

Summary of Major  
Draft Specifications of Revised  
Medicaid Reform Legislation

"Medicaid Home and Community Quality Services Act of 1987"  
August, 1987

Eligibility

o People with severe disabilities who meet the federal SSI test and who were disabled prior to age 22 will be eligible. Each fiscal year, the age of onset for eligibility will be increased by one year (until it reaches age 50), to gradually include coverage of persons who become disabled in adulthood.

o Provisions are included to allow states to deem children under 18 living at home as eligible for services, regardless of the income of their families. Also included are provisions to equalize the income and resource standards which states use in determining eligibility for institutional and community based arrangements.

Services

o Services will be available to persons living in family homes, foster family homes, or community living facilities, as these terms are defined in the bill.

o Services must be based on an Individual Habilitation Plan and coordinated by an independent case management system.

o States must provide, at a minimum, the following services: independent case management; individual and family support services (including respite and attendant care); specialized vocational services (including pre-vocational services and supported employment services); Protection and Advocacy services; and protective intervention services.

o In addition, states may offer any of the following services under their state Medicaid plans: habilitation services; case coordination services; educationally-related services; occupational therapy; physical therapy; speech therapy; nonaversive behavior intervention therapy; diagnostic and assessment services; personal assistance and attendant care services; homemaker and chore services; adaptive equipment and adaptation of vehicles and housing; home health services; dental services; rehabilitation services; crisis intervention; specialized training for families and caregivers; special transportation services; personal guidance, supervision and representation; preventive services; and such other services proposed by a state and approved by the Secretary.

o Community living facilities are limited to a maximum of three times the average family household size in the area as determined by the census. There are provisions for "grandfathering" existing facilities serving 15 or fewer persons and existing cluster facilities as defined.

### Service Principles

o State standards must assure that services: are based on timely assessments and designed to assure optimal individual development, independent functioning, productivity, and community integration; are furnished in accordance with the individual habilitation plan; reflect the strengths of the individual and the services needed to assist the individual to achieve more independent functioning with respect to health and physical development, receptive and expressive communication, cognitive learning, mobility, self-direction, socialization, leisure time, and vocational activities; are provided in a manner that maximizes opportunities for and fosters development of social integration in the community; are provided in settings where existing or new skills can be put to practical use; are designed to ensure that persons receiving residential services receive educational, specialized vocational, and other similar habilitation services at sites separate from the residence; and that services are designed to assist the individual to acquire functional life skills necessary to enhance his/her capacity to achieve independent living, to be integrated into the community, and to interact socially with persons who do not have disabilities.

### State Assurances

o The state must make certain assurances to the Secretary regarding: the disbursement of community living facilities throughout residential neighborhoods; filing reports and otherwise cooperating with the Secretary; developing standards for individual and family support services in line with the principles outlined in the bill; developing a state implementation strategy for community services; maintaining the prior level of state expenditures; safeguarding of rights of eligible individuals; equality of access to services regardless of severity of disability or place of residence; provision of residential services near the individual's family home; and planning for specialized vocational services in integrated environments.

### State Planning

o The state must develop a five-year implementation strategy which is updated annually to address specific requirements in the bill. There must be public hearings, including input from the state Developmental Disabilities Council, on the contents of the state's implementation strategy.

o In the state implementation strategy, the state must outline its plans as they relate to: a multi-year strategy for systematically expanding community services and identifying the federal and state Medicaid dollars which will be obligated for family and community support services; detailed methods for administering community services for eligible persons living at home or in other non-institutional settings; methods to be used to protect the interests of employees affected by the movement of persons from institutions; appropriate placement of persons who live in nursing homes; policies and procedures to assure that all personnel have received pre-service education and/or training; methods to assure that every service agency maintains written personnel policies and provides in-service training and continuing education to service personnel; an assurance that all provider agencies have access to needed technical assistance services; the methods to assure that every person receiving these services has access to inter-organizational case management services which are independent of any agency or program providing day and/or residential arrangement services to the individual; the methods to implement an appropriate management information system to track the progress of all persons in Medicaid funded services/facilities, the service needs of unserved and inappropriately served persons, and the flaws or gaps in existing services statewide; and the policies and procedures the state will adopt to offer eligible persons and their families due process safeguards and notification of rights.

#### Financing

o The state must limit the amount of federal funds claimed for services provided to eligible persons in Medicaid certified facilities (ICF/MRs, ICFs, SNFs) with 16 beds or more. The limit is the level of funding for those services during the year of enactment. Provisions for additional expenditures in limited circumstances also are included: for years when inflation exceeds 6% and for situations where there are increased costs due to a look behind survey, if the corrections necessary are tied to a phase-down plan.

o All community and family support services in the state implementation strategy will be funded at the state's federal Medicaid matching ratio with no limits on the availability of federal matching funds.

#### Quality Assurance

o The state must set forth in its implementation plan the component parts of a comprehensive, integrated quality assurance system. The state must include at least the following: standards governing each element of community and family support services; methods and procedures for monitoring, and licensing and/or certifying eligible providers; procedures for an annual independent third party evaluation of services including assessment of consumer outcomes; an annual assessment of consumer satisfaction;

a services environment assessment with family participation; methods for correcting deficiencies; provision of training and technical assistance; a system of penalties for non-compliance with standards; and procedures for continuity of services when a provider fails to continue service provision.

- o State standards must be developed with input from the Developmental Disabilities Council and the public.

- o For persons moving to the community from large facilities, the state must develop a community transfer plan, which involves the individual, family, and interdisciplinary team in planning for the services the individual will require: also the state must ensure that such services are available for the individual prior to transfer.

- o The bill provides for the right of any party adversely affected by a violation of the Act to seek injunctive relief in federal court, including the recovery of attorneys' fees, under specified circumstances.

- o The Secretary is responsible for conducting an annual assessment of each state's progress in carrying out its implementation strategy as well as its compliance with the statutory assurances outlined above.

#### Administration

- o The Secretary of Health and Human Services would be required to establish a separate Bureau of Developmental Disabilities within the Health Care Financing Administration. The Bureau would be responsible for planning, policy making, and have operational responsibility for overseeing Medicaid programs for persons with developmental disabilities.

- o The governor may assign responsibilities for administering services under the Act, including the delegation of responsibilities to agencies other than the state Medicaid agency.