



# Employment, Health Care and Disability Policy Update: May 2017 Newsletter

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**May 31, 2017**

The LEAD Center's Policy Update - Employment, Health Care and Disability is a monthly update focusing on the intersection of disability, employment and health care policy. The LEAD Center's Policy Update - Employment, Health Care and Disability provides policymakers, disability service professionals, individuals with disabilities and their families with information about relevant policy developments regarding Medicaid, the Affordable Care Act and related topics, with a focus on improving employment outcomes for individuals with disabilities.

The LEAD Center Policy Update - Employment, Health Care and Disability is a project of the LEAD Center in collaboration with the [Autistic Self Advocacy Network](#).

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## **Centers for Medicare and Medicaid Services (CMS) Extends Deadline for Full Implementation of Medicaid HCBS Settings Rule to March 17, 2022**

On May 9, 2017, the Centers for Medicare and Medicaid Services (CMS) released an [Informational Bulletin](#) that extends the compliance deadline for all settings subject to [CMS's home and community-based services \(HCBS\) Final Rule](#). The new deadline is March 17, 2022; the previous deadline was March 17, 2019.

CMS reaffirmed that all states are still required to have their HCBS Transition Plans finalized by

the March 17, 2019 deadline, as required by the Rule. The Informational Bulletin only alters the time by which all settings must be in compliance with the requirements of the Rule and with any changes set forth in the state's HCBS Transition Plan. CMS stated that it is keeping the original deadline for the Transition Plans in recognition of the work of state administrators, community organizations, and advocates, who have provided input on the state Transition Plans. It only extends the deadline for full compliance due to the complexity of the tasks in which the states must engage. CMS notes that the new deadline will ensure that compliance activities are "collaborative, transparent, and timely."

For more information, read the [Informational Bulletin](#).

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## **HCBS Transition Plans Update**

### **Kansas Releases Revised HCBS Transition Plan**

On March 20, 2017, Kansas revised its HCBS Transition Plan. Kansas chose to make changes in the direction of the state's implementation process. The state increased stakeholder participation, revised its compliance timelines, and incorporated the public comments it received into the Transition Plan.

Employment-related provisions of Kansas' HCBS Transition Plan include: (1) specific targeting of employment services and day services as areas in need of improvement in Kansas' intellectual and developmental disabilities (I/DD) waiver; (2) updating its Transition Steps Timeline for day services and non-integrated employment service settings to better reflect CMS' policy that prevocational and day services be time-limited and in the most integrated setting; (3) pursuing robust accountability measures to ensure employment-related aspects of the Final Rule are enforced; and (4) starting up a new workgroup that will analyze whether there are any pay rate structures that create disincentives for employment services, with a projected completion date in May 2018. The state will then determine how it can incentivize employment in the long-term for its beneficiaries. Kansas also intends to remove aspects of its service reimbursement structure that penalize providers for successfully moving a beneficiary into full-time employment. Kansas' Transition Plan now includes all of the recommendations made by Kansas' employment-related workgroups and Kansas' responses to the workgroup's recommendations.

For more information on the robust employment-related changes made to Kansas' HCBS Transition Plan, [read the Transition Plan](#).

### **Missouri Receives Initial Approval for Its HCBS Transition Plan**

On March 29, 2017, Missouri received initial approval from CMS for its HCBS Transition Plan. CMS granted approval because the state had completed its systemic assessment, outlined

remediation strategies to rectify issues that the systemic assessment revealed, and is now pursuing that remediation.

Employment-related provisions of Missouri's HCBS Transition Plan include: (1) holding providers responsible, through Missouri's quality-of-service reviews, for ensuring that their beneficiaries live truly self-determined lives; (2) identifying gainful self-chosen employment as one of the key components of self-determination; (3) updating waiver renewal applications and waiver service definitions that better align services like individualized skill development and employment services towards the goal of competitive integrated employment; and (4) incorporating the requirements of the Final Rule, including the employment-related provisions, into all training materials and manuals given to HCBS providers.

For more information, read the [initial approval letter for Missouri](#) and [Missouri's HCBS Transition Plan](#).

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## **Disability Highlights of the Fiscal Year 2017 Omnibus Spending Bill and Its Potential Impact on Health and Employment**

On April 30, 2017, [Congress agreed](#) to a Fiscal Year (FY) 2017 omnibus spending bill that will fund the government through September 2017. [The FY 2017 bill](#) was posted on the House Rules Committee website; President Trump signed the bill on May 5, 2017.

The bill provides a small increase in funding for the Administration on Community Living (ACL), which funds the Centers for Independent Living (CILs), and Administration on Intellectual and Development Disabilities (AIDD), among other entities. Many of the programs that ACL funds either support competitive integrated employment directly or promote systems change efforts that promote competitive integrated employment (e.g., Partnerships in Employment Systems Change Grants). ACL also funds programs that promote and aid in behavioral health and chronic disease management.

The bill increases funding for the Department of Health and Human Services (HHS) and decreases funding for the Department of Labor (DOL), Department of Education (ED), and the Social Security Administration (SSA). However, some individual programs related to disability within each category were unaffected or received an increase in funding. Nonetheless, the funding changes may have an impact on the programs and laws that each Department enforces. For more information, [read the FY2017 omnibus bill](#).

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## **Henry J. Kaiser Foundation Releases Issue Brief on Proposed Work Requirements Advanced in State Medicaid Programs**

On March 23, 2017, the Henry J. Kaiser Family Foundation, a nonprofit organization focused on

publishing research and information on health care issues in America, published an [issue brief](#) that discusses proposed work requirements as part of different state's Medicaid Section 1115 waivers. [Section 1115 demonstration waivers](#) allow states to fund programs for up to five years that promote the objectives of the Medicaid and Children's Health Insurance Program (CHIP) programs. As of March 2017, four states (i.e., Arizona, Kentucky, Indiana, and Pennsylvania) have submitted waiver requests that would have required beneficiaries to work to be eligible for their Medicaid programs. None of the request has been approved at the time of publication of the brief. Three states (i.e., Indiana, Montana, and New Hampshire) have created voluntary work program referrals that are separate from their Medicaid expansion waivers.

The Kaiser Family Foundation concluded that the previous administration rejected waivers that included work requirements, as it saw these provisions not furthering Medicaid's goal of promoting health care coverage and access. They believe that the current administration may approve Section 1115 waivers with work requirements. The Kaiser Family Foundation brief weighs the pros and cons of work requirements. They raise concerns that work requirements might create disincentives for people receiving Medicaid services, given that many have disabilities or other health conditions that prevent them from working.

The Kaiser Family Foundation found that work requirements may drive up health care costs when individuals who are denied coverage if they fail to comply with the work requirement, resulting in more use of emergency rooms for medical treatment. The brief notes that work requirements may also increase the administrative burden on Medicaid administrators.

For more information, read the Kaiser Family Foundation's [issue brief](#).

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## **Council on Quality and Leadership Releases Study on Supported Employment Services in Medicaid Home and Community-Based Services Waivers**

The Council on Quality and Leadership, an organization dedicated to measuring the quality of community life for people with disabilities, released the results of a [study](#) that examined how Medicaid-funded Home and Community-Based Services waivers provided supported employment services in Fiscal Year 2014. The study looked at 110 HCBS waivers from 45 states. They analyzed them to determine the extent of supported employment services provided to people with I/DD.

The study found that only 14 percent of people with I/DD received supported employment services in FY 2014, while four times as many people with I/DD received day services. This was the case even though three-quarters of the 110 HCBS waivers offered supported employment services, such as employment assistance, career planning, job placement, job coaching, accommodations, and ongoing support. CMS spent approximately \$813 million on supported employment services, which was only three percent of CMS' total spending in FY 2014. The Council on Quality and Leadership concluded [its article](#) by noting the connection between

employment services and compliance with the Supreme Court ruling in *Olmstead v. L.C.* (1999) and the Americans with Disabilities Act (ADA).

For more information, read the Council on Quality and Leadership's article on its study.

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## **Temple University Collaborative Releases Toolkit Promoting Community Inclusion for Individuals with Psychiatric Disabilities**

The Temple University Collaborative on Community Inclusion of Individuals with Psychiatric Disabilities ("The Collaborative") recently released its County Mental Health Administrators' [Toolkit for Promoting Community Inclusion](#). The toolkit recommends that county mental health administrators take certain "Action Steps" to focus their county's mental health services on community inclusion. The Collaborative believes that county mental health administrators are in a unique position to promote better mental health services as they plan their county's mental health system, including employment services. They suggest a holistic approach that incorporates community inclusion into service planning, service reimbursement, and county mental health offices' outreach to community-based civic, faith-based, business, and other organizations.

The Collaborative asserts that community inclusion is made up of multiple "life domains," each of which are important aspects of community life. Employment, specifically paid competitive work that lifts a person with a psychiatric disability out of poverty, is considered a critical life domain for community inclusion. The Collaborative also considers limited or no employment, stigma, inadequate housing, and poor transportation to be related barriers to full community inclusion. It recommends that county mental health administrators create supported employment programs and partner with their local community colleges to develop educational opportunities for people with psychiatric disabilities.

The Collaborative notably proposes that administrators advocate for changes to Medicaid funding that reimburse services related to community inclusion as "medically necessary." It also proposes that all new contracts, Requests for Proposals (RFPs), Memoranda of Understanding (MOUs), and other public documents include a statement about community inclusion. For more information on The Collaborative's toolkit and the action steps it proposes for county mental health administrators, [read the toolkit and all appendices](#).

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