Medicaid Juvenile DD Waiver

Scoping Paper for the Management Audit Committee November 10, 2011

Management Audit Committee

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Scoping Paper Focus

LSO received a request from the Management Audit Committee to draft a scoping paper on the Medical Home and Community-Based Waiver (HCBW) program, specifically the Juvenile Developmental Disabilities (DD) Waiver. The two focus areas addressed through this paper are provider accountability with respect to expenditure of state and federal funds, and quality of services provided. Specifically, LSO reviewed processes identified by the Wyoming Department of Health in two areas: provider accountability and customer service. This paper provides further discussion on the following processes:

Provider Accountability

- State and Federal funding
- Budgets
- Out of State Providers
- The Rate Setting Process
- Process for monitoring waiver service providers through IMPROV database
- Claims process through the MMIS system
- Fraud and overbilling and the Program Integrity Division

Customer Service

- The Juvenile DD Wavier application process
- Process for approving the Individualized Plan of Care ("IPC")
- Complaints
- Service delivery satisfaction
- Quality of service

The United States Centers for Medicare and Medicaid Services ("CMS") grant Medicaid Disability Waivers allowing states to provide home and community-based programs for targeted populations as an alternative to institutionalization. Federal regulations reinforce this idea by stating that individuals considered for waiver services would be admitted to an institutional setting if not for the availability of community-based services. Federal regulations also require that community-based services not cost more than the services provided in intermediate care facilities for the mentally retarded ("ICF/MR") operated in the waiver state (*See Social Security Act Section 1115, 1915(b) and 1915(c)).* Additionally, on June 22, 1999, the United States Supreme Court ruled in the case of Olmstead v. L.C., finding that the unjustified institutionalization of people with disabilities violates the American with Disabilities Act of 1990 ("ADA"). This decision was the first time the Supreme Court provided interpretation of the ADA in a way that directly affected Medicaid. The Court confirmed that states are required to furnish services in the most integrated setting appropriate to an individual's needs in his or her community rather than through institutions.

In Wyoming, the Juvenile DD Waiver began in July 1992. It is administered by the Wyoming Department of Health, Developmental Disabilities Division ("DD Division"). Children ages birth through 21 years are eligible if they have been diagnosed with mental retardation or a related condition and meet the level of care for an ICF/MR.

Statutory Background

There are several statutory components related to Home and Community Based Waivers. The Social Security Act provides for multiple waivers within the state that offer flexibility in the operation of Medicaid programs. Specifically:

- Section 115 affords the Secretary of Health and Human Services broad authority to approve projects that test policy and innovations that will likely further Medicaid Program objectives.
- Section 1915(b) authorizes the Secretary of Health and Human Services to grant waivers that allow states to implement managed care delivery systems, or otherwise limit individuals' choice of provider under Medicaid.
- Section 1915(c) provides the Secretary of Health and Human Services the authority to waive Medicaid provisions in order to allow long-term care services to be delivered in community settings rather than institutions.

The Code of Federal Regulations ("CFR"), Title 42 provides state plan requirements, general administrative requirements, definitions, and Home and Community Based Services Waiver requirements.

W.S. § 9-2-101 through 108 creates the Department of Health and prescribes its duties as well as the duties of the Department's director.

The Community Services Act, or W.S. § 35-1-611 through 35-1-628, establishes, maintains and promotes "*the development of a comprehensive range of services in communities of the state to provide prevention of, and treatment for individuals affected by, mental illness, substance abuse or developmental disabilities…"* The Act requires the Department of Health to enter into contracts with various agencies, both public and private, to promote services to the developmentally disabled. Through the Act, the Department of Health is also required to prescribe standards for service providers, set a uniform schedule of fees for services, and evaluate all programs funded by the Act. Additionally, the Department of Health is required to submit a budget request that prescribes the type and level of services offered. In addition, W.S. § 35-1-628 states that the Department of Health must administer a statewide community based program that provides respite care services for those individuals aged birth to 21 who do not meet the eligibility requirements for waiver services. The Department must establish criteria and work with the Governor's Council on Developmental Disabilities to allow family to care for the individual to the greatest extent possible.

The Wyoming Medical Assistance and Service Act, or W.S. § 42-4-101 et. seq. narrows the provisions of the Social Security Act, making it applicable to Wyoming. This statute allows detailed regulation for the implementation and oversight of all three community and home based waiver services programs, including the Juvenile Developmental Disabilities Waiver.

The following Wyoming Medicaid Rules and Regulations are applicable to the Juvenile DD Waiver Program:

- Chapter 3, Provider Participation: allows the Department of Health to govern providers of Medicaid program services.
- Chapter 16, Program Integrity: allows the Department of Health to refer suspected cases of provider or recipient fraud, theft or abuse to appropriate law enforcement and/or the Wyoming Attorney General's office, Medicaid Fraud Control Unit, for investigation.
- Chapter 42, Children's Developmental Disabilities Home & Community Based Waiver: provides for the Department of Health governance over the Juvenile Developmental Disabilities Waiver Program in accordance with the Center for Medicare and Medicaid's approval in accordance with the Social Security Act, as well as allows the Department of Health to create provider manuals and/or bulletins to educate providers on Department policies and requirements.
- Chapter 45: provides guidelines for waiver provider certification and sanctions.

Federal and State Funding

Developmental Disability ("DD") Waivers are funded through state funds and a federal medical assistance percentage ("FMAP"). FMAP is the share of state's total Medicaid expenditures for which the government pays. FMAP is computed from a formula that considers a state's average per capita income relative to the national average. The federal rates have limitations of 83% maximum matching funds, and a minimum of 50%. According to a 2010 Congressional Research Service report entitled *"Medicaid: The Federal Medical Assistance Percentage (FMAP),"* the FMAP formula must equal the average of the three most recent calendar years available from the Department of Commerce. Below is an explanation of how federal matching rates are determined.

- State Share= [(state per capita income)^2/ (national per capita income)^2] X 45%.
- Federal Share= 100% - State Share. (State Share minimum: 50%, maximum: 83%)

Table 1
Actual FMAP Calculations by Year

Federal Fiscal Year (FFY)	Actual FMAP
2007	52.91%
2008	50.00%
2009*	58.78%
2010	61.59%
2011	50.00%

Source: Wyoming Department of Health Developmental Disabilities Division.

*DD Division notes that FFY-2009 and FFY-2010 FMAP does not include an enhanced FMAP rate due to ARRA that was used by the state to offset the increased cost of mandatory Medicaid Program costs due to higher enrollments.

Budget

The Wyoming Department of Health, Division of Developmental Disabilities submits budget requests for each biennial fiscal year. Within the division, there are 33 employee positions available for all three waiver programs. The following tables (Tables 2, 3 and 4) provide appropriations and expenditure authorities for the Developmental Disabilities Division administration, and specifically for the Juvenile DD Waiver.

Table 2
***Health Care Financing Division (DD Administration Programs)**
BFY 2007--BFY 2011

Biennial Fiscal Year (BFY)	Positions	Governor's Budget Recommendation	Appropriation	WOLFS Expenditure Authority
2007	34	$5,404,763	$5,404,763	**$8,176,785
2009	33	$9,567,491	$9,567,491	$9,404,164
2011	33	$9,484,795	$9,512,295	$9,507,295
Total	**N/A**	**$24,457,049**	**$24,484,549**	**$27,088,244**

Source: Legislative Service Office from biennial budgets, the Wyoming Online Financial System (WOLFS) and the Wyoming Internet Budget Analysis and Reporting System (IBARS).

*Includes staffing and administration for the Adult, Children, and Acquired Brain Injury waiver programs.

**According to Wyoming Department of Health, the $2,772,022 difference between the appropriation and WOLF's expenditure authority is because of a transfer of funds within the Wyoming Department of Health for contract and restrictive services costs. This was completed to realign the direct service and administration budgets which prior to BFY-2007 were combined in the same budget units.

Table 3
Juvenile DD Waiver Services
BFY2007--BFY 2011

Biennial Fiscal Year (BFY)	Governor's Budget Recommendation	Appropriation	WOLFS Expenditure Authority
2007	$27,177,086	$27,177,086	$27,177,086
2009	$27,177,086	$31,153,296	*$33,975,933
2011	$29,665,262	$29,665,262	$29,665,262
Total	**$84,019,434**	**$87,995,644**	**$90,818,281**

Source: Legislative Service Office from biennial budgets, the Wyoming Online Financial System (WOLFS) and the Wyoming Internet Budget Analysis and Reporting System (IBARS).

*According to Wyoming Department of Health, the $6,798,847 difference between the budget request and WOLF's expenditure authority is in part due to House Enrolled Act No. 43 in the amount of $3,976,210 (out of a total $7,772,230). The remaining $2,822,637 is due to a combination of the FY 2010 budget cuts (-$744,017), Wyoming Department of Health funding transfer to insure payments for Juvenile waiver services ($325,000) and to cover Medicaid medical services ($3,241,654) costs transferred to the Juvenile DD Waiver budget in FY 2010.

Table 4
*Staffing by DD Waiver Program

Biennial Fiscal Year (BFY)	Positions**	Adult DD (allocation)	Juvenile DD (allocation)	ABI (allocation)
2007	34	27	5	2
2009	33	26	5	2
2011	33	26	5	2

Source: Wyoming Department of Health, Developmental Disabilities Division.

*All DD program staff work on all three programs so the break down is an allocation based upon budget direct service dollars.

Out-of-State Providers

There are currently 704 certified waiver providers in Wyoming for the Juvenile DD Waiver. Providers are primarily from Wyoming; however, there are a few providers located out-of-state.

Chapter 3 of Wyoming Medicaid Rules and Regulations requires that out-of-state providers fall within a specified service area that includes Craig, Colorado; Idaho Falls, Montpelier, and Pocatello, Idaho; Billings and Bozeman, Montana; Kimball and Scottsbluff, Nebraska; Belle Fourche, Custer, Deadwood, Rapid City and Spearfish, South Dakota; and, Ogden and Salt Lake City, Utah. Out-of-state providers must be located closer to the participant than an in-state provider and have a service provider agreement, or be providing services in response to an emergency.

The DD Division states that there are five (5) independent providers that live in Victor, Idaho, and nine (9) out-of- state providers specializing in equipment that do not provide direct care to participants. Medicaid grandfathered the providers located in Victor, Idaho when the agency amended its rules to include a specific service area.

Juvenile DD Waiver Application Process

To be eligible for the Juvenile DD Waiver, a potential participant must:

1) Be a U.S. and Wyoming Resident age birth to 21 (must move to adult waiver the month they turn 21);
2) Meet the Level of Care for Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID);
3) Have a psychological evaluation confirming an eligible intellectual disability;
4) Have a functional limitation test as determined by the Inventory for Client and Agency Planning ("ICAP") score; and,
5) Be financially eligible as determined by the Department of Family Services.

An individual (or legal guardian) wishing to participate in waiver services must contact the DD Division Participant Support Specialists in his or her area to set up a meeting to discuss the application process in detail. At that meeting, DD Division staff provides the applicant with information for selecting and interviewing a targeted case manager, as it is an applicant's right to interview and select a case manager from any enrolled with the DD Division. Applicants may fill out the Medicaid Waiver Application and review forms prior to selecting a targeted case manager. Once selected, the targeted case manager completes the Level of Care Criteria (LT-104 form that determines if the applicant meets the prescreening criteria for the waiver), makes arrangements an ICAP assessment, and assists in gathering required medical documentation. Once all documentation is complete, the Participant Support Specialist of the DD Division will determine clinical eligibility for a waiver. The Division notifies applicants in writing regarding their acceptance, denial, or waitlist status. If an applicant is eligible for funding, the Participant Support Division includes the Individual Budget Amount ("IBA") in the letter to the applicant.

Once the participant is eligible, the Case Manager makes an appointment with the Department of Family Services (DFS) to determine financial eligibility. When determined financially eligible, the Case Manager meets with the participant to discuss service options, the team meeting

process, and other issues concerning the waivers. The participant (or legal guardian) can choose service options ranging from Traditional Services to Self-Direction Services.

Table 4 below outlines service options.

Table 4
Service Options for Children on Developmental Disabilities Waiver

Traditional Services	Self-Direction Services
Case Management	Agency with Choice
Child Habilitation Services	Child Habilitation Services
Community Integrated Employment (18 or older)	Community Integrated Employment (18 or older)
Dietician Services	Companion Services (18 or older)
Environmental Modification	Fiscal Employer Agent
Homemaker	Independent Support Broker
Personal Care	Individual Directed Goods & Services
Residential Habilitation (18 or older)	Personal Care
Residential Habilitation Training	Residential Habilitation Training
Respite Care	Supported Living Services (18 or older)
Skilled Nursing	Unpaid Caregiver Training & Education
Special Family Home Habilitation	
Specialized Living Services	
Supported Living Services (18 or older)	

Source: Wyoming Department of Health, Application Guide for Adult and Child DD Home and Community Based Waiver Program revised Jan. 2011.

The Case Manger is responsible for organizing a team meeting to develop an Individualized Plan of Care ("IPC"). The IPC is created using a set of tools provided by the DD Division. Once complete, the Case Manager sends the IPC to the DD Division Participant Support Specialist for approval.

Approving Individualized Plan of Care

The Participant Support Specialists must receive the IPC from case managers thirty (30) days prior to a plan start date for review and approval of services. The Participant Support Unit verifies that the plan aligns with the DD Division's policies and procedures prior to the start of services. All waiver services must be submitted on a 'preapproval' form prescribed by DD Division. The Participant Support Unit also reviews the IPC to ensure that providers have proper certification. The DD Division reviews 100% of plans prior to the initiation of services. The Division approves or denies services in accordance with the internal policies and procedures based on the following:

1) The participant's assessed needs, personal goals and health and safety risks;

2) IPC description of required service, amount, duration, frequency and provider; and,
3) Prior authorization in accordance with Chapter 3 of Wyoming Medicaid Rules and Regulations.

Once service begins, the case manager is charged with first-line management and oversight of the IPC. Case managers are responsible for monthly review of each case within his or her caseload and for making changes to a participant's IPC when warranted. Participants who are self-directing services should have the Support Broker assist them with evaluating services, IBA utilization, and concerns.

Overall, the DD Division is responsible for monitoring the implementation of the IPC, which includes monitoring the health and welfare of DD Waiver participants. To do this, the Provider Support Unit monitors a representative sample of participants on the Juvenile DD Waiver. The representative sample size has a 95% confidence level and a 5% margin of error. The DD Division identifies the sample in July and conducts the review over two fiscal years. The unit reviews the IPC, and when appropriate, conducts observations of waiver services, interviews participants and/or guardians, and reviews documentation.

Determining IBA

In accordance with Chapter 42 of Wyoming Medicaid Rules and Regulations, IBA is determined based on the following factors:

1) The services the participant has received in the past or that are determined by projected services;
2) Participant characteristics, including the participant's needs as measured by the ICAP score;
3) Economic factors, such as the cost of services based on geographical area, or participant residence.

Rules and regulations require that the methodology used to establish IBA correlate with the given characteristics so that those individuals with higher needs receive a higher IBA and vice versa. The Waiver Manager and the DD Division's Financial Manager determine IBA's for all participants. The DD Division explains, "f*or new participants, that do not meet the residential targeting criteria and do not require Special Family Habilitation Home or Residential Habilitation Service, a prospective individual budget amount is generated based upon the median historical plan cost for like individuals based upon the Inventory for Client and Agency Planning (ICAP) assessment as follows*

> *Child DD: Combination of the age of the individual and his/her developmental age based upon the ICAP domain scores.*
>
> *For new participants, that meet the residential targeting criteria and require either Special Family Habilitation Home Service or Residential Habilitation Service, a prospective individual budget amount is generated based upon core services needed by the participant as specified in eligibility assessments multiplied by projected units as determined using the ICAP assessment and information on service needs from the case manager."*

Prior to July 2010, the DD Division used the DOORS Model to determine IBA. The model defined resource allocations that would result if all the various factors took into account all individuals served consistently. The model then used a regression equation to create a formula based on dependent and independent measures. The model generated national attention and many states referenced the model in studies on funding for developmental disabilities. Additionally, CMS published a 2004 report titled, "*Promising Practice in Home and Community-Based Services*," that featured the Wyoming DOORS funding Model. The DD Division still uses the DOORS model for IBA rate in Adult DD Waiver Program; however, according to the DD Division, the model became invalid for use in the Juvenile DD Waiver once the service rates were determined using rate-setting methodology.

Rate Setting

The Wyoming Legislature regulates the overall budget for developmental disability services. The DD Division sets the rates for specific services while remaining in compliance with Federal and State regulations. The 2008 House Enrolled Act 43 required a cost-based methodology for the establishment of waiver provider rates. Specifically, W.S. § 42-4-120 states that "*The department shall establish by rule and regulation a cost based reimbursement system to pay providers of services and supplies under home and community based waiver programs for persons with developmental disabilities or acquired brain injury.*"

In creating the current rates for Juvenile DD Waiver services, the DD Division used several cost and wage surveys as a method for rate determination and involved key stakeholders. CMS reviews and approves all rate methodologies. With assistance from Navigant Consulting, the DD Division created a provider workgroup to guide rate development. The Developmental Disabilities Advisory Council reviewed the proposed rates and made recommendations. Additionally, parents, providers and other key stakeholders provided public comments to the DD Division. Per Statutory requirement, the DD Division is currently in the beginning stages of rebasing service provider rates.

Effective July 1, 2009, the Legislature approved a budget reduction of $9.2 million dollars for the Home and Community-Based Service Waivers for Adults and Children with Developmental Disabilities. Accordingly, the DD Division implemented a ten percent (10%) cut to all provider rates. However, the Legislature implemented a six percent (6%) restoration of the SFY 2010 cuts the following year. Current rates, roles, and responsibilities are public and posted on the Wyoming Department of Health website.

Legislative Research

On January 19, 2011, the Legislative Service Office issued a research memo relating to Developmental Disabilities Rate Setting. The memo discussed factors that influence developmental disabilities rates, recent changes to rates for respite and child habilitation services, and options for those who have seen a rate reduction. The memo indicated that some parents of Juvenile DD Wavier participants were in violation of federal rules as they used respite funding for childcare while they were at work. In response, DD Division revised its definition of respite care and created a new service under the waiver services. LSO research analysts found that the change did affect some providers. According to the memo, providers who had previously offered respite care to children younger than age 13 are now receiving a lower rate to provide child

habilitation. Those providers no longer receive basic childcare from the DD Division. Providers can set their own rates and charge the parents, in which case the parents would pay the childcare rate, and DD Division would pay for child habilitation services. If parents cannot afford the childcare rate set by providers, then they may be eligible for assistance from the Department of Family Services in the form of a child care subsidy.

Monitoring Waiver Service Providers

The Wyoming Department of Health utilizes a variety of tools to assure provider accountability, both in services offered to waiver participants and in expenditure of funds. In accordance with Medicaid Rules and Regulations, providers are required to have certification prior to delivering services to waiver participants; recertification is required every two years.

The DD Division uses an electronic provider management system called IMPROV, short for Information Management of Providers, to track provider information. The system monitors data and generates reports regarding provider certification. Data collection begins with a provider's initial certification and continues throughout the time a provider is eligible to deliver services. The system tracks areas of noncompliance resulting in recommendations, dates of submission, and approval of quality improvement plans. The system also tracks complaints, incidents, and referrals. If a provider fails to meet adequate service requirements, the DD Division sends a notification letter requesting compliance. If a provider fails to comply, the DD Division proceeds with decertification processes pursuant to Chapter 45 of Medicaid Rules on Provider Certification and Sanctioning. The data collected and stored in IMPROV allows the DD Division to ascertain information and study trends in provider services.

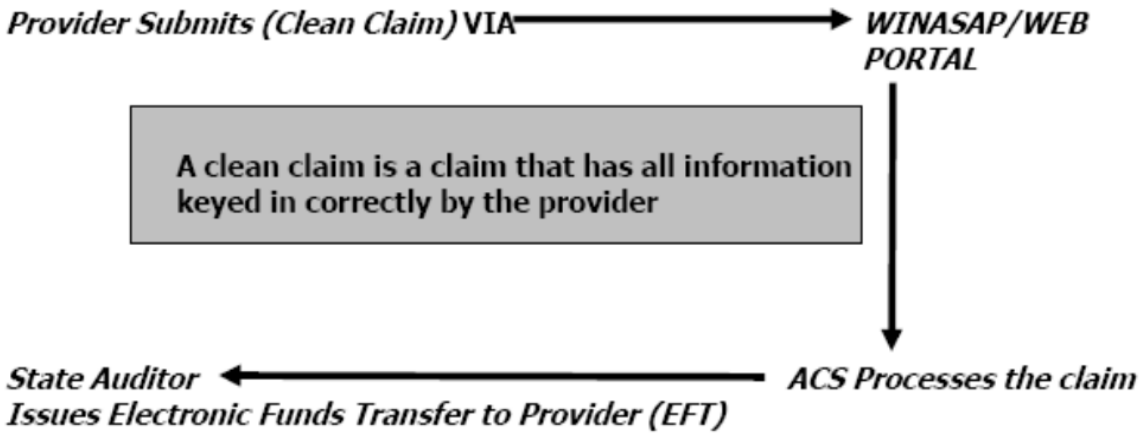
Claims Process

The Wyoming Medicaid Management Information System ("MMIS")

The Medicaid Division of Healthcare Financing contracts with Affiliated Computer Services, Inc. ("ACS") to process all claims submitted by waiver providers. Providers must submit an enrollment packet and paperwork including a Medicaid Provider Agreement to verify that the applicant provider is eligible under Medicaid Rules and Regulations. Once verified, the provider has access to the ACS Medicaid Provider/Client Portal to submit claims electronically through the Wyoming Medicaid Management Information System ("MMIS").

MMIS accepts and processes all claims rendered by the Juvenile DD Wavier providers. MMIS monitors provider claims through edits, random reviews, and representative samples of audits. System edits include service codes with set rates and time-specific rules that limit the amount of services billed. Once submitted to the system, a claim goes through a processing cycle. The graphic below, taken form the DD Division Provider Handbook, illustrates the cycle of a mistake-free or "clean claim."

Below is a diagram highlighting how the billing cycle works for "Clean" claims. If there are any problems with the billing cycle, billing or payment can be disrupted.



There are also subsystems in place to verify recipient eligibility. An individual must be an active Medicaid recipient enrolled in the Juvenile DD Waiver in order for a provider to receive payment. The DD Division states that this assurance is an integral component of the system. The subsystems allow MMIS to check the billed services against the service and rates that were previously established and uploaded to the system for a given patient. MMIS does post exceptions if a recipient is not eligible on the service date. To further audit claims paid, the MMIS retains the claim record, all exception codes, and the identification number for the person who forced or denied any exceptions to the claim. Reimbursements for waiver services are part of each participant's IBA.

According to a 2010 Congressional Research Service Report, *Health Care Fraud and Abuse Laws Affecting Medicare and Medicaid: An Overview*, upcoding is "*billing for services at a higher rate than provided."* In 2010, the United States Medicaid Department of Health and Human Services reported that there was 9.4% improper payment rate for Medicaid programs. That equates to roughly $22.5 billion spent on improper payments nationally. The United States Department of Health's targeted rate for improper payment for 2011 is 8.4%.

The DD Division's July 2011, Annual Performance Measures Report, says that State financial oversight exists to assure that claims are coded and paid in accordance with regulation. Using the methodology of the number of claims paid at the correct rate divided by the number of waiver claims paid through MMIS, the DD Division found that 100% of claims for the Juvenile DD Waiver were paid at the correct rate. To verify, the DD Division states that "*The statement regarding claims were paid at the correct rate is based upon all paid claims. The data was obtained from quarterly queries of the Medicaid Management Information System (MMIS) and compared to posted rates. Claims paid at the correct rate are defined as the lesser of the posted and/or prior authorized rate and the provider claimed rate. In other words, the paid rate should not be greater than the posted or prior authorized rate*."

Fraud or Overbilling

All providers are required to document services in accordance with set standards. Providers have up to one (1) year in which to file a claim for waiver services. The Program Integrity Office within Wyoming Medicaid may request an audit of provider documentation at any time over the life of a claim, so long as it falls within the six (6) year record retention requirement.

Providers are required to submit claims electronically. Case Managers are also required to conduct a monthly review of billing from all service providers for a given participant's IPC. While the DD Division is involved in IBA and rate determination, it is not involved with payment arrangements.

The Provider Support Unit reviews provider information and documentation for suspected fraud during a provider's recertification and makes referrals where warranted. The Program Support Manager is required to review all documentation for completeness prior to the Unit making a referral. When documentation does not meet the set standards outlined in Chapter 45 of Wyoming Medicaid Rules and Regulations, the Program Support Manager refers the information to the Division of Healthcare Financing, Program Integrity Unit. The provider is then required to complete a quality improvement plan regarding non-compliance. The provider may also receive education on standards in addition to the quality improvement plan requirement. IMPROV records all referrals and follow-up actions.

Recovery of funds occurs for any claim not completed correctly, or that lacks proper documentation. Law enforcement and/or the Medicaid Fraud and Control Unit ("MFCU") within the Wyoming Attorney General's office may also investigate claims of fraudulent activity. The Program Integrity Unit produces an update every ninety (90) days until closure of such claims.

Since 2008, twenty-two (22) providers received referrals to MFCU. Of those, seven (7) were suspended from all Medicaid payments and three (3) had their cases unsubstantiated, but required recovery of funds. To date, the DD Division has not received information from MFCU as to the disposition of the remaining referrals.

Complaints

The DD Division enters all complaints into IMPROV and follow-up activities are determined based on priority levels according to the type of complaint. The DD Division looks to see if providers failed to comply with rules and regulations. If so, the complaint is considered substantiated and the provider is required to submit a quality improvement plan. DD Division staff notifies the complainant (participant, guardian, or other provider) as to whether the complaint was substantiated.

The first report in IMPROV was in February 2008. From that date forward, the system reports 387 complaints with disposition related to services delivered by providers. IMPROV has also recorded 6,655 incident reports (with disposition) since April 2004.

According to the DD Division's Performance Measure Report for 2011, incident reporting stayed within average levels. In FY2011, there were 147 incidents reported under the Juvenile DD Waiver. Incidents range from varying levels of suspected abuse or actual abuse (including self-

abuse) to exploitation, neglect, and medication errors. Table 5 below breaks down the incidents by type. In a survey regarding provider treatment, none of the 60 participants reported that a provider verbally or physically abused them; 100% of the participants reportedly felt safe while receiving provider services.

Table 5
FY 2011 Percentage of Complaints by Type

Incidents by type	Percentage of Complaints
Suspected Abuse	8.21%
Suspected Self Abuse	9.02%
Suspected Neglect	9.99%
Suspected Self Neglect	1.69%
Suspected Exploitation	1.43%
Suspected Abandonment	0.81%
Police Involvement	31.26%
Crime by Participant	3.94%
Injury Caused by Restraint	0.53%
Serious Injury	9.89%
Injury Caused by Restraint	0.53%
Serious Injury	9.89%
Elopement	0.81%
Medication errors	14.28%

* Source: Wyoming Department of Health, DD Division Performance Measures Report 2011.

Service Delivery

Eighty-six percent of the 179 participants and family members reported that their services and supports changed with their needs. One hundred percent verified that they had been offered both choice of institutionalized care and provider care through waiver services.

Quality of service

Chapter 1, Section 23 of the DD Division Rules and Regulations states:

> "*Quality assurance assessments for Community Based In-Home Services will be implemented in a format which has been approved by the Division.*
> *(a) Quality assurance shall be conducted at each grantee site at least every eighteen (18) months by a representative approved by the Division.*
> *(b) All Community Based In-Home Services grantees must provide any relevant documentation and information to the Division's representative during an assessment."*

Prior to 2010, the DD Division used the Human Services Research Institute National Core Indicators ("NCI") to gather data and information on participant satisfaction. After learning that CMS would not accept the results from the survey, the DD Division discontinued its contract with NCI. The DD Division now conducts a Representative Sample Case Review (mentioned previously). DD Division staff complete the reviews in two-year intervals and cover 700 participants from all three waiver services (adult, Juvenile, and ABI). The DD Division conducts

interviews of participants to determine provider service satisfaction. Division staff determines the level of satisfaction observed during the review using a Likert-type scale. Likert-scales are psychometric scales commonly used in research that employ questionnaires (for instance, "on a scale of 1-6, how do you like your case manager?").

The DD Division maintains the data from the questionnaires in an Excel-based database that allows staff to review results and track follow-up actions accordingly. In order to conduct data analysis, the DD Division uses software called Statistical Package for the Social Sciences ("SPSS"). The DD Division uses the results from SPSS to generalize the entire Wyoming wavier population to guide its policymaking.

Legislative and Governmental Reporting

In 2008, House Enrolled Act 43, *Developmental Programs-cost Based Reimbursements*, enacted the current rate methodology including an appropriation of $7,772,2300, split equally between the General Fund and Federal Funding. According to the Wyoming Department of Health, these funds were appropriated based upon the methodology in the 2009 biennium. During the 2008 Legislative Session, the Wyoming Department of Health was required to provide quarterly reports to the Governor and the JAC in six areas. In accordance with Wyoming 2008 Legislative Session Laws, Chapter 48, Section 048, Footnote 4, the reporting requirement expired with the quarter ending June 30, 2010. The six areas reviewed were:

1. Specific amounts transferred between waiver programs;
2. Total number of clients served for each waiver program;
3. Average projected cost of each client;
4. Average individual budgeted amount for each client;
5. Number of persons on waiver waiting list for each waiver; and,
6. Cost for each new client served

The final report was filed in August 2010. Table 6 includes information for child developmental disabilities contained in the report.

Table 6:
August 2010 final report regarding the Juvenile DD Wavier

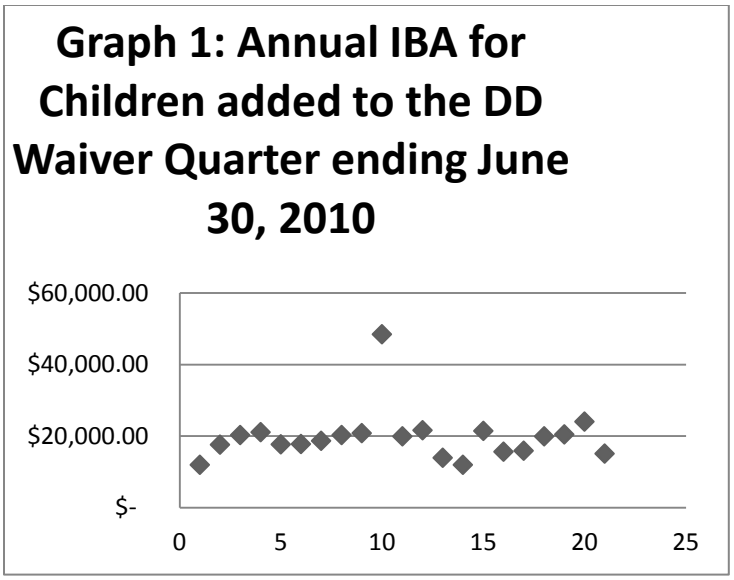
Juvenile DD Waiver	4/1/10-6/30/10	Since 7/1/09
Specific amounts transferred between waiver programs	None	
Total number of clients served for each waiver program	699	784
Average Projected cost for client with approved plans of care (POC)	$20,339	$18,460
Average individual budgeted amount for each client	$24,262	$29,891
Number of persons on waiver waiting	160**	
Cost for each new client served	21 (see graph 1 on page 16)	N/A

*Source: August 24, 2010 Report from the Wyoming Department of Health to Governor Dave Freudenthal and the Joint Appropriations Committee
**Number as of June 30, 2010

Moving Children from the Waitlist

The American Recovery and Reinvestment Act (ARRA) and the Affordable Care Act require the DD Division to allocate the number of unduplicated maximum slots to be no less than the July 1, 2008 point-in-time number served in the Juvenile DD Waiver. According to the DD Division, "The unduplicated maximum slots are the maximum number of unique participants than can be served in the course of a waiver (fiscal) year."

The DD Division assigns rankings to each individual based on two factors: the severity of the person's condition based on Inventory for Client and Agency Planning ("ICAP") services score, and the person's placement date on the waiting list. Once sufficient funding becomes available, the DD Division alternates between the two factors beginning with the severity (ICAP) score. If the level of severity is the same, then placement date determines the next person to receive funding. In the spring of 2010, there were 21 new children added to the Juvenile DD Waiver program from the waitlist. Their IBA ranged from $11,936 - $48,445. The average IBA was $19,737 (see graph).



* Source: Wyoming Department of Health Developmental Disability Division.

The individual with the IBA amount of $48,445 was an emergency case in which the participant required residential care. According to the DD Division, the individual is no longer on the Juvenile Waiver, but is being served through the Adult DD Waiver program.

Extraordinary Care Committee

The DD Division can fund a person from the Juvenile DD Waiver waiting list sooner than policy allows if it is determined, that he or she is in an emergency situation. As prescribed in Chapter 42 of Wyoming Medicaid Rules and Regulations, the Extraordinary Care Committee ("ECC") is comprised of a representative from the Developmental Disabilities Division, a representative of the State Medicaid program and a representative from the Department of Health's Fiscal Office. The ECC has the authority to approve or deny individual plans of care, emergency funding, and funding due to a change in the participant's circumstances. Additionally, the ECC has the authority to approve or reject rates for services that are not comparable to average rates as determined by the DD Division and approved by the Centers for Medicare and Medicaid Services. If the Legislature increases or decreases funding, the ECC is charged with approving rate changes accordingly. Any decisions made by the ECC must be done by majority vote and decisions must be rendered in writing.

ECC Process for Moving People off the Waitlist

According to the DD Division, if an individual on the waitlist is in an emergency situation, that person's case manager submits a request for ECC approval for emergency placement on the waiver. The DD Division Participant Support Specialists then follows Division policy for having the issue reviewed. As explained by the DD Division, "*according to the Division's policy, ECC cases from the wait list require verification of the emergency from a list of agencies and proof that no other emergency services were available to assure the person's immediate health and*

safety, which necessitates the need for waiver services." Table 7 below shows the number of individuals moved from the waitlist to an active participant status by the ECC due to emergent situations.

Table 7
Number of individuals moved from the waitlist to Active Status by the ECC

Waiver	SFY 2009	SFY 2010	SFY 2011
Adult DD	8	9	8
Juvenile DD	6	3	6
ABI	3	0	2
Total	17	12	16

Source: Wyoming Department of Health Developmental Disability Division

Once an individual is on the waitlist, it is unclear how often his or her status is re-evaluated to determine whether the need for waiver services still exists. Additionally, there is no information regarding the possibility of the individual already receiving services from other Medicaid programs that could be comparable to waiver services. In the event that some individuals are receiving services through alternative means, funding for that person may be duplicative and waiver services may not be necessary.

Potential Audit Questions

1. Given that the DD Division states that 100% of claims were paid at the correct amount, and Medicaid fraud and abuse averages are 9.4% nationally, does Wyoming's statistic warrant further examination?

2. How does MMIS audit for potential upcoding on provider claims?

3. The 2008 House Enrolled Act 43 required a cost-based methodology for the establishment of waiver provider rates. Has the DD Division analyzed the efficacy of the new rate system? Has that analysis affected the Wyoming Medicaid DDD Waiver Rate Rebasing project and if so, how?

4. Is the current methodology for determining IBA in the Juvenile DD waiver more accurate and effective than the previous DOORS model?

5. Is the process for review of provider information and documentation for suspected fraud during a provider's recertification consistent and effective?

6. How do MMIS and IMPROV work together to assure provider accountability?

7. How many audits of paid claims has the Medicaid Program Integrity Office conducted in the last three years? Were they effective?

8. What is the status of the remaining 12 referrals to MFCU of the Wyoming Attorney General's office?

9. Has the DD Division noticed any positive or negative consequences resulting from changes in the waiver services made in response to the January 2011, LSO research memo?

10. How is the DD Division utilizing data from the Representative Sample Case Review in terms of customer satisfaction?

11. What is the process for utilizing data stored in IMPROV to evaluate provider accountability?

12. Is the process for determining waitlist placement consistent, effective, and efficient?

13. Is there effective and efficient communication occurring both internally between divisions of the Department of Health and externally with other state agencies involved with the DD waiver process?

14. What is the process for determining priority level for complaints tracked by IMPROV?

15. Is the Extraordinary Care Committee consistent in its duties as prescribed in Chapter 42 of Wyoming Medicaid Rules and Regulations?

16. Is Extraordinary Care Committee's process for determination of emergency funding of waitlisted Juvenile DD waiver participants fair and consistent?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