

New Hampshire HCBS Corrective Action Plan (CAP) Template

Waivers NH.0053, NH.4177, and NH.0397

Effective Date: 04/21/17

I. Section One - Completed by CMS

On December 13, 2016, CMS sent the following correspondence to the State:
CMS has determined that New Hampshire is out of compliance with direct pay and conflict of interest regulations, which specifically impacts the pending renewals for the Developmental Disabilities Waiver (NH.0053) and the Acquired Brain Disorders Waiver (NH.4177). Additionally, the In-Home Supports for Children with Developmental Disabilities Waiver (NH.0397) is out of compliance. In order to bring the waivers into compliance with federal regulations, the State should develop a corrective action plan (CAP) to address the two issues outlined below. CMS cannot approve any pending NH waiver actions until the CAP is approved and implemented. Here are the issues:

Issue #1: Organized Health Care Delivery System (OHCDS) – Direct Pay Rule

The State of New Hampshire is currently in violation of federal direct pay rules by requiring service providers to bill through an OHCDS without the ability to bill Medicaid directly. In summary, the NH OHCDS structure provides payments to providers through the ten Area Agencies, which does not allow for the voluntary affiliation of providers due to the required provider agreement through the OHCDS. The current State process is in violation of 42 CFR §447.10, which allows providers the option to choose whether or not to affiliate with the OHCDS (Technical Guide, pp. 261-262).

Question #1: What are the specific processes and projects necessary to bring the OHCDS into compliance with direct pay rules and what is the estimated timeframe for completion of this process?

Issue #2: Case Management Services – Conflict of Interest

The State is currently in violation of federal conflict of interest (COI) rules, which require the State to separate service plan development/case management providers from direct service providers. The State's Area Agency structure appears to provide case management services and direct services through the same set of limited providers which is not in compliance with conflict of interest rules.

Question #2: How does the State intend to come into compliance with the requirement to provide conflict-free case management to its waiver participants?

2. Section Two - Completed by CMS

State Action Requested by CMS:

1. Submit a draft corrective action plan (CAP) to CMS by **January 31, 2017**. This CAP should include a chart with the timeframe, status and action steps needed to correct the violations of the HCBS regulations noted above. The State should also include monthly updates to CMS through this CAP.
2. For NH.4177: Take the current waiver action off the clock to allow time for the approval of the CAP. The creation of a CAP is grounds for CMS to grant a temporary extension.
3. For NH.0053: Despite the waiver action being off the clock, we still need to extend the current waiver period. The creation of a CAP is grounds for CMS to grant a temporary extension.
4. For NH.0397: This waiver application should be amended to incorporate the CAP.
5. CMS will hold regularly scheduled monitoring calls and will review progress reports, to determine the State's compliance with the approved CAP.

3. Section Three - Completed by the State

The State of New Hampshire, Department of Health and Human Services (DHHS) through its Bureau of Developmental Services (BDS) is in the process of renewing the following two Section 1915(c) waivers:

- 0053- Developmental Disability
- 4177- Acquired Brain Disorder
- 0397- In Home Supports for Children

During the Request for Additional Information (RAI) phase of the Waiver renewal process, the Centers for Medicare and Medicaid Services (CMS) determined that New Hampshire was out of compliance with direct pay and conflict of interest regulations. CMS requested that the state develop a Corrective Action Plan (CAP) to come into compliance.

NH is submitting the attached CAP to:

- 1) Develop a timeline and implementation plan to provide services that comply with Conflict of Interest (COI) Regulations for those receiving Waiver Services under the following NH Waivers: 0053- Developmental Disability, 4177- Acquired Brain Disorder, and 0397- In Home Supports for Children;
- 2) Develop a timeline and implementation plan to ensure that NH's Organized Health Care Delivery System (OHCDS) under the following NH Waivers: 0053- Developmental Disability, 4177- Acquired Brain Disorder, 0397- In Home Supports for Children and does the following:

NH Corrective Action Plan (CAP)

- (a) Permits providers to voluntarily waive their right of direct payment and accept payment through the OHCDS; and,
- (b) Offer the provision of and system for direct payment for providers without assigning payment to the OHCDS.

Both outcomes identified above represent significant changes to New Hampshire's Developmental Services system, and will require substantial stakeholder engagement and system development. The state intends to be in full compliance with COI and OHCDS by July 1, 2018.

New Hampshire has determined that a rich stakeholder-engaged process will need to occur, especially with the COI changes for the following reasons:

1. Due to New Hampshire's individualized service delivery system, the state will need to explore a variety of solutions for different geographic areas of the state. It is unlikely that one uniform system will meet the needs of the entire population in every region of the state.
2. Some regions are fully conflict free at this time, others are partially, and others are not. Ensuring that access is equal across the state requires significant research, analysis and stakeholder engagement in order to understand local needs and current levels of alignment with conflict of interest regulations.
3. Changing how Case Management will be delivered will impact the direct provider responsibilities and functions in some areas of the state. Identifying and working through these changes prior to enabling providers to directly bill Medicaid is a logical sequence of planning. Through the CAP implementation process, some Area Agencies may change what they provide and how they contract, which will subsequently affect the OHCDS and impact this component of the CAP.

Individuals and families receiving services through the DD and ABD waivers are pleased with the current delivery system. In accordance with state administrative rules He-M 503 and He-M 522, individuals and families have full choice of providers, including service coordination and direct service providers. Families, as reported in the 2015 National Core Indicators (NCI) Report, have high satisfaction with the provision of Service Coordination. Stakeholders will be skeptical of the need to change how the system currently operates. New Hampshire needs sufficient time, to conduct and process meaningful stakeholder engagement regarding these changes, Individuals and families have been at the center of any and all changes relative to the developmental services system and they need to be an integral component of any change New Hampshire undertakes with respect to this system.

Specifically, with regards to the OHCDs, New Hampshire needs to maintain its relationship with the Area Agencies as an essential component of the OHCDs. Area Agencies are the safety net for NH citizens with disabilities and serve in a quasi-governmental function ensuring that no-one eligible for services is turned away. New Hampshire does not have any state-operated services or institutions for people with developmental disabilities and/or acquired brain disorders, and subsequently it relies on the Area Agencies to carry out administrative functions and to be the safety net for our residents in need of developmental disability services

The NH Developmental Disability services system is facing multiple changes. The CAP implementation requires a realistic timeframe to ensure thoughtful, strategic, forward-thinking, and rich stakeholder process that is aligned with other major initiatives affecting the DD and ABD waivers to minimize disruption for the New Hampshire residents who rely on the Area Agency system in its current form to live day-to-day. The CAP is attached.

4. Section Four – State Signatures

Signature for Draft CAP

- *Christine Santaniello*

Christine Santaniello, BDS Director, NH DHHS, March 9, 2017

- Signature line, title and date the state submitted the final CAP

5. Section Five – CMS Review: This section is used by CMS to document actions taken to review and approve the CAP

Key Dates for NH CAP Implementation:

- 11/30/16: CMS initial discussion with the State regarding waiver functions.
- 12/13/16: CMS initial written request for the State to submit a CAP by 1/31/17.
- 12/19/16: State requested a technical assistance (TA) call, scheduled for 1/10/17.
- 1/10/17: TA Call rescheduled by CMS for 1/25/17.
- 1/23/17: State submitted an initial draft CAP to CMS for review.
- 1/25/17: TA Call rescheduled by CMS for additional policy guidance.
- 1/31/17: State submitted an additional CAP draft to CMS for review.
- 2/15/17: CMS provided feedback on CAP draft to the State.
- 3/3/17: CMS held a TA call with the State and evaluators to provide CAP feedback.
- 3/9/17: State submitted revised draft CAP following TA call to CMS for review.
- 4/6/17: CMS requested CAP revisions from the State by 4/10/17.
- TBD: Resubmission of pending waiver renewals impacted by this CAP.

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Monitoring Calls: CMS will schedule monthly or bi-monthly monitoring calls to determine the State's compliance with the approved CAP from March 2017 through July 2018, or until the corrective action plan is fully implemented. Monitoring call dates will be scheduled at times agreed upon by both CMS staff and State staff.

Progress Reports: The State will submit quarterly written progress reports to the CMS CAP Team for review and comment. The first report will be due by July 1, 2017, and will be submitted quarterly until the corrective action has been finalized.

To develop a Case Management system for the State of New Hampshire that is conflict free. Target date for compliance: July 1, 2018

| Action Items | Start Date | Completion Target Date | Responsible Office | Milestones | Desired Outcome | Status | Date | Completion Date |
|------------------------------------|------------|-------------------------|--|---|--|-----------|----------|-----------------|
| Sharing and Stakeholder Engagement | 2/3/2017 | 3/15/2017 (and ongoing) | Bureau of Developmental Services (BDS) | 1. Current Case Management Providers, families, consumers, etc. are informed that changes are required. | Stakeholders have a clear understanding of why changes are required. | Completed | 3/8/2017 | 2/13/2017 |
| | 2/3/2017 | 2/15/2017 | BDS | 2. Written communication will go out to all families, providers and stakeholders notifying them of the need for change and the plan to engage them throughout the process (assuring them of the state's efforts to minimize disruption for individuals served). | Clear, concise information is shared. | Completed | 3/8/2017 | 2/13/2017 |
| | 3/15/2017 | 4/15/2017 | BDS | 3. Specific Process that BDS will take moving forward will be communicated. | Clear, concise information is shared with timelines. | | | |
| Stakeholder Workgroup developed | 4/1/2017 | 5/1/2017 | BDS | 1. Representatives including providers, families, and other stakeholders will be identified for the BDS workgroup guiding this change. | Shared participation and decision making, including many opportunities for meaningful input. | | | |

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|--|------------|------------------------|--------------------|--|--|--------|------|-----------------|
| Assessment of current case management system functioning | 5/1/2017 | 8/1/2017 | BDS | 1. Develop and implement survey to case management participants. | From consumer/family perspective, with a focus on choice determine: what is working, what is not working, what needs to be changed, what needs to remain the same. | | | |
| | 5/1/2017 | 8/1/2017 | Stakeholders | 2. Review NCI data regarding case management. | Satisfaction, areas for improvement while implementing change. | | | |
| | 5/1/2017 | 8/1/2017 | Consultants | 3. Service System Mapping. | Identify which areas are conflict free, which areas are not, which areas are in-between, and areas where the regulatory exception applies. | | | |
| | 5/1/2017 | 8/1/2017 | BDS Consultants | 4. Review claims data. | 1. Which providers are providing case management, direct services for clients. 2. Establish number of individuals will be impacted by COI mitigation. | | | |
| | 5/1/2017 | 8/1/2017 | BDS Consultants | 5. Assess provider capacity. | 1. Understanding of provider capacity and workforce issues. 2. Can current providers accommodate? 3. Are additional providers needed? | | | |
| | 5/1/2017 | 8/1/2017 | BDS Consultants | 6. Assess role of case management in existing agencies. | Determine what is being done that will need to be modified in a case management system free from conflict of interest. | | | |
| | 5/1/2017 | 8/1/2017 | BDS Consultants | 7. Rate Structure | Is the case management rate sufficient for stand alone case management? | | | |

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| Develop Report | 8/1/2017 | 9/1/2017 | BDS | 1. Report out on what data is telling NH. | Road map for future work. | | | |
| | 8/1/2017 | 9/1/2017 | BDS | 2. Evaluate options for compliance (informed by technical assistance). | Determine data-informed, geographic area-tailored solutions. | | | |
| Stakeholder Engagement | 9/1/2017 | 9/30/2017 | BDS | 1. Reporting out on findings. | 1. Sharing of information found, sharing of options available for compliance, suggested milestones. | | | |
| | 9/1/2017 | 9/30/2017 | Consultants | 2. Describe options for compliance and national best practices to inform stakeholders of federal priorities, requirements and national best practices. | Facilitated discussion resulting in meeting schedule, committee role, communication. | | | |
| Development of Implementation Plan | 9/1/2017 | 9/30/2017 | Stakeholders | 3. Suggestions for development of work plan. | Stakeholders voice is included and part of the process. | | | |
| | 10/1/2017 | 12/1/2017 | BDS | Demonstrate how NH will come into compliance. | 1. Outline plan for each area of state. | | | |
| Service Gap Identification | 10/1/2017 | 12/1/2017 | Consultants | | 2. Identify bench marks and compliance indicators. | | | |
| | 11/1/2017 | 1/31/2018 | BDS | For gaps identified in Assessment phase, determine any gaps that may exist in new system. | 1. Plan for resolution of identified gaps in the Service Delivery System. | | | |
| Rule Review and Revision | 12/1/2017 | 6/1/2018 | Stakeholders | 1. Identify rules that will need to be amended for compliance in new system. | Rules will be compliant for 7/1/2018 Implementation. | | | |
| | 12/1/2017 | 12/31/2017 | BDS | 2. Implement rule revision process | | | | |
| Rate Modeling | 12/1/2017 | 12/31/2017 | BDS | 1. Review of Case Management Rates | 1. Are they sufficient to meet the new system? | | | |
| | 12/1/2017 | 12/31/2017 | Consultants | | 2. Do they need to be modified? | | | |
| | 12/1/2017 | 12/31/2017 | BDS | | 3. If they need to be modified, request additional funding for SFY 2020. | | | |

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|---|------------|------------------------|-----------------------------------|---|--|--------|------|-----------------|
| Contract Development | 1/1/2018 | 1/31/2018 | BDS | Contracts for Case Management Providers. | Develop contracts/provider agreements for Case Management Providers. | | | |
| | 2/1/2018 | 6/1/2018 | NHDHHS Contract Unit | | Contracts executed for 7/1/2018 | | | |
| | 2/1/2018 | 2/28/2018 | BDS | Develop plan to meet identified gaps. | | | | |
| Gap Plan | 2/1/2018 | 2/28/2018 | Stakeholders | Is additional funding needed? | if needed, quantify for SFY 20/21 budget. | | | |
| | 3/1/2018 | 3/15/2018 | BDS | If funding is required, call with CMS to discuss implementation dates. | Sufficient funding for change to a system free of COI. | | | |
| | 3/1/2018 | Ongoing | BDS (with stakeholder engagement) | Quality improvement strategies for restructured case management delivery system. | Develop strategies and performance measures to ensure strong case management and strong individual autonomy and choice | | | |
| Case Management Transition | 7/1/2018 | 7/30/2018 | BDS | 1. Seamless transition from one organization to another, if required. | Case Management System in NH compliant with the regulatory conflict of interest provisions | | | |
| | 7/1/2018 | 7/30/2018 | Area Agencies/ Case Management | | | | | |
| | 7/1/2018 | 7/30/2018 | Provider Agencies | | | | | |
| Develop SFY 20/21 budget request for any changes unable to be executed within the existing budget | 9/1/2018 | 10/1/2018 | BDS | Inclusion in State of NH budget for SFY 2020/2021 biennium for any additional costs associated with the transition. | Sufficient funding for change to a system free of COI. | | | |

To assure NH's Developmental Services Organized Health Care Delivery System:
 a) permits providers to waive their right of direct payment and accept their payment through the OHCDS; and
 b) offers the provision of and system for providers without assigning payment through the OHCDS

To be completed by July 1, 2018

| Action Items | Start Date | Completion Target Date | Responsible Office | Milestone | Desired Outcome | Status | Date | Completion Date |
|---|------------|------------------------|---|---|--|-----------|----------|-----------------|
| Inform Providers of the need to develop a Direct Payment Option | 4/1/2017 | 4/15/2017 | BDS | 1. Current Direct Delivery Providers, families, consumers, etc. are informed that changes are required to comport with 1902(a)(32) direct payment provisions. | | completed | 3/8/2017 | 2/13/2017 |
| | 4/1/2017 | 4/15/2017 | BDS | 2. Written communication will go out to all families, providers and stakeholders notifying them of the need for change and the plan to engage them throughout the process (assuring them of the state's efforts to minimize disruption for individuals served). | Clear, concise information is shared. | completed | 3/8/2017 | 2/13/2017 |
| Responsibilities for direct bill providers outlined | 4/1/2017 | 5/30/2017 | BDS | 3. Specific Process that BDS will take moving forward will be communicated. | Clear, concise information is shared with timelines. | | | |
| | 7/1/2017 | 8/30/2017 | BDS | 1. Responsibilities will be defined between the Area Agency and Direct Bill Provider. | | | | |
| Identify system (both IT and general infrastructure) adjustments that are necessary to effectuate the changes | 7/1/2017 | 9/30/2017 | BDS | 1. identify staffing and IT resources needed | | | | |
| | 9/30/2017 | 4/1/2017 | BDS (in collaboration with NH's MMIS Vendor, Conduent | 1. Establish changes, beta test systems adjustments and process improvements | | | | |

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|--|------------|------------------------|--------------------------------------|--|--|--------|------|-----------------|
| Policies and Guidelines Developed | 9/1/2017 | 9/30/2017 | BDS | 1. Responsibilities will be outlined as to the roles of each party. | | | | |
| Training and Work Plan Developed | 10/1/2017 | 10/31/2017 | BDS | Based on the outcome of above, a work plan and training plan will be developed. | | | | |
| Information shared with Providers | 11/1/2017 | 11/30/2017 | BDS | 1. Information will be shared with providers on the direct bill process. It will clearly outline the responsibilities associated. | Clear, concise information is shared, including system requirements | | | |
| Role of Oversight for OHCDS determined | 11/1/2017 | 1/31/2018 | BDS | Clear understanding of the role of the Area Agency both when providers choose to direct bill or when they reassign their payment to the OHCDS, and BDS' oversight strategies and quality improvement | Clear role identification and expectations for BDS and Area Agencies (in fulfillment of their various activities). | | | |
| Medicaid Enrollment Process | 12/1/2017 | 6/30/2018 | Conduent, MMIS Vendor, BDS Providers | Providers will enroll as Medicaid providers | | | | |
| Contract Development | 1/31/2018 | 3/1/2018 | BDS | 1. Contracts updated for OHCDS. | | | | |
| | | | NHDHHS Contracting unit | 2. Contracts developed for Providers who Direct Bill | | | | |
| OHCDS Administrative Fee | 1/31/2018 | 4/1/2018 | BDS | Fee developed and approval/authorization for administrative claiming | To ensure continued oversight at a community level of service delivery; Cost allocation plan adjustment | | | |
| Billing Training | 5/1/2018 | 5/31/2018 | BDS | Training for providers who will direct bill | To ensure providers are aware of the required steps to ensure payment | | | |

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|--------------|------------|------------------------|--------------------|---|-----------------|--------|------|-----------------|
| Direct Bill | 7/1/2018 | ongoing | BDS | Providers choosing to direct bill have the option to do so. | | | | |

