

## ***Acquired Brain Injury Waiver I & Acquired Brain Injury Waiver II Proposed Amendments***

### ***Fact Sheet***

#### **SUMMARY:**

In accordance with the provisions of section 17b-8 of the Connecticut General Statutes, the Commissioner of the Department of Social Services (DSS) intends to:

- (1) amend the Acquired Brain Injury (ABI) I and ABI II Waivers to modify the definition of, and payment rates for, the Cognitive Behavioral Service; and
- (2) amend ABI I Waiver to modify the definition of “Prevocational Services” to comply with guidance issued by the Centers for Medicare and Medicaid Services (CMS) on September 16, 2011, specifying that Prevocational Services must be time-limited.

#### **DETAILS OF PROPOSED AMENDMENT:**

##### **(1) Cognitive Behavioral Service:**

DSS invited all participating providers of the cognitive behavioral service to meet and discuss potential modifications to the definition and payment rates. The meeting and follow-up communications resulted in the following service definition and the development of two procedure codes for the service.

##### *Proposed Definition*

##### **Cognitive Behavioral Programs**

Individual interventions designed to increase an individual’s cognitive and behavioral capabilities and to further the individual’s adjustment to successful community engagement including:

- Comprehensive assessment of cognitive strengths and liabilities, quality of adjustment and behavioral functioning
- Development and implementation of cognitive and behavioral strategies
- Development of a structured cognitive/behavioral intervention plan
- Ongoing or periodic consultation with the waiver participant, support system and providers concerning cognitive and behavioral strategies and interventions specified in the cognitive/behavioral intervention plan
- Ongoing or periodic assistance with training of the waiver participant, support system and providers concerning cognitive behavior strategies and interventions
- Periodic reassessment and revision as needed, of the cognitive/behavioral intervention plan.

This definition more closely aligns with the waivers' goals and objectives while also providing a positive and pro-active tone to better reflect the work performed by Cognitive Behavioral Service providers. It does not decrease or change the Cognitive Behavioral Services offered to participants.

### *Proposed Rate*

The rates proposed are as follows:

- Face-to-Face (In-person) Encounters:

DSS is proposing a rate of \$105.00 per hour for in-person meetings with the participant, and also for meetings with the participant's family, supporters and/or providers, even when the participant is not present. The provider must have an in-person meeting with the participant at least quarterly, i.e., every three months.

- Non-Face-to-Face (Not In-person) Encounters:

DSS is proposing a quarter-hour unit rate of \$17.00 (\$68.00 per hour) for telephone or other secure electronic forms of communication, including Skype. In addition, a provider may be paid at this rate for activities such as reviewing the participant's record and writing the plan of care, even if the participant is not there.

This rate structure increases the face-to-face rate by nearly 27% and, for non-face-to-face encounters, provides a mechanism for Cognitive Behavioral Service providers to bill in quarter-hour increments to account for smaller amounts of service time.

## **(2) Prevocational Services**

In consultation with CMS, DSS originally proposed to limit the availability of prevocational services to up to 40 hours per week for up to a two-year period, with the provision that the two-year limit may be exceeded based on strong justification of the need for additional services.

After reviewing the public comments, the Department now proposes the following revised language:

“Prevocational services would be limited to up to 40 hours per week. This service will be limited to two years, although this limitation may be extended to a maximum of three years upon a determination by the Department that an individual has made substantial progress toward the person-centered goal of attaining supported employment.”

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## **Department of Social Services Q & A**

The questions and answers below are provided to address general inquires received from the public related to the proposed amendments to the ABI I and ABI II Waivers.

**What was the original definition of Cognitive Behavioral Services in the Waivers and why was it changed?**

The prior definition of Cognitive Behavioral Services within the ABI I and ABI II Waivers was:

*Individual interventions designed to decrease the consumer's severe maladaptive behaviors, which jeopardize their ability to remain in the community. Services include:*

- *comprehensive assessment of deficient cognition and maladaptive behavior(s);*
- *development of a structured cognitive/behavioral intervention plan, which has as its primary focus the teaching of socially appropriate behaviors;*
- *the elimination of maladaptive behaviors through the development and implementation of cognitive compensatory strategies;*
- *implementation of the plan;*
- *on-going or periodic supervision of the waiver participant, family members and caregivers concerning treatment regimens, cognitive and behavioral strategies and interventions and use of equipment specified in the plan of care;*
- *periodic reassessment of the plan;*
- *assistance to providers in implementing participant-specific interventions.*

The proposed Cognitive Behavioral Service definition more closely aligns with the waivers' goals and objectives while also providing a positive and pro-active tone to better reflect the work performed by Cognitive Behavioral Service providers. It is important to note that the new definition does not decrease or change the Cognitive Behavioral Services offered to participants. This service is performed within the context of the individual's person-centered team, in concert with the DSS social worker who acts as administrative case manager. Cognitive/behavioral programs may be provided in the individual's home or in the community in order to reinforce the training in a real-life situation.

**Was the decision to change the Cognitive Behavioral Services definition made with provider input?**

Yes. The Department met with Cognitive Behavioral Service providers to discuss changes and improvements to the definition. The proposed definition of Cognitive Behavioral Services is based on the consensus that was reached during those meetings.

**Was the decision to change the rates for Cognitive Behavioral Services made with provider input?**

Yes. The Department met with Cognitive Behavioral Service providers to seek input and discuss the potential adjustments to payment rates. There was consensus that the current rate was not competitive with Medicare and was discouraging providers from participating in the waivers. Accordingly, the Department is proposing to increase the face-to-face rate by nearly 27% to \$105.00 per hour.

Also, the rate proposal for non-face-to-face service allows for Cognitive Behavioral Service providers to bill at a quarter-hour unit rate of \$17.00 (\$68.00 per hour). In the past, such providers did not have a way to account for smaller amounts of service time. This capability will allow for a more accurate payment process by ensuring that payments to providers appropriately reflect the duration of services provided and are consistent with federal Medicaid rules, which require that payments be economic and efficient.

**Do the face-to-face rates for Cognitive Behavioral Services require the participant to always be present at the team meetings that include supports, family members, and/or other providers?**

No. The ABI I and ABI II Waivers were designed with a person-centered approach. While the person-centered approach recommends that the participant be present at all meetings, the Department recognizes that the service may sometimes include meetings with only supporters, family members, and/or providers, not with the participant. The face-to-face rate may be used for such meetings. For this reason, the waiver amendment application states that the rate applies “to face-to-face visits that include the participant, providers, and/or supporters.”

**Does the Cognitive Behavioral Service offered through the ABI I and ABI II Waivers require face-to-face meetings?**

Yes. The Department’s waiver amendment application proposes a minimum of one quarterly, in-person meeting with the waiver participant for the service.

**What are prevocational services?**

Pursuant to federal regulation, 42 C.F.R. § 440.180(c)(i), prevocational services are “services that prepare an individual for paid or unpaid employment, and that are not job-task oriented but are, instead, aimed at a generalized result.”

On September 16, 2011, CMS issued an Informational Bulletin specifying that prevocational services must be time-limited. The Informational Bulletin explains that pre-vocational services are a time-limited service for the purpose of helping individuals obtain competitive employment. The service is designed to provide strengths and skills “that contribute to employability in paid employment in integrated community settings.” Thus, prevocational services are designed to be a pre-cursor to integrated employment.

**Are prevocational services appropriate for all waiver participants?**

No. CMS has advised the Department that the appropriate services for a participant who requires ongoing habilitation services, or who is not likely to ever obtain integrated employment, are habilitation services, not prevocational services. The Department offers habilitation services, such as ABI Group Day or Independent Living Skills Training Services, as distinct waiver services for participants who are not likely to ever obtain integrated employment. When a participant has received prevocational services for two years, and is not determined to be making substantial progress toward the outcome of obtaining integrated employment, it may be in the participant’s best interest to continue care through a more appropriate waiver service that would be identified in the person-centered planning process.

**How was the time limit on prevocational services decided?**

The two-year limitation, absent strong justification for an extension, was based on CMS guidance.

As part of the Request for Additional Information (RAI) process on the ABI II Waiver, the Department was asked to explain how it was “defining the period for prevocational services.” The Department responded that such services are person-centered, and that the length of time was based on the “clinical

judgment of the cognitive behavioral health provider with input from the participant” and the team. Sonya Bowen, the lead reviewer of the Department’s ABI II Waiver application at CMS, responded to the Department as follows:

While CMS recognizes that the duration of prevocational services needed for each individual will vary, this support should be time limited to help individuals realize their goals of obtaining community employment in the most integrated setting to assure that individuals do not [...] inappropriately receive prevocational services for a prolonged period of time[.]

Ms. Bowen specifically asked the Department to specify in the waiver:

the maximum allowable time for prevocational services . . . and the continued appropriateness of service. **For example, a maximum allowable time exceeding two years would not be considered appropriate without a strong justification.** (emphasis added).

In addition, in a follow-up phone conversation with CMS, Ms. Bowen stated that CMS would not approve any time limit longer than two years. Accordingly, the Department limited prevocational services in ABI II to “two years absent strong justification.” CMS approved this language as part of the ABI II Waiver, which became effective on December 1, 2014.

In response to recent inquiries with respect to the Department’s interpretation of CMS’ guidance, CMS confirmed on August 4, 2015 that the language used in the ABI II Waiver “is consistent with the direction the State was given by CMS during the application process for the initial (ABI II) waiver.”

Nevertheless, in light of the concerns raised during the public comment period with respect to the durational limitation, the Department now proposes to modify the language to state that the limitation may be extended to a maximum of three years upon a determination by the Department that an individual has made substantial progress toward the person-centered goal of attaining supported employment.

The proposed durational limit ensures a person-centered approach, through which the Department will evaluate the progress made by each participant toward their individual goal of attaining supported employment, and enables the Department to adhere to the federal definition of the service.

Finally, the Department respectfully disagrees with those who have asserted that the intent of the durational limit on prevocational services is to reduce or deny services to participants of the ABI waiver. Rather, the purpose of the limit is to ensure that each individual is benefitting, as intended, from the service. As outlined by CMS in another communication to the Department, “if an individual is exceeding the amount of time specified [for prevocational services,] the individual may not be receiving the correct service.” In any circumstance in which the durational limit is invoked, the involved care manager would work with the individual and his/her identified representatives to review the terms of the care plan and to consider incorporating other types of services.