

STUDY OF OPTIONS TO KEEP PEOPLE OUT OF NURSING HOMES

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE
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ISSUE BRIEF

SUMMARY

In response to S.B. 140 and intent language from S.B. 3, the departments of Health and Human Services prepared a report evaluating the benefits and risks of a “variety of Long Term Services and Supports (LTSS) options available to state Medicaid programs.” LTSS provide “Assistance with activities of daily living . . . such as eating, bathing, dressing, preparing meals, and managing medication” and are provided to seniors and individuals with disabilities. These services are provided either in home and community-based settings or in settings such as nursing facilities and intermediate care facilities for individuals with intellectual disabilities. These services are also provided by either paid staff or by more “informal (unpaid) caregivers” and the services are funded either “privately (private insurance or out-of-pocket) and publicly (Medicaid, Medicare and VA benefits).” The departments state their underlying LTSS strategy is to “implement programs that provide needed services in a manner that allows the State to manage program growth, does not increase entitlement programs, nor leave the state with open-ended funding obligations.” The departments also indicate concern over “whether new programs could be implemented within existing appropriations” (both state and federal). The report points out that “since 2005, the Centers for Medicare and Medicaid Services have introduced a variety of LTSS initiatives that offer both short-term and ongoing enhanced federal funding” in order to “encourage states to participate in the new LTSS programs.” The departments reviewed all current options, including these new programs, and made recommendations under the following four categories: 1) *Recommended*, 2) *Recommended but Subject to Availability of Funding*, 3) *Not Recommended*, and 4) *Requires Additional Evaluation*.

LEGISLATIVE ACTION (RECOMMENDED BY THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES)

- Redirect state-only funding programs in the Division of Services for People with Disabilities’ to home and community based waivers (Category 1).
- Evaluate waiver coverage of housing-related activities and services for seniors and individuals with disabilities (Category 2).
- Review the rates for in-home services and determine if there is sufficient access (Category 2).
- In addition, establish a mechanism to evaluate the feasibility of limited HCBS as State Plan Services under 1915(i) Authority for a targeted population(s) (Category 4).

DISCUSSION AND ANALYSIS

Background

The report from the Departments of Health and Human Services (see <http://le.utah.gov/interim/2016/pdf/00002539.pdf>) is in response to the following intent language passed by the Legislature in S.B. 3, *Current Fiscal Year Supplemental Appropriations*, items 84 and 93 from the 2016 General Session:

The Legislature intends that the Department of Health and Department of Human Services study all possible options to maximize the number of people kept out of nursing homes and in their own homes and communities and report findings and recommendations to the Office of the Legislative Fiscal Analyst by June 1, 2016. This should include the consideration of at least the following options: (1) Modifying or expanding current Home and Community Based Services

(HCBS), 1915(c) waivers, (2) Creating new HCBS, 1915(c) waivers, (3) State Plan HCBS, 1915(i) options, (4) Money Follows the Person Grant, (5) Community First Choice Option, 1915(k), and (6) Balancing Incentive Program.

The report is also a response to the language below contained in S.B. 140, *Home and Community Based Services Amendments*, passed by the Legislature during the 2016 General Session:

The department shall: (1) study the benefits and risks of: (a) applying for the Money Follows the Person demonstration project, authorized under the Deficit Reduction Act and extended through the Affordable Care Act; (b) implementing the Community First Choice Option, under Section 1915(k) of the Social Security Act, in the state Medicaid plan; (c) applying for the Balancing Incentive Program, authorized by the Affordable Care Act; (d) modifying or expanding current Home and Community-Based Services Waivers under Section 1915(c) of the Social Security Act; (e) applying for new Home and Community-Based Services Waivers under Section 1915(c) of the Social Security Act; and (f) implementing Home and Community-Based Services, under Section 1915(i) of the Social Security Act, in the state Medicaid plan; and (2) report the study findings to the Social Services Appropriations Subcommittee and the Health and Human Services Interim Committee no later than June 1, 2016.

One of the requirements to have a home and community based waiver is that Utah must show that in the aggregate the home and community based services do not cost more than facility-based services. Waivers traditionally allow for a self-directed model where a client can hire their own helpers for personal care services. There were a total of 2,486 Utahans on waiting lists for waivers compared to 8,316 individuals being served on waivers in FY 2015. There were 7,685 individuals who received services from facility-based settings in that same period. The departments of Health and Human Services have committed to hold, at least annually, regularly scheduled forums with stakeholders on long term services and supports. Several key budgetary and policy observations from the report include:

- “Legislators might also consider whether covering additional HCBS programs such as the Community First Choice 1915(k) option will actually result in a decrease in facility-based admissions” (page 7).
- “When a nursing facility resident enrolls in the [New Choices Waiver], the person vacates a bed at the facility that will generally not immediately refill with another person seeking nursing facility care.” (page 12).
- “The reason high ICF [Intermediate Care Facilities] census would result in a budgetary impact is that when an ICF bed is vacated by someone moving into HCBS, there is a high likelihood that the ICF bed will backfill quickly.” (page 12).

For more information please see the full report by the Department available at <http://le.utah.gov/interim/2016/pdf/00002539.pdf>.