal assistance, describing the rates of personal assistance use and the overall balance of states' long-term care spending. The issue brief compares state-level measures of service utilization and expenditures for personal assistance services in states that offer these services through a state plan versus through 1915(c) waivers alone.

Most of the issue brief is based on analyses of Medicaid Analytic eXtract (MAX) data from 2008 and 2009, which includes demographic information about enrollees as well as summary information on annual service utilization and Medicaid expenditures. The files also include claims-level data for the full array of Medicaid services that can be aggregated at the person or state levels. The MAX data are based on state-reported information from the Medicaid Statistical Information System (MSIS).

The report indicates that the proportion of full-benefit Medicaid enrollees who use personal

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assistance services increases with age, and ranges from 0.4 percent among those who are under age 19 to 13 percent among those 85 and older. Among the population groups examined, full-benefit enrollees with developmental disabilities access this service in the greatest proportion, with 19 percent receiving personal assistance services. This is about 50 percent greater than the proportion found among the elderly (12.6%). Per-person, per-month expenditures for personal assistance were higher in states that offer these services through waivers alone when compared with states that offer these services through their state plans. Among all personal assistance recipients, median monthly expenditures for these services were \$901 per person in states that offer these services through their state plans and \$1,377 in states offering them through waivers alone.

FMI The report is available at www.mathematica-mpr.com/publications/pdfs/health/max_ib18.pdf?spMailingID=6618091&spUserID=NTU2NzAxMzkxMwS2&spJobID=79994972&spReportId=Nzk5OTQ5NzIS1.

(Annual Report continued from page 5)

- Non-interest income fell below program costs in 2010 for the first time since 1983. Program costs are projected to exceed non-interest income throughout the remainder of the 75-year period.
- The asset reserves of the combined OASDI Trust Funds increased by \$54 billion in 2012 to a total of \$2.73 trillion.
- During 2012, an estimated 161 million people had earnings covered by Social Security and paid payroll taxes.
- Social Security paid benefits of \$775 billion in calendar year 2012. There were about 57 million beneficiaries at the end of the calendar year.
- The cost of \$6.3 billion to administer the program in 2012 was 0.8 percent of total expenditures.
- The combined Trust Fund asset reserves earned interest at an effective annual rate of 4.1 percent in 2012.

FMI The 2013 Trustees Report is posted at www.socialsecurity.gov/OACT/TR/2013/.

CDC Offers State Officials Planning Tips for Response to Flu Epidemics

Top 10 Influenza Pandemic Response Planning Tips

The Centers for Disease Control and Prevention (CDC) is closely monitoring the avian influenza A (H7N9) situation in China and is taking several preparedness measures. While no H7N9 cases have been detected in the United States or anywhere outside of China and there is no evidence of sustained human-to-human transmission, CDC encourages state and local public health agencies to use this time to review and reinforce their pandemic preparedness plans in case the situation escalates. Although the number of cases of H7N9 fell abruptly after the first known outbreak in April, CDC points out that studies indicate that avian influenza viruses have a seasonal pattern to them, and that some limited human-to-human spread of this H7N9 virus would not be surprising if the virus reemerges in the fall.

Most concerning, according to CDC, is the "pandemic potential of this virus," since "influenza viruses constantly change and it's possible that this virus could become able to easily and sustainably spread among people, triggering a global outbreak of disease." CDC has developed a *Top 10 Influenza Pandemic Response Planning Tips* to help senior public health officials at the state, local, tribal, and territorial levels identify the most critical capabilities and activities needed to assure jurisdictional readiness for an influenza pandemic response.

FMI The planning tips are available at www.cdc.gov/flu/avianflu/h7n9-response-planning-tips.htm?s_cid=seasonalflu-govd-003. ↗

GAO Criticizes Oversight of AbilityOne Program

The Government Accountability Office (GAO) examined how the AbilityOne Commission directs and oversees the Central Nonprofit Agencies (CNAs) that administer much of the AbilityOne Program, adds products and services to the program, and assigns affiliates to provide them; and prices program projects. GAO reviewed policies, procedures, relevant federal laws and regulations, and other documents; interviewed CNA and AbilityOne officials; held five focus groups with affiliates; and analyzed data on program products, services, and pricing reviews.



The AbilityOne Program was created in 1938 to provide employment opportunities for people who are blind and expanded it in 1971 to include people with "severe disabilities." The program's public-private structure consists of the federal, independent U.S. AbilityOne Commission (15 part-time presidentially appointed members supported by 27 staff) to oversee the program; two CNAs to provide administration; and hundreds of affiliated nonprofit companies employing people who are blind or have a disability to provide products and services to federal agencies. Federal agencies are generally required to purchase such products and services through the program.

GAO found that, although the AbilityOne Commission is ultimately responsible for overseeing the program, the Commission cannot control how CNAs spend their funds, set and manage their performance goals, or set and implement governance policies and other internal controls. GAO recommends that Congress establish an inspector general and enhance program oversight.

FMI The report is available at www.gao.gov/assets/660/654946.pdf. ↗

LaBreck Confirmed as Head of RSA



Janet LaBreck

The U.S. Senate has confirmed Janet LaBreck to be the Commissioner of the Rehabilitation Services Administration (RSA) at the U.S. Department of Education (ED). As the RSA commissioner in the Office of Special Education and Rehabilitative Services (OSERS), LaBreck will be involved in programs such as vocational rehabilitation, assistive technology, protection and advocacy, and independent living.

LaBreck was the commissioner of the Massachusetts Commission for the Blind (MCB), a position she held since 2007. She joined the MCB in 1985 as consumer advocate and has served in a number of positions at the MCB since then, including independent living coordinator, vocational rehabilitation counselor, and regional director of central Massachusetts. Since 2005, she has worked as an adjunct professor at Assumption College, where she teaches courses in rehabilitation of the blind and case management in rehabilitation. She was awarded an honorary Doctorate of Humane Letters from the New England College of Optometry. She received a B.A. from the University of Massachusetts and a M.Ed. from Springfield College. [↗](#)

[NASDDDS Directors Forum & Annual Conference](#)

Register Soon-Special Group Hotel Rate Ends Friday, October 18!

Rising Expectations — A Systemic Response to the Community Integration Mandate November 13-15, 2013, Hotel Monaco, Old Town Alexandria, Virginia

We are moving beyond the time when states can focus exclusively on one aspect of their service system: moving people from institutions, finding people jobs, or expanding services for the waiting list. With ADA and the Olmstead decision maturing into a mandate for full community integration for everyone in all dimensions of life, states must now focus on their entire system at once.

The conference will provide opportunities to:

- Learn about the overall environment: the combination of DOJ actions; CMS policy statements and guidance to states; the recent report from Senator Tom Harkin; and advocacy initiatives
- Gain insight into the implications and expectations for state I/DD systems to implement a full integration mandate systemically
- Participate in a dialogue with CMS, DOJ, and other federal officials
- Hear from public leaders who have immersed themselves in comprehensive system reform and how to go about it
- Gain insights and ideas from state I/DD agencies engaged in current, large scale systems transformation

In addition to the **Delaware's Governor Jack Markell's** Ben Censoni Award Luncheon, some featured speakers include:

Joette Katz Commissioner, Connecticut Department of Children and Families

Ari Ne'eman President and Co-founder, Autistic Self-Advocacy Network;
Member, National Council on Disability and Chair, Policy and Program Evaluation Committee

If you have any questions regarding program content, please email [Barbara Brent](mailto:Barbara.Brent@nasddds.org) or call (703) 896-0043. For registration or exhibit questions, email [Megan Rose](mailto:Megan.Rose@nasddds.org) or call (703) 683-4202.

Additional Information and Registration are Available at register.nasddds.org/registration