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Medical Day Care for People with Developmental Disabilities in New Jersey

What is Medical Day Care?

Medical Day Care (adult day health) is a program of medically supervised health related services provided in an ambulatory setting to persons who, due to their physical and/or mental impairment(s), need health maintenance and restorative services to support their community living.

Currently an individual, to be eligible for medical day care needs to demonstrate assistance in one activity of daily living or needing skilled services.

Recent investigations by the State Auditor, Department of Human Services and the Attorney General's office identified fraudulent billing and failure to provide Medical Day Care services in several centers. Unfortunately, some new provider organizations are submitting improper claims. Organizations that have provided medical day care services for decades, including those that serve people with developmental disabilities, were not found to fraudulently bill for services.

Since 2001, the Department has discussed but not implemented recommendations to control program utilization. These recommendations include: use of existing review mechanisms and the selective use of prior authorization in the case of new centers and centers which have been deficient in the provision of services or in the documentation of services.

What will the draft proposed regulations by the Department of Health and Senior Services do?

The Department of Health and Senior Services has drafted a proposed regulation that changes the eligibility criteria for Medical Day Care services.

Instead of using already available controls to control program use, the Department is proposing to limit eligibility to this program to the most vulnerable populations. According to a recent newspaper article, it is expected to save \$12 million out of a \$58 million program.

The new eligibility criteria changes the requirement for an individual to enter into medical day care and may restrict the ability of individuals with multiple physical disabilities to be eligible for services

The draft proposed regulations would change that to an individual will need to demonstrate assistance in at least two activities of daily living (ADL) and at least one skilled service or rehabilitation.

Why is this service important to people with developmental disabilities?

Medical Day Care is an essential component of an array of services for people with developmental disabilities. Currently, approximately 300 individuals with developmental disabilities in New Jersey receive Medical Day Care.

Without those services, those currently eligible individuals and those who might be eligible in the future will end up on the Division of Developmental Disabilities day program waiting list. Currently, there are more than 1,070 individuals on the day program waiting list.

In a 1999 survey presented to the Department of Health and Senior Services, ABCD demonstrated the differences of medical day care for people with developmental disabilities and the elderly population, including higher staffing levels and transportation costs.

Many States use medical day care services for people with developmental disabilities. According to a national study performed by Wake Forest University School of Medicine, of the more than 1,000 adult day health services providers surveyed, 24% of the program participants had as their primary condition/diagnosis, mental retardation/developmental disabilities.

In New Jersey, less than 5% of the program participants have MR/DD as their primary condition/diagnosis. We are concerned that the Department of health and Senior Services will further limit the ability of people with MR/DD from utilizing this service.

What is ABCD's position on the draft proposed regulation?

ABCD is concerned that the draft eligibility regulations do not take into account the needs of people with multiple physical and developmental disabilities.

ABCD is concerned that the Department's draft new eligibility criteria will restrict the ability of individuals with developmental disabilities, currently not receiving services to be eligible for this Medicaid State service. ABCD has sent a formal letter to the Department of Health and Senior Services expressing concerns about the draft regulation. ABCD has discussed these concerns with the Division of Developmental Disabilities, which in turn had conversations with the Department of Health and Senior Services. The proposed regulation may restrict individuals with developmental disabilities, who are medically frail, technology dependent and have significant complex impairments from receiving these important services, without which they may have to be placed in an institutional setting of a nursing home or ICF/MR.

The draft regulation does not include habilitation as criteria for eligibility. The assistance needed for people with developmental disabilities is as much, to have the individual acquire the skills necessary to live successfully in the community (habilitation), rather than improve and enhance those skills (rehabilitation).

Since Medical Day care is part of New Jersey's Medicaid State plan, habilitation services cannot be included medical day services. However, the need for habilitative services can and should be included in the eligibility criteria for services.

The Department proposes to use an assessment tool—MDS-Home Care- that does not appropriately assess the cognitive needs of people with developmental disabilities. Another tool for this population should be used.

Due to ABCD's contact with the Division of Developmental Disabilities, discussions have taken place with the Department of Health and Senior Services about the draft proposed regulation. We understand that there is an agreement that none of the current individuals receiving medical day care services will lose services. However, the Department of Health and Senior Services is interested in lowering the number of individuals with developmental disabilities who receive medical day care services through attrition.

The possibility of maintaining Medical Day Care as an important component in the array of services to people with developmental disabilities is an important policy issue. People with developmental disabilities are aging at the same rate as the general population. In addition, many individuals who currently live in the State's Developmental Centers may wish to live in integrated settings appropriate to their needs. Many of the individuals currently remaining in these institutions are medically frail and may need Medical Day Care services to live in the community.