The Role of State Councils on Developmental Disabilities (Councils) in Improving Employment Outcomes for Individuals with Disabilities in Managed Long-Term Services and Supports

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Introduction

"Managed Long-Term Services and Supports (MLTSS)" means that LTSS (typically including both home and community-based services (HCBS) and institutional-based services) are delivered through capitated Medicaid managed care programs. Instead of charging a fee for each service, managed care organizations (MCO) receive a capitated daily or monthly rate from the state for each participant. An individualized service plan is then developed for each LTSS participant based on assessed needs and desired outcomes. MCOs negotiate with their network of providers to develop rates for services they deliver. States often adopt MLTSS in hopes of lowering state LTSS Medicaid costs, serving more people, and decreasing reliance on costly residential facilities. However, participants and advocates also say it can lead to less individualized choice and reductions in quality.

Overall, Medicaid managed care now accounts for 46% of all Medicaid spending—the largest share of Medicaid dollars nationwide. Primary and behavioral health care have the longest history with managed care delivery. For many years, LTSS services for people with intellectual and/or developmental disabilities (ID/DD) were carved out of managed care programs and still delivered through fee-for-service payment models. As of July 2019, 40 states include at least some of their elderly and disabled populations under managed care, and twenty-three states cover at least some of their LTSS participants through managed care.[1]

Whether a state is still providing fee-for-service LTSS, has adopted MLTSS for some populations with carve-outs for people with ID/DD, or serve the majority of LTSS participants through managed long-term care arrangements, Councils can impact employment outcomes and overall LTSS quality through their federal charges of advocacy, capacity building, and systems change.

[1] More data is available on Kaiser Family Foundation's brief, 10 Things to Know about Medicaid Managed Care.

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Learning Objectives:

- Better understand the unique role Councils can play in impacting employment and overall quality in MLTSS.
- Develop advocacy, capacity-building and systems change strategies specific to your Council's existing strengths and partnerships that can lead to improved employment outcomes in preparation for MLTSS.
- Identify and use strategies to improve employment outcomes in your state's existing MLTSS programs.

Essential Elements of High-Quality MLTSS that Councils Can Impact

The guidance bulletin to states from the Centers for Medicare and Medicaid (CMS) for use of 1115 waivers to deliver MLTSS identifies ten critical elements that must be included.[2] Councils can engage in and impact:

1. ***Adequate Planning:*** Councils can bring stakeholders together and develop safeguards to ensure successful transition.
2. ***Stakeholder Engagement:*** Councils can provide ongoing input.
3. ***Enhanced Provision of Home and Community Based Services:*** All MLTSS programs must be implemented consistent with the Americans with Disabilities Act (ADA) and the Supreme Court's *Olmstead v. L.C.* decision. Under the law, MLTSS must be delivered in the most integrated setting **and in a way that offers the greatest opportunities for active community and workforce participation.**
4. ***Alignment of Payment Structures and Goals:*** States must design their payment structures so that they support the goals of their MLTSS programs and the essential elements of MLTSS. Effective programs hold providers accountable through performance-based incentives and/or penalties.
5. ***Support for Beneficiaries:*** MLTSS participants must be offered conflict-free education, enrollment/disenrollment assistance, and advocacy in a manner that is accessible, ongoing, and person-friendly.
6. ***Person-centered Processes:*** All MLTSS programs must require and monitor the implementation and use of person-centered needs assessment, service planning, and service coordination policies and protocols, including promotion of self-direction.
7. ***Comprehensive, Integrated Service Package:*** MCOs must provide and/or coordinate the provision of all physical and behavioral health services and LTSS (including institutional

[2] The guidance is available via a PDF on the CMS website.

and non-institutional) required in the MLTSS contract and must ensure that participants receive those services and supports in the amount, duration, scope, and manner as identified through the person-centered assessment and service planning process.

8. ***Qualified Providers:*** States must ensure that MCOs develop and maintain a network of qualified LTSS providers who meet state licensing, credentialing, or certification requirements and which is sufficient to provide adequate access to all services covered under the MCO contract.
9. ***Participant Protections:*** States must establish safeguards to ensure that participant health and welfare is assured within the MLTSS program, including a statement of participant rights and responsibilities; a critical incident management system with safeguards to prevent abuse, neglect, and exploitation; and fair hearing protections including the continuation of services during an appeal.
10. ***Quality:*** States are expected to maintain the highest level of quality in all MLTSS operations and services through the development and implementation of a comprehensive quality strategy that is integrated with any existing state quality strategies. The design and implementation of a quality improvement strategy must be transparent and appropriately tailored to address the needs of the MLTSS population.

Council Advocacy Strategies to Prioritize Employment Outcomes in MLTSS

Councils are uniquely poised to inform and advocate for improvements and innovations as the entity federally charged with analyzing overall quality of life, trends, barriers, and gaps to service provision in the state. Likewise, as change agents, Councils are at the forefront of offering promising and evidence-based strategies to improve systems, including MLTSS. Employment is an important quality of life measure, correlated with reduced poverty and public program dependence, increased autonomy and self-direction, and better overall health. Councils can use a mix of strategies to advocate for employment outcomes with state agencies and MCOs before and after contract initiation.

Council Strategies as Your State/Territory Prepares for MLTSS

- ***Connect with your Medicaid agency early in discussions.*** This can be an opportunity to embed major reforms that have posed barriers/challenges to LTSS in your state in the past. Use your knowledge of other states and practice trends and your direct connection to the experiences of people with ID/DD and their families to share a set of expectations and performance metrics that LTSS participants in your state deserve and that any MCO should assure. For instance, one state was able to push for an end to adult LTSS waitlists over a 7-year period that was paid for through savings resulting from a move to MLTSS. Your recommendations may include how and when to establish stakeholder input, definitions of what constitutes home and community-based services (HCBS), development

of performance metrics, expectations for transparently and publicly reported data on employment outcomes, and a definition of what constitutes an adequate provider network, to name a few. One state worked with its Medicaid agency to remove facility-based pre-vocational services as an allowable HCBS service as MLTSS moved into the state. Another state created a public dashboard that reports employment outcomes by managed care organization so MLTSS participants can comparison shop for an MCO with the best employment outcomes.

- ***Advocate for a Blue-Ribbon Task Force or Governor's Committee.*** The purpose of the Committee is to study what is happened nationally in MLTSS and to put together recommendations for any managed care effort before it comes to your state.
- ***Offer to coordinate or make recommendations to create your state's MLTSS stakeholder effort.*** These groups can be a minimal "check-the-box" effort, but Councils can ensure they include broad representation and expertise, meet frequently, and have a specific charge. Well-supported stakeholder groups can provide more transparency and offer real guidance. Stakeholder groups should review financial and outcome data, look at trends, provide direct feedback, and more. They should be involved before MLTSS comes to your state in charting the direction and establishing the expectations.
- ***Meet early and regularly with any prospective managed care organizations that are considering offering MLTSS to your state/territory.*** Offer to function as a permanent advisor. Early in the process, MCOs are trying to sell decision-makers on their product and will often agree to specific initiatives that Councils propose. One Council had the MCOs adopt and permanently pay for its Project Search effort. Several Councils have also successfully encouraged managed care organizations to establish employment-focused grant initiatives to improve employment outcomes. Several Councils provided formal presentations to managed care organizations as they came to their state, offering an overview of expectations for evidence-based practices and concrete ideas to achieve better employment outcomes.
- ***Advocate for a carve-out of ID/DD for a minimum of a year to build an adequate stakeholder network, performance metrics, and vendor networks, including expanded networks of providers offering Community Integrated Employment (CIE).*** This is a time to hone in on building the network of job developers in your LTSS programs – a critical resource that is often in short supply but essential in improving employment numbers. Some Councils have proposed a pilot of at least a year to evaluate the premise that MLTSS will provide better outcomes/save money. Pilots are also useful in working out initial challenges and allowing the state to take a data-driven approach to shaping its MLTSS program.
- ***Propose a publicly reported data system or dashboard***. To ensure strong data from the get-go, suggest that a data system or dashboard be set up before MLTSS is implemented

that is structured to report by MCO the percentage of working-age adults who are competitively employed; average hourly wage; average hours worked/week; and dollars spent in distinct categories: facility and community. This provides public transparency of how public dollars are spent and what outcomes are achieved. It also encourages competition toward better outcomes among managed care organizations and allows MLTSS participants to comparison shop for the MCO that provides the best results.

Strategies as MLTSS Comes to Your State

As MCOs begin to operate in your state, your Council can play an essential role in capacity-building as well as continued advocacy to ensure quality and fidelity. Here are some ideas for your involvement, depending on your Council's specific State Plan goals and expertise:

- Offer to coordinate or advise on critical training in areas such as Person-Centered Planning, employment goal development, employment within self-direction and other topics. While your Council may not be poised to deliver training, you can be a trusted advisor in how and what training is developed, and potential subject matter experts your MCOs could contract with.
- Propose that each MCO have an employment team or regional employment leads that meet regularly. Offer to coordinate those employment leads to ensure productive meetings on topics such as looking at trends, barriers, and strategies to improve.
- Introduce to leadership and train care managers on important best-practice concepts, such as effective use of ABLE accounts, supported decision-making, self-direction in managed care, and benefits counseling education for participants, families, and guardians. Always ask MCOs what types of information and content they are seeking so you establish yourself as a trusted source they can rely on. One Council that is using the Charting the Life Course model from the University of Missouri-Kansas City's Institute for Human Development offered to train all managed care staff on the model. Another state did a statewide supported decision-making training for managed care and aging and disability resource center (ADRC) staff that attracted more than 400 participants.
- Talk to your Medicaid agency and MCOs about your Council's definition of adequate provider capacity. One state Council negotiated that all providers in network must offer competitive integrated employment and community-based pre-vocational supports exclusively.
- Advocate for a transparent and consistent rate schedule. In some states, MCOs can negotiate with each provider privately. This leads to inequities and often rewards larger providers and less individualized supports.

- Advocate with your Medicaid agency to include specific expectations for competitive employment outcomes in any Request for Proposals submitted by the state. Several state Councils have been managed care application reviewers.

Strategies for Continued Accountability and Outcomes in MLTSS

Once MLTSS has been adopted in your state, continued oversight, and accountability, as well as continuous improvement efforts, are critical to meeting the employment goals of participants. Councils can play a critical role in being the eyes and ears on how participants are experiencing the program. Some ideas for continued engagement and advocacy include:

- Advocate for a legislative audit of your MLTSS system that includes data such as employment rates, amount spent, and any savings.
- Advocate for more oversight of MLTSS by the legislature. One state has a committee that meets quarterly to report to their legislature.
- Ensure that any stakeholder oversight groups meet regularly and that agendas are meaningful: with updates on expenditures in employment, trends, and barriers that the stakeholder groups can weigh in on.

Strategies for Improving Your MLTSS Contracts

Councils can have meaningful impact by proposing needed changes in MLTSS contracts. Councils can be at the table each time your Medicaid agency updates the MLTSS contract. These contracts can run over four hundred pages and go into much detail about what MCOs need to deliver on to receive funding. Contracts are updated anywhere from every 6 months to every 2 years. They are the most significant tool in improving outcomes, since they stipulate what is **required** to receive payment. Some Councils have recommended contract language such as:

- ***Requiring outcome targets in the contract to get full funding.*** Many states have a withhold of 5-10%. MCOs that do not meet the target would not get the full funds.
- ***Ensuring that cost of living or allowance for inflation to providers is included in the contract each year.*** Many Medicaid agencies do not get involved in provider rates: they provide the capitated rate to the MCO and then rely on the MCOs to negotiate with providers. In many states, this has led to a **reduction in rates** over time. Requiring rate minimums with allowances each year for inflation minimizes the likelihood that providers will be squeezed over time, which often equates to quality problems.
- ***Encouraging Pay for Performance (P4P) efforts that incentivize better employment outcomes.*** At least one state has a pilot that pays providers for outcomes: based on hours the participant works rather than hours of service delivered. This encourages job coach fading and increased work hours as the participant becomes less reliant on coaching.

- ***Requesting that required training to care managers or participants regarding employment be included in the contract.*** One state has a contract deliverable that requires that care managers discuss employment interests and goals using a guided discussion methodology with at least 80% of working-age MLTSS participants.

Looking to the Future: Developing Strong Relationships with MCOs as Advocacy Partners

For-profit managed care has been seen by many disability advocates as a race to the bottom in reducing quantity and quality of service to save money. However, many states have seen positive impacts as their advocacy networks actively sought to partner with MLTSS. In some states, MCOs have reduced waiting lists and allowed more people with LTSS needs to be served. In direct partnership with Councils, MCOs also can provide funds for participants to engage in Council events, underwrite Council trainings and events, provide grant dollars on an identified goal, and even partner on a Council project. In one state, the MCO is an unpaid partner on a federal ACL Project of National Significance and has agreed to pilot strategies in the grant across its entire network of care managers.

And when large policy threats and opportunities arise, MCOs can bring significant resources to a statewide advocacy effort. During the early months of the COVID pandemic, some Councils partnered with MCOs, other advocates, and providers to identify needed waiver flexibilities that states could apply for. During the threat of Medicaid block grants in 2018, MCOs in one state worked with a wide range of advocates and providers to connect with members of Congress, bringing significant resources including paid lobbyists and communications experts.

Councils need to be vigilant as MLTSS is established in their states. However, Councils' ability to advocate based on lived experiences, their knowledge of the data and trends in their states, their strengths in building capacity statewide, and their constant voices encouraging continuous improvement and systems change make them the ideal change agents for maximizing the benefits of MLTSS while addressing challenges and barriers.

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