

# Deficit Reduction Act (DRA) Fact Sheet: Medicaid Services for Children Under the DRA

## INTRODUCTION

The Deficit Reduction Act (DRA) of 2005, P.L. 109-171, was signed into law on February 8, 2006 and authorizes a number of mandatory and optional changes to Medicaid. The DRA includes several Medicaid provisions that affect children with emotional and behavioral disorders, including opportunities for States to improve access to community-based care.

Since its enactment in 1965, Medicaid has provided a broad array of services for children, particularly through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mandate. However, many children with emotional and behavioral disorders have been unable to access the kinds of Medicaid-covered home- and community-based services that would enable them to avoid unnecessary institutionalization. The DRA attempts to address these barriers in several ways: creating the Family Opportunity Act option to expand access to Medicaid and establishing the Alternatives to Psychiatric Residential Treatment Facilities demonstration grants to improve access to community-based care. Families, providers, and policymakers must educate themselves on the DRA's provisions that apply to children and work together to ensure that children in their State are able to take advantage of the new Medicaid opportunities that are available.

This fact sheet covers the major DRA Medicaid provisions affecting children with emotional and behavioral disorders. Final details on some provisions were announced after the completion of the fact sheet. For the most up-to-date information, see the Resources section at the end of this document.

For more information on the DRA and mental health, please visit [www.mentalhealth.samhsa.gov](http://www.mentalhealth.samhsa.gov). To access the other fact sheets in this series: Overview of the DRA; Expanded Medicaid Coverage Under the DRA; and The DRA and Medicaid: State Implementation, visit the National Council's website at [www.TheNationalCouncil.org](http://www.TheNationalCouncil.org).

## CHILDREN'S SERVICES UNDER MEDICAID PRE-DRA

Prior to the enactment of the DRA, children with emotional and behavioral disorders and their families faced challenges in securing needed coverage and care through Medicaid. In order to maximize the use of Medicaid to provide home- and community-based services to children who would otherwise need institutional care, States needed a 1915(c) waiver. Although 49 States obtained a home- and community-based services waiver for children with developmental disorders, only five States were able to obtain such waivers for children with emotional and behavioral disorders.

A waiver would have allowed the State to enroll children in Medicaid who otherwise would not qualify, such as children who had no health insurance but whose family income was too high. The inability of these families to pay for home- and community-based services led to unnecessary institutionalization; if families could not pay for institutional care, then they often had to give up custody of their children to get the State to pay for their care. Other families had difficulty maintaining Medicaid eligibility for their children, facing the choice of staying impoverished or losing critical health care that enabled them to keep their children at home or in the community.

The primary barrier to States obtaining 1915(c) waivers was a cost neutrality provision (which required the average per-beneficiary cost for those receiving services through a waiver program not be any higher than it would have been if they were receiving services through a non-waiver program) that did not allow States to use the costs associated with Psychiatric Residential Treatment Facilities, which is the institutional level of care

provided to most children with serious mental needs. The Family Opportunity Act option directly addresses this obstacle.

## **CHILDREN'S SERVICES UNDER MEDICAID POST-DRA**

### **Medicaid Eligibility for Children (Section 6065)**

Section 6065 establishes that Medicaid eligibility for children (under age 21) will occur on the later of: the date of application or the date SSI eligibility is granted. This eliminates the requirement that the child wait until the beginning of the following month to be eligible.

This section took effect February 8, 2007.

### **Changes to EPSDT (Section 6044)**

Prior to the DRA, Medicaid-eligible children under age 21 were guaranteed access to EPSDT services, ensuring that they receive "medically necessary" services even if a particular service would not have otherwise been covered by their State. While the Medicaid Act does not define the term "medically necessary," it does require State agencies to provide for "necessary health care, diagnostic services, treatment, and other measures...to correct or ameliorate defects and physical and mental illnesses and conditions covered by the screening services."<sup>1</sup>

Under the DRA, EPSDT services are guaranteed to children under age 19, although States may choose to extend coverage through age 21. Under the benchmarking provision (Section 6044) of the DRA, States have the option to select a package of services to serve as a benchmark for care in their State. EPSDT services are to be provided from this benchmark package, and if the package does not cover a needed EPSDT service, States are required to provide it through "wraparound coverage." Such benchmark plans are voluntary for children who qualify for Medicaid on the basis of disability, but States may require the participation of children who qualify for Medicaid based on income. States are awaiting regulations that would clarify this provision.

This section took effect March 31, 2006. For more information and up to date information on alternative benefit packages being implemented in the states, see

[http://www.cms.hhs.gov/DeficitReductionAct/21\\_Benefits.asp#TopOfPage](http://www.cms.hhs.gov/DeficitReductionAct/21_Benefits.asp#TopOfPage)

### **Optional Buy-In for Children with Severe Disabilities, Family Opportunity Act Option (Section 6062)**

The DRA contains a provision (Section 6062) that allows States to adopt the Family Opportunity Act, which permits parents of children with disabilities who would otherwise not qualify for Medicaid to buy into the Medicaid program. To participate, family income must be below 300 percent of the Federal poverty level (FPL) (approximately \$60,000 for a family of four). States may charge premiums on a sliding scale—i.e., no more than 5 percent of family income if under 200 percent of the FPL; no more than 7.5 percent income if between 200 and 300 percent of the FPL. The Congressional Budget Office estimates this provision would increase Federal Medicaid spending by \$1.4 billion over the next five years, extending Medicaid coverage to an additional 115,000 children.

The Family Opportunity Act option is intended to end the financial devastation that families too often encounter in attempting to access quality treatment for their children who have serious mental health needs. Without this Medicaid buy-in option, many families must stay impoverished, turn down promotions, place their children in out of home placements or relinquish custody in order to obtain Medicaid coverage to secure the health care services their children need.

This provision will be phased in by age, beginning January 1, 2007: those six or under in 2007; seven to 13 in 2008, 14 to 19 in 2009.

## **Home- and Community-Based Alternatives to Psychiatric Residential Treatment Facilities (Section 6063)**

Section 6063 of the DRA addresses the obstacles States face in attempting to obtain a 1915(c) home- and community-based services waiver (HCBW). Since 1981, States have been able to apply for a HCBW for children under 21 who need the level of care provided by a hospital, nursing facility, or intermediate care facility for people with mental retardation. Because pre-DRA cost neutrality provisions excluded costs for psychiatric residential treatment facilities, States had difficulty obtaining the waiver or, in those five States that obtained waivers, could serve only a very limited number of children.

Under Section 6063 of the DRA, competitive grants have been awarded to 10 States to conduct five-year demonstration projects. These projects are intended to test the effectiveness of providing home- and community-based services to children who would otherwise be placed in psychiatric residential treatment facilities. Effectiveness will be measured in two ways--cost-effectiveness and whether the services improve or maintain the child's functioning. In the States that have obtained 1915(c) waivers, the cost of providing home- and community-based care has averaged about half of the cost of psychiatric residential treatment facilities. The deadline for applications for these grants was October 18, 2006.

On December 19, 2006, the Centers for Medicare and Medicaid Services (CMS) awarded 10 States grants to develop care delivery systems to help move children with mental illness from institutional settings to community-based treatment. Alaska, Florida, Georgia, Indiana, Kansas, Maryland, Mississippi, Montana, South Carolina and Virginia will receive \$218 million in grants over five years to State Medicaid programs to develop care delivery systems under the Community Alternatives to Psychiatric Residential Treatment Facilities (PRTF) demonstrations. These 10 States will receive a total of \$21 million in the first year of the program, which will continue through 2011.

For more information about the CMS "Community Alternatives to Psychiatric Residential Treatment Facilities Demonstration Grant Program (PRTF)," see [http://www.cms.hhs.gov/DeficitReductionAct/20\\_PRTF.asp](http://www.cms.hhs.gov/DeficitReductionAct/20_PRTF.asp)

## **Family to Family Information Centers (Section 6064)**

Section 6064 of the DRA requires the funding of family-to-family health information centers to provide information to parents of children with disabilities and special health needs so that they can make informed decisions about health care. These centers are similar to the Parent Training and Information Centers funded through the Individuals with Disabilities Education Act (IDEA).

The Family to Family centers are to be staffed by health professionals and family members who have expertise in Federal and State public and private health care systems and who can provide information on treatment options, offer training on caring for children with disabilities, and other resources. The centers will also make outreach efforts to health professionals, schools, and other relevant entities.

Funding for centers will be phased in as follows: \$3 million is appropriated for 25 States in FY 2007, \$4 million for 40 States in FY 2008, and \$5 million for all States (including the District of Columbia) in FY 2009. Funds are to remain available until they have been spent. The DRA gives HHS the authority to determine how the funds will be distributed—e.g., by grant, contract or some other means.

For more information about this program, overseen jointly the U.S. Department of Health and Human Services, through the Health Resources and Services Administration (HRSA)/Maternal and Child Health Bureau (MCHB) and the Centers for Medicare & Medicaid Services (CMS), see [http://www.cms.hhs.gov/RealChoice/06\\_FamilytoFamily.asp](http://www.cms.hhs.gov/RealChoice/06_FamilytoFamily.asp)

## WHAT DO THESE CHANGES MEAN FOR:

### Families

The DRA creates new opportunities for families to buy into Medicaid and to provide alternatives to psychiatric residential treatment facilities. Because these opportunities are optional, families and advocates should work to educate policymakers about the importance of these opportunities and encourage their State to take advantage. Families and advocates can point to experiences in States like New York, Kansas, Vermont and Indiana to illustrate the cost-effectiveness of providing home- and community-based care to children who would otherwise be placed in psychiatric residential treatment facilities. In addition, families can share their experiences of trying to obtain or maintain Medicaid eligibility and the devastating effects custody relinquishment on families who cannot secure the services they need. Families and advocates should also monitor the CMS website listed in the Resource section of this fact sheet for further information about how the Family to Family center funds will be disseminated and encourage their States to seek out funding for these centers. These centers can provide invaluable information and support to families who are trying to navigate the health care system, which often coincides with a crisis involving their children who have emotional and behavioral disorders.

### Providers

Providers should be aware of demonstration grants and options available in their States that could enable them to expand their capacity to provide home- and community-based services. Providers should also encourage their clients to utilize the Family-to-Family Information Centers to obtain support and information from other family members who have been through similar experiences and faced similar decisions.

### Policymakers

Policymakers should take advantage of the Family Opportunity Act buy-in option, consulting with families, advocates and providers about the benefits of expanding Medicaid eligibility for the targeted population. In States that were awarded alternatives to psychiatric residential treatment facility demonstration grants, policymakers should ensure adequate oversight to capture data about the impact on children's functioning and the cost-effectiveness of the program. In States that did not seek/ were not awarded these demonstration grants, policymakers should obtain the data produced by the participating States and consider how similar programs might work in their State. In addition, policymakers should work with State departments of health to ensure that the Family-to-Family Information Centers are effective and to determine how Federal funds will be replaced after the grant period has ended.

## RESOURCES

For more information on the DRA, visit CMS' website: [http://www.cms.hhs.gov/MedicaidGenInfo/08\\_DRASection.asp](http://www.cms.hhs.gov/MedicaidGenInfo/08_DRASection.asp)

For more information on Family to Family Information Centers (Section 6064):  
[http://www.cms.hhs.gov/PromisingPractices/Downloads/F2F\\_PromPrac.pdf](http://www.cms.hhs.gov/PromisingPractices/Downloads/F2F_PromPrac.pdf)

For more information on Home- and Community-based Alternatives to Psychiatric Residential Treatment for Children (Section 6063) Application and Announcement:  
<http://www.cms.hhs.gov/NewFreedomInitiative/Downloads/PRTF%20Solicitation.pdf>

To find contact information for your State's Medicaid Director, visit the National Association of State Medicaid Directors (NASMD) online at [www.nasmd.org](http://www.nasmd.org).

Substance Abuse and Mental Health Services Administration (SAMHSA) National Mental Health Information Center:  
[www.mentalhealth.samhsa.gov](http://www.mentalhealth.samhsa.gov) or: (800) 789-2647

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<sup>i</sup> 42 USC §1396a(a)(43); 42 USC §1396d(r)