

What is Happening with the Community Choice Act

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The Community Choice Act (CCA) is gaining some real traction in Congress and with the Administration. In the past few weeks, there have been serious discussions about taking important steps to ending Medicaid’s institutional bias and including the CCA’s key provisions in the health care reform bill. Many of these discussions have focused on creating a new Medicaid state option known as the **Community First Choice (CFC) Option** that includes the core elements of the CCA.

What Does an “Option” Mean?

To explain this, we need a very quick overview of how Medicaid works.

In order to receive federal matching funds, states must abide by the federal Medicaid law. This law basically defines what states: 1) must do; 2) can choose to do (referred to as an “option”); and 3) cannot do. As long as states comply with the federal law, they are free to set their own guidelines regarding eligibility and services.

However, states can request to do other than that specified in the law by applying for a **waiver**. There are currently nearly 300 waivers in effect across the country.

States that wish to provide most services to people with disabilities in the community instead of institutional settings must apply for a **Section 1915(c) Home and Community-Based Services (HCBS) Waiver**. While most states have these kinds of waivers, there are problems with them as they allow states to limit eligibility and services.

Why Would the CFC Option be Better than the Current HCBS Waiver?

There are a number of reasons why the CFC option would be better for people with disabilities. The most important ones are outlined in the chart below comparing what states are allowed to do under each.

	CFC Option	Section 1915(i) HCBS Waivers
Cap services	NO	YES
Have waiting lists	NO	YES
Limit services to certain sections of the state	NO	YES

The other very important benefit is that an HCBS option would provide the legitimacy and prominence that a waiver does not have. For the first time, HCBS would be on the list of what states can choose to do instead of the exception to that list. In other words, the option would help to expedite an end to Medicaid’s institutional bias.

No. The 1915(c) waiver will still be allowed. States would simply be allowed to choose the CFC option. However, if a state chooses the CFC option, they would have to adhere to its higher standards (no caps on services, no waiting lists, no geographic restrictions.)

Where Did the CFC Option Come From?

The CFC Option is an idea that emerged from discussions with Senator Harkin’s (D-IA) office and Representative Davis’s (D-IL)office as a way to make progress on home and community-based services and supports under Medicaid and a way to lay the foundation for later enactment of the CCA.

It also has support from the cross-disability community, including leaders from the National Council for Independent Living (NCIL), ADAPT, the Consortium for Citizens with Disabilities (CCD), the American Association of People with Disabilities (AAPD), Self Advocates Becoming Empowered (SABE) and others.

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How Would the CFC Option Help to Get the CCA Enacted?

Since it was first introduced a decade ago as the Medicaid Community-Based Attendant Services and Supports Act (MiCASSA), the CCA has been hampered by conflicting analyses on the costs of providing community based services instead of institutional care. Having states that chose the CFC option serve as successful test cases could ease the concerns of Members of Congress, governors, and state legislators, among others.

What Does the Obama Administration Think About This?

On July 24, President Obama met with twelve representatives of the disability community, along with Attorney General Holder and Secretary of Labor Solis. The Arc and UCP's Marty Ford participated in the meeting representing The Arc and UCP as well as the Consortium for Citizens with Disabilities. A broad range of issues were addressed, including Olmstead enforcement, health care reform, and the need to end the institutional bias in Medicaid.

The disability community representatives came away believing that the President, his Cabinet representatives, and his senior White House staff are committed to working with the disability community to improve home and community based services.

On August 27, as a follow-up to the meeting with President Obama and his cabinet heads, a group of advocates for home and community-based long-term services and supports met with Nancy-Ann DeParle, Counselor to the President and Director of the White House Office of Health Reform, and other senior staff at the White House to discuss the Community First Choice Option.

The meeting participants had a frank and productive discussion concerning the possible opportunities and barriers of including CFC Option in the final health reform legislation. All agreed to keep open the lines of communication as health care reform heats up again when Congress returns in the fall.

What are the CFC's Core Provisions that We Expect to See in the Health Care Reform Bill?

Make community-based services a state option. Medicaid Law will be amended to allow state Medicaid plan coverage of community-based attendant services and supports for certain Medicaid-eligible individuals.

Specify that the services under this option would include assistance with:

- **Activities of daily living (ADLs).** These include eating, toileting, grooming, dressing, bathing, and transferring.
- **Instrumental activities of daily living (IADLs).** These include meal planning and preparation; managing finances; shopping for food, clothing, and other essential items; performing essential household chores; communicating by phone and other media; and traveling around and participating in the community
- **Health-related tasks.** Health-related tasks are defined as those tasks that can be delegated or assigned by licensed health-care professionals under state law.

Specify that services would be performed by an attendant through hands-on assistance, supervision, or cueing.

Specify that services would also include assistance in learning the skills necessary for the individual to accomplish these tasks him/herself; back-up systems; and voluntary training on selection and management of attendants.

Exclude certain expenditures, including room and board; services provided under IDEA and the Rehabilitation Act; assistive technology devices and services; durable medical equipment; and home modifications.

Require that there be a written plan for home and community based services.

Require that services are made available statewide and that they be provided in the most integrated setting appropriate for the individual.

Require services to be provided regardless of age, disability, or type of services needed.

Require states to establish and maintain a comprehensive, continuous quality assurance system.

Require service delivery models to include consumer directed, agency-based, and other models, and require states to comply with all federal and state labor laws.

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Require states to establish a Development and Implementation Council, the majority of whose members must be individuals with disabilities, elderly individuals, and their representatives.

Require states to report to Congress.

Prohibit CFC services from affecting the states' ability to provide such services under other Medicaid provisions.

What Incentives are there for States to Use the CFC Option?

The federal government would provide more funding to states that use it. The CFC option contains a significant enhanced federal medical assistance percentage (FMAP). The Congressional Budget Office (CBO) is currently estimating how much this would cost the federal government (known as "scoring"). This cost estimate is expected to be completed in the next few weeks.

How Many States are Likely to Use the CFC Option?

There is no way to know at this point. It will depend, to a certain extent, on how much additional FMAP states can get. It is worth noting, however, that some states already provide community based services only and serve people with disabilities well despite the low bar set by the 1915(c) waiver. In Vermont, for example, all Medicaid funding goes toward community-based housing and everyone lives in homes with fewer than seven people. Learn more about how state Medicaid HCBS programs rank in UCP's new report, "A Case for Inclusion 2009."

Why Make HCBS Just an Option, Why Not Require States to Provide Them?

Passage of health care reform legislation is far from certain. This is, in part, due to its very high cost. The cost estimates for a mandatory CCA program are, in the opinion of Congressional leaders, prohibitive.

Thank you, Rosenberg Chick-Fil-A owners Carrie and Quart Graves!

Carrie and Quart Graves, owners of Chick-Fil-A at 24734 Southwest Freeway in the Brazos Town Center in Rosenberg, are the newest community partners who have opened their business to clients waiting for Fort Bend Transit New Freedom and Texana transportation services. Thank you Mr. and Mrs. Graves!

Since May 26, 2009, approximately 20 Texana clients, as well as 2 New Freedom clients have used the Chick-Fil-A restaurant located at 24734 Southwest Freeway in Rosenberg as their bus stop. They are picked up by 8:30 a.m. and dropped off between 3:30 and 3:45. They use the restaurant as their connection point between their home and their ride.

Linda Picard of Fort Bend Transit has been working on the New Freedom transportation project. Linda saw the need for a sheltered, safe bus stop for riders with disabilities, and contacted Mr. and Mrs. Graves. Carrie Graves, a former social worker, was enthusiastic about permitting the use of her restaurant as a bus stop.

Prior to Chick-Fil-A's opening its doors, the bus stop clients waited outside the George Memorial Library and in the parking lot of a closed K-Mart. With the Chick-Fil-A stop, the clients now wait in a safe environment with access to restrooms and shelter. Another benefit to the new stop is increased community inclusion.

Manuel Lopez of Texana's Sugar Land Employment Center provided sensitivity training to Chick-Fil-A employees. He said that his clients told him "We get to wait at a cool place!"

The Arc of Fort Bend County provides funds for part of the local match for New Freedom transportation services for individuals with disabilities. If you would like to use the New Freedom reserved bus service, call 1-866-751-TRIP(8747) or 281-633-RIDE (7433), use prompt #1 and ask for the Trip Coordinator. Later, the New Freedom program will also include bus stop monitors and rider attendants to assist passengers who cannot travel independently.