



Get Informed! Innovative Changes to the Intellectual and Developmental Disabilities System are Coming.

The Arc of Larimer County would like to take this opportunity to provide you with information about future changes regarding the services delivery system for people within the intellectual and developmental disabilities. We feel it is imperative to address the structural changes within the intellectual and developmental disabilities services delivery system including Conflict Free Case Management (CFCM). We understand that change can be uncomfortable and we believe these changes are a great opportunity to continue the transition from institutional based models of care to a more person centered community based approach. The Arc is committed to ensuring you have accurate information as to what Colorado is doing to ensure a seamless transition through a thoughtful planning process. This structural change will allow for services and supports to be based on the needs of the individual. We recognize this plan is in the development stages and encourage you to get informed of upcoming changes and take advantage of opportunities to give your input.

Why Change Is Necessary:

Currently, Colorado is out of compliance with the new final rule¹ from the Centers for Medicare and Medicaid Services (CMS). This rule requires states to transition current Long Term Services and Supports (LTSS) systems to one that is person centered and mitigates potential conflict of interest related to case management services. The rule, which was effective March of 2014, is the product of many years of individual experiences and issues in a number of states. The multiple public (Single Point of Entry, Case Management, Provider Contractor, Quality Assurance, Overseeing Provider Entry) and private (Service Provider) roles a Community Centered Board (CCB) plays can cause inherent conflicts of interest. Of particular concern are the quality assurance duties of the CCB. In its capacity as a case management agency and provider contractor, the CCB provides access to the complaint system and addresses allegations of abuse, mistreatment and neglect for both contractors and its own employees.² This "self-policing" has had advocacy groups and Federal Authorities concerned for many years.³

In addition to these various public roles, they also have a private interest as a business providing direct care services. The CCB's private interests are those natural to any business interested in its own survival in a competitive environment.⁴ Due to the multiple roles a CCB plays, there is naturally a greater opportunity for role confusion for a CCB, as well as more opportunity for a CCB to act on its private interests.⁵ In addition to these concerns, a review of

¹ Final Rule [CMS 2249F](#) Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community- Based Services (HCBS) Waivers states that CMS emphasized the section 1915(i) of the Act requirement for conflict of interest standards at § 441.730(b). When a state proposes a SPA to add section 1915(i) of the Act HCBS, CMS requires that the state specify the entity that will be responsible for the assessment, the qualifications of that entity, and how the state will meet the conflict of interest requirements at § 441.730(b).

² Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards, December 2007. Can be assessed at: http://www.nasddd.org/uploads/documents/CO_ConflictOfInterest.pdf

³ Conflict Free Case Management, Federal Guidance, State Engagement and Impacts http://www.lakeshoreregionalpartners.org/Websites/Irptest/files/Content/4986902/Conflict_Free_CM_White_Paper_April_Revisions_Final.pdf

⁴ Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards Can be assessed at: http://www.nasddd.org/uploads/documents/CO_ConflictOfInterest.pdf

⁵ Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards , Can be accessed at http://www.nasddd.org/uploads/documents/CO_ConflictOfInterest.pdf

literature yields frequent concerns and identification of potential conflicts which CMS regulations of CFCM is intended to address.⁶

These include:

- Potential for either over- or under-utilization of services. If the agent holds multiple roles including the assessment of need, developer of the plan, and provider of services, there may be inherent conflicts resulting in provision of more or less services than the consumer needs.
- Misaligned financial incentives.
 - Agents may be reluctant to suggest providers outside their agency because the agency may lose revenue.
 - Plans may focus on the convenience of the system, agent or service provider rather than being person-centered
- Interest in retaining the individual as a client rather than promoting independence
- Patterns of provider self-referral and undue influence resulting in compromised individual choice of services or providers
- Inadequate oversight of the implementation of the plan or quality of service delivery

These very conflicts are the issues that a CFCM system aims to eliminate. Conflict of interest may not be a conscious decision on the part of CCB's. In many cases, conflicts are outgrowths of inherent incentives or disincentives built into the system that may or may not promote the interests of the individual receiving services.⁷ The Arc of Larimer County believes this shift in our service delivery system is necessary to create a system that supports individual preferences and needs.

Conflict Free Case Management:

Mission Analytics Group, under contract with CMS, defines conflict-free case management as having the following aspects:⁸

1. Clinical or non-financial eligibility determination is separated from direct service provision. Case Managers who are responsible for determining eligibility for services, do so distinctly from the provision of services. In circumstances where there is overlap, appropriate firewalls are in place so that there is not an incentive to make individuals eligible for services to increase business for their organization. Eligibility is determined by an entity or organization that has no fiscal relationship to the individual. This separation applies to re-determinations as well as to initial determinations.
2. Case managers and evaluators of the beneficiary's need for services are not related by blood or marriage to the individual; to any of the individual's paid caregivers; or to anyone financially responsible for the individual or empowered to make financial or health-related decisions on the beneficiary's behalf.
3. There is robust monitoring and oversight. A CFCM system includes strong oversight and quality management to promote consumer-direction and beneficiaries are clearly informed about their right to appeal decisions about plans of care, eligibility determination and service delivery.
4. Clear, well-known, and accessible pathways are established for consumers to submit grievances and/or appeals to the managed care organization or State for assistance regarding concerns about choice, quality, eligibility determination, service provision and outcomes.

⁶ <http://www.nslc.org/wp-content/uploads/2014/09/NSCLC-Conflict-Free-Case-Management.pdf>

⁷ <http://www.balancingincentiveprogram.org/resources/what-design-elements-does-conflict-free-case-management-system-include>

⁸ <http://www.balancingincentiveprogram.org/resources/what-design-elements-does-conflict-free-case-management-system-include>

5. Grievances, complaints, appeals and the resulting decisions are adequately tracked and monitored. Information obtained is used to inform program policy and operations as part of the continuous quality management and oversight system.
6. State quality management staff oversees clinical or non-financial program eligibility determination and service provision business practices to ensure that consumer choice and control are not compromised, both through direct oversight and/or the use of contracted organizations that provide quality oversight on the State's behalf.
7. Track and document consumer experiences with measures that capture the quality of care coordination and case management services.
8. In circumstances when one entity is responsible for providing case management and service delivery, appropriate safeguards and firewalls exist to mitigate risk of potential conflict.
9. Meaningful stakeholder engagement strategies are implemented which include beneficiaries, family members, advocates, providers, State leadership, managed care organization leadership and case management staff.

Where Does The Arc Stand On This Issue?

The Arc supports the shift to Conflict Free Case Management. A letter to the Colorado Department of Healthcare Policy and Financing (HCPF) from The Arc of Colorado on March 4, 2015 in response to CFCM Task Group Report states:

For decades, the position of The Arc US with the American Association on Intellectual and Developmental Disabilities has been that:

“...the service coordination system should be independent from service delivery so that the service coordinator (case manager) is free from conflict of interest, and independent or separate from the direct delivery of other services received by the individual and/or family.

Entities or individuals paid through public funds to provide direct services should not be paid to coordinate or monitor services.”

The Arc has long held the position that eligibility assessment and determination, case management, and service delivery should be separate and distinct to ensure the best interests of the person involved and the best use of public funds.

- Assessment for eligibility determination should be conducted according to an objective set of standards based on conditions requiring long term services and support and financial status.
- Case management should be local, impartial, and provided by persons who know community resources and have no vested interest in any service entity. Case managers should be agents for the people whom they support. Case management should be independent of eligibility assessment and service provision.
- Case management agencies must be accountable to the client and to the state to ensure that individuals receive the services they need and expect and that service plans are implemented as intended.
- Clients should have a broad range of choices for services they receive and case managers/case management agencies must be independent of service providers.

Where is Colorado in the Conflict Free Case Management Planning Process?

HCPF has contracted with Navigant Consulting to analyze fiscal data in preparation for the planning process. In addition, HCPF will be setting up meetings and asking for agency and stakeholder engagement to assist in the development of a state wide plan to bring Colorado into compliance under the new rule. Sign up with the Arc of Larimer County to get email alerts about future stakeholder meetings at www.arclc.org or by following us on Facebook.

Federal HCBS Settings Rule:

The new settings rule⁹ was established to ensure individuals receiving long-term services and supports through waiver programs (HCBS) will have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate. Further intent is to enhance the quality of waiver programs and provide protections to participants receiving these services by specifying that service plans for individuals on the Medicaid waiver program must be done through a person centered planning process. The planning is required to be done in a manner that reflects individual preferences and goals balanced with supporting people with options to have the access to the community we all enjoy. For resources including a detailed power point and frequently asked questions and answers, please check out the website provided below.¹⁰ State plans will need to be approved and in effect by March of 2019. Colorado's state transition plan¹¹ has been submitted and is currently under review for approval.

Person Centered Planning

Colorado will be mandated to align our service delivery system with federal guidelines and create a system that better supports people through a Person Centered Planning process. Within this type of delivery system, services and supports are built around the individual to help meet the personal goals and preferences important to the person. The development of Conflict Free Case Management will separate the distinct functions of assessment, authorization, planning and service provision. This means that case managers are better able to objectively support and assist individuals receiving services in identifying needs and developing plans to access services.¹²

To learn more on PCP, you can refer to the Boggs Center guide written for people with I/DD on HCBS advocacy and person-centered planning: *Get the Community Life You Want: A Guide to Home and Community Based Services Advocacy*¹³

Consolidation of Waivers:

Efforts in Colorado to create a better and more person centered LTSS system began in 2012 when the Community Living Advisory Group (CLAG) was created by Executive Order. Members of the CLAG include a variety of stakeholders within the LTSS system including representation from Community Centered Boards (CCB's), parents, individuals receiving services and advocacy organizations to name a few. This group was charged with making recommendations on reforming Colorado's LTSS system. The CLAG also consisted of six sub-committees that analyzed and made recommendations to the larger group in the areas of Care Coordination, Consumer Direction, Entry Point/Eligibility, Regulatory, Workforce and Waiver Simplification. Recommendations from the group were submitted in September of 2014. As a result of the recommendations outlined in its report¹⁴, HB 15-1318 was passed during the 2015 General Assembly that will consolidate the HCBS Supported Living Services (SLS) and comprehensive waivers. There have been concerns raised that individuals already enrolled in these programs may lose services as a result of this consolidation. It

⁹ <https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>

¹⁰ <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

¹¹ <https://www.colorado.gov/pacific/sites/default/files/Colorado%20Transition%20Plan-Final-November%202014.pdf>

¹² http://www.lakeshoreregionalpartners.org/Websites/lrptest/files/Content/4986902/Conflict_Free_CM_White_Paper_April_Revisions_Final.pdf

¹³ http://rwjms.rutgers.edu/departments_institutes/boggscenter/products/documents/GettingtheCommunityLifeYouWantFINAL_001.pdf

¹⁴ <https://www.colorado.gov/pacific/hcpf/community-living-advisory-group-report>

is important to note, a clause¹⁵ was included within this bill to ensure that individuals enrolled in either SLS or Comprehensive services prior to January 1, 2016 will maintain the same level of services.

Our Call to Action:

We encourage your involvement during this process. Change can cause uncertainty, however, **all stakeholders agree in the importance of maintaining the continuity of services during this transition.** The Arc of Larimer County is optimistic about the opportunity these changes could bring to Coloradoans with intellectual and developmental disabilities. We hope you join us as we work with the state to create a thoughtful plan to move this process forward. In the future, there will be meetings open to families, advocates and other community members to contribute to the planning process and we encourage your involvement during this process. Stay informed. Connect with us on Facebook or send us your email for important updates.

For additional Systems Change Resources: www.arclc.org

For questions or concerns please contact Dawn Sakes at 970-204-6991 ext. 11 or dsakes@arclc.org

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[http://www.leg.state.co.us/CLICS/CLICS2015A/commsumm.nsf/b4a3962433b52fa787256e5f00670a71/a481f78845cc4f0187257e2900680bdd/\\$FILE/150416%20AttachB.pdf](http://www.leg.state.co.us/CLICS/CLICS2015A/commsumm.nsf/b4a3962433b52fa787256e5f00670a71/a481f78845cc4f0187257e2900680bdd/$FILE/150416%20AttachB.pdf)