

Report to the Legislature:
**FEASIBILITY ASSESSMENT OF MEDICAL ASSISTANCE EXPANSION TO
COVER DEAF-BLIND SERVICES**

Prepared by the Minnesota Department of Human Services
Deaf and Hard of Hearing Services Division

January 2, 2003

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Report preparation cost (as mandated by the Laws of 1994):
This report cost \$2,531.00 in staff time to prepare.

EXECUTIVE SUMMARY

In examining the feasibility of expanding benefits covered under medical assistance and medical assistance waiver programs to include sign language interpreter, intervenor, support service provider, orientation and mobility and rehabilitation teaching services, the Department first determined whether such services can be provided within either the current Medical Assistance (MA) benefit or MA waiver benefit sets. Only if we determined that they could not did we explore other options. Our analysis is as follows:

A. On paper it appears that deafblind Minnesotans currently have access to the sign language interpreter services needed to have communication access to MA-provided services. In reality, some deafblind Minnesotans who receive MA services from MA-enrolled providers with 15 or more employees do not have equal access to such MA-provided services. For this reason, the Legislature may want to address this issue.

B. For deafblind adults and children eligible for “standard” MA services, intervenors and support service providers (SSPs) can be provided within existing MA covered services. However the rate of reimbursement for providers who can communicate directly with deafblind individuals using sign language or other specialized communication techniques is something that the Legislature may want to address. To do so may result in cost savings for MA while also enhancing communication access to needed services.

C. Orientation and mobility and rehabilitation teaching services are not available to deafblind individuals who are only eligible for MA or MA Home Care. However those deafblind adults or children now eligible for the Community Alternatives for Disabled Individuals (CADI) waiver or for any waiver once the consumer directed option is approved should be able to purchase and receive needed orientation and mobility and rehabilitation teaching services.

D. For these reasons, the Department recommends that additional benefits not be added to the state MA plan. Instead the Department will take steps to ensure that all deafblind children and adults are appropriately assessed for MA and MA waiver eligibility, as follows:

- 1) DHS will undertake efforts to educate parents of deafblind children whose income exceeds the MA eligibility standards about TEFRA.
- 2) DHS will offer training to deafblind adults and parents of deafblind children about MA, MA waivers and the MA waiver assessment process.
- 3) DHS will develop and offer guidelines for county public health nurses and others who screen deafblind adults and children to determine their eligibility for MA waivers. Such guidelines will include information regarding the ways in which a dual hearing and vision sensory loss impacts activities of daily living (ADLs) and may include the development of a short supplement to the Preadmission Screening Assessment (LTCC form) as has been done for children under 18.

LEGISLATIVE DIRECTIVE

2002 Session Law Chapter 375 – S.F. No 3099

Sec. 55. [FEASIBILITY ASSESSMENT OF MEDICAL ASSISTANCE EXPANSION TO COVER DEAF-BLIND SERVICES.] (a) The commissioner of human services shall study and report to the legislature by January 15, 2003, with a feasibility assessment of the costs and policy implications, including the necessity of federal waivers, to expand benefits covered under medical assistance and under medical assistance waiver programs to include the following services for deaf-blind persons: (1) sign language interpreters; (2) intervenors; (3) support service persons; (4) orientation and mobility services; and (5) rehabilitation teaching services. (b) Notwithstanding Laws 2001, First Special Session chapter 9, article 17, section 10, subdivision 3, the commissioner may transfer \$20,000 of deaf and hard-of-hearing grants to operations for purposes of paragraph (a). The study and report under paragraph (a) is exempt from the consulting contract moratorium in Laws 2002, chapter 220, article 10, section 37.

INTRODUCTION/PREMISE

Given the State's current budget deficit, the Department has examined the above issues from the perspective of whether the identified services can be provided to deafblind Minnesotans who are eligible for Medical Assistance (MA) within the current MA or MA waiver benefit sets. Only if we determined that they could not did we examine the option of adding the services as new benefits or via a new federal waiver.

BACKGROUND

Eligibility for Medical Assistance

Because eligibility for Medical Assistance is based on medical necessity and income, not all deafblind Minnesotans are eligible. Although data does not exist identifying the number of deafblind individuals in Minnesota, a reasonable estimate is that there are approximately 718 people in the state who are both profoundly deaf and blind. This estimate includes 220 individuals below the age of 21 and 498 over the age of 21. (See Page 32 of the Report to the Minnesota State Legislature: DeafBlind Services Study: February 1, 2002.)

We also do not know the percent of deafblind individuals in Minnesota receiving MA. However, based on information from State Services for the Blind (SSB), we can estimate that a large percentage of deafblind individuals are or would be eligible for Medical Assistance. (SSB reports that of the 42 deafblind adults age 21-54 on their caseload, 38 are recipients of MA.) This percentage may be somewhat inflated since deafblind individuals receiving services from SSB in most instances will be those unemployed and seeking gainful employment. In addition, the percentage may be smaller for families with

deafblind children since more families may have incomes that exceed MA eligibility guidelines.

For deafblind Minnesotans who are eligible for Medical Assistance, there are two service options within the MA program.

Option #1: State plan benefits available to all people eligible for MA and MA Home Care. These benefits include but are not limited to:

- a) Interpreter/transliterators benefits and
- b) Personal care assistant services (PCAs)

Option #2: Home and Community Based Services (HCBS)

HCBS waiver programs allow the Department of Human Services (DHS) to use Medical Assistance and state funds to provide services and support to people in their homes or a community setting as an alternative to hospital, intermediate care facility for persons with mental retardation or related conditions (ICF/MR), or nursing facility (NF) care. Their purpose is to promote community living and independence based on an individual's needs. HCBS programs pay for different services or more services than are otherwise available under the MA program. All HCBS program applicants must qualify for MA as a basis of eligibility, except for the Alternative Care (AC) program. One of the key eligibility criteria is risk of institutionalization in a nursing facility, ICF/MR or hospital.

The following HCBS waiver programs currently available under MA are for individuals who are under age 65 at the time of enrollment and who have a disability:

- Community Alternative Care (CAC) Waiver;
- Community Alternatives for Disabled Individuals (CADI) Waiver;
- Home and Community Based-Services Waiver for Persons with Mental Retardation or Related Conditions (MR/RC Waiver); and
- Traumatic Brain Injury Waiver (TBIW).

Individuals who are under 65 and who qualify for MA under the Employed Persons with Disabilities program (MA-EPD) are eligible for all of the above waivers if they meet all other eligibility criteria.

The following HCBS programs are for people aged 65 and over whose care needs would otherwise require the level of services provided by a nursing facility:

- Elderly Waiver (EW)
- Alternative Care (AC)

Among existing waivers, deafblind adults and children are most likely to be found eligible for either the Community Alternatives for Disabled Individuals (CADI) waiver or

the Home and Community Based –Services Waiver for Persons with Mental Retardation or Related Conditions (MR/RC Waiver).

ANALYSIS

This section analyzes three questions:

- 1) What is the cost and policy feasibility of providing full MA coverage **for sign language interpreter services**, when needed to access other services paid for by MA?
- 2) What is the cost and policy feasibility of providing MA coverage **for support service providers (SSPs) and intervenor services**?
- 3) What is the cost and policy feasibility of providing MA coverage **for orientation and mobility services and rehabilitation teaching services**?

A. Sign Language Interpreter services

Sign language interpreters are professionals trained to efficiently convey information to the deafblind individual in their preferred mode of communication. They follow a professional Code of Ethics and are typically used in job interviews, medical settings, legal proceedings, etc. Most often, however, their training is in providing this service to individuals who are deaf and not deafblind. Additional and specialized training is required for interpreters to be skilled in providing this service to deafblind consumers. (From DeafBlind Services Study: Report to the Minnesota State Legislature: February 1, 2002: page 27).

Current MA policy regarding payment for sign language interpreter services is as follows:

“Sign Language Interpreter Services

All providers are required to provide sign language interpreter services when such services are necessary to enable hearing impaired recipients to obtain covered services. Provider responsibility for paying for the interpreter services depends on the number of persons the provider employs.

- When 15 or more persons are employed, the provider must pay for the service.
- When fewer than 15 persons are employed, the local human services agency must pay for the sign language interpreter services. The local human service agency is responsible for establishing fees appropriate to the situation and the certification level of the interpreter. The rate should be agreed upon before services begin. If services are needed for four or more hours per week, it may be beneficial to negotiate a reduced rate and a

contract for services.” (From MA Provider Manual – chapter 1: Requirements for all Providers: Access Services)

This is different from the way MA pays for oral interpreting services. Pursuant to state statute, MA pays for all necessary oral language interpreters when provided by an enrolled health care provider. (see 256B.0625, Subd. 18a).

256B.0625 Covered services.

Subd. 18a. Access to medical services.

(d) Medical assistance covers oral language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient with limited English proficiency.

Policy analysis

In theory, sign language interpreter services are already available for deafblind Minnesotans who need communication access to services paid for by MA. If the MA-enrolled provider has fewer than 15 employees, the local human services agency must pay for the sign language interpreter services. If the MA-enrolled provider has more than 15 employees, the provider must pay for the sign language interpreter services.

In practice many deafblind Minnesotans experience a different reality. Based on anecdotal information, we have reason to believe that MA providers with 15 or more employees often resist paying for sign language interpreter services and/or find reasons not to accept deaf or deafblind individuals as clients because of the cost of the interpreter services. This results in deafblind Minnesotans not having equal access to the full range of MA-provided services.

In order for deafblind Minnesotans to have the same access to interpreter services for MA-provided services as do persons speaking oral languages other than English, it would be necessary to amend both MSA 256B.0625 and the State MA plan regarding sign language interpreter services. Doing so would have fiscal consequences.

Cost analysis

If MSA 256B.0625 were amended to include full MA coverage for sign language interpreter services, an estimate of the cost implications is as follows:

From October 1, 2001 to October 1, 2002 the cost for sign language interpreter services when provided by county human service agencies (because of the MA provider having fewer than 15 employees) amounted to \$45,738.77.

Our best estimate is that the amount would at least double if MA was to also pay for sign language interpreter services when the MA-enrolled provider has 15 or more employees.

This estimate assumes that about 1/2 of the MA-enrolled providers have 15 or more employees. There is no exact data on this since MMIS does not track the number of employees but our estimate is based on the total number of enrolled providers whom we assume have over 14 employees (e.g. hospitals, counties, RTCs, Day Treatment providers, clinics).

By taking this number of providers (about 17,000) and assuming they aren't the ones billing for the \$45,738.77, we calculate that the number would at least double considering that they would see at least as many patients and presumably far more. And we assume that the same percentage of clients would require sign language interpreter services.

Therefore our best estimate is that it would cost between \$91,478 and \$137,217 for MA to provide full coverage for sign language interpreters.

Conclusion: On paper, it appears that deafblind Minnesotans currently have full access to the sign language interpreter services needed to have communication access to MA-provided services. In reality, some deafblind Minnesotans who receive MA services from MA-enrolled providers with 15 or more employees do not have equal access to such MA-provided services. The Legislature may wish to address this inequity.

B. Intervenor and Support Service Provider (SSP) services

Intervenors are individuals who work with deafblind children and youth in a variety of settings including the home, the community and in education. They provide one-on-one supports in the preferred mode of communication used by the child. Such supports not only assist in learning, but also generally ensure that there is clear and continuous access to information in the child's environment. It should be emphasized that they work with, but do not replace, the teacher or parent. The intervenor should have specialized training. (From DeafBlind Services Study: Report to the Minnesota State Legislature: February 1, 2002: page 27).

Support service providers (SSPs) are individuals trained to assist people who are deafblind with a variety of home and community activities. For adults, SSP services are crucial in assisting with daily living tasks such as food shopping, reading mail, paying bills, accessing recreational activities and organizing medications. They may also provide the support of a safe escort. (From DeafBlind Services Study: Report to the Minnesota State Legislature: February 1, 2002: page 27).

Policy Analysis

Question: Can deafblind Minnesotans receive intervenor and support service provider services within currently covered MA service categories?

Answer: Yes.

Rationale: The definition of Personal Care Assistant services is as follows:

MSA 256B.0627 Covered service; home care services.

Subd.4. Personal care assistant services.

- (a) The personal care assistant services that are eligible for payment are services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living; instrumental activities of daily living;.....

"Instrumental activities of daily living" are defined to include meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communication by telephone and other media, and getting around and participating in the community." (See MSA 256B.0627, Subd.1.(g))

In addition, the DHS MHCP Provider Manual defines "homemaker services" for HCBA waiver programs as:

Homemaker services are those residential services which provide general household activities by a trained homemaker when the individual (beneficiary), family member(s), or primary caregiver regularly responsible for these activities is temporarily absent, or unable to manage the home and care for himself/herself or others in the home. Homemaker Services will be directed toward enabling an individual to remain in the community and thus avoid institutionalization. Homemaker services include meal preparation, routine household care, shopping and errands, assisting with daily activities, arranging transportation, providing emotional support and social stimulation, and monitoring safety and well being.

Conclusion: Given the functional definition of intervenor and SSP services, deafblind individuals who are eligible for MA should be able to receive such needed services within the MA service category of PCAs. In addition, deafblind individuals eligible for MR/RC, CADI or CAC waivers may be able to receive some SSP services within the HCBS waiver category of "homemaker" services. Homemaker services are not available to persons who are eligible only for "straight" MA services.

An additional policy issue: Reimbursement rates

Both deafblind adults and parents of deafblind children who are currently receiving either MA or MA waived services tell us that because of the current MA rate limits for PCA services, it is very difficult to find qualified intervenors or SSPs to work for them. For them, "qualified" includes someone who is able to effectively communicate using sign language and who has knowledge and training in working with deafblind individuals.

Apparently the current "going rate" for qualified intervenors and SSPs is \$15-20 per hour. However the current maximum rate for independent PCA services for MA Home

Care is only \$9.52 per hour. (See DHS Bulletin #02-56-11, Attachment F.) The current maximum rate for Extended PCA services under the MR/RC, CADI and CAC waivers is \$14.92 per hour. PCA extended services are only available after PCA services through “straight” MA have been accessed to their full limit. (See DHS MA Provider Manual, Chapter 26.)

One parent pointed out that the cost of hiring both a PCA plus a sign language interpreter to provide communication access to the PCA services, far exceeds the going rate of \$15-20 for intervenor or SSP services. Hiring both a PCA for \$9.52 per hour plus an interpreter for approximately \$55 per hour (the “going” free-lance market rate for an interpreter qualified to work with deafblind individuals) costs a total of \$64.52 an hour versus \$15-20 per hour for an intervenor or SSP who can communicate directly with the deafblind individual.

Rate limits for homemaker services are more liberal, ranging from \$16.56 - \$17.92. (See DHS Bulletin #02-56-11) Therefore to the extent that deafblind individuals eligible for the CADI, MR/RC or CAC waivers are determined to be in need of homemaker services, they may be able to receive some SSP services through this service category.

Conclusion: Unless an exception is made to the current MA rate limit for PCAs with specialized communication skills, many deafblind individuals who are eligible for MA will go without or receive ineffective SSP or intervenor services. In the alternative, if they choose to hire both a PCA and a sign language interpreter, the cost to MA will far exceed the cost of appropriate services that could be provided if an exception existed to the current MA rate limits.

With the anticipated expansion of consumer directed options for the CADI and CAC waivers in July, 2003, deafblind persons eligible for MA waived services should be able to purchase and receive appropriate intervenor, SSP or PCA services because they will be able to individually negotiate the pay rate necessary to hire someone with the needed sign language communication skills. However this will not help those deafblind individuals who are eligible for MA or MA Home Care but not for an MA waiver.

C. Orientation and Mobility Services

Orientation and mobility specialists are teachers with a background in the education and rehabilitation of individuals with “blindness”. Their specialty is in the training of skills and techniques that allow a youth or adult with blindness or visual impairment to travel safely and independently in the home and in the community. (From DeafBlind Services Study: Report to the Minnesota State Legislature: February 1, 2002: pages 27-28).

Policy Analysis

Question: Can deafblind Minnesotans receive orientation and mobility (O&M) services within currently covered MA service categories?

Answer: Deafblind individuals who are only eligible for MA or MA home care services cannot receive O&M services within existing MA service categories. However persons eligible for the CADI waiver could receive such services under the MA service category of “Independent Living Skills” (ILS) if they are assessed to be in need of such services. Note: ILS is not available under the current CAC or MR/RC waiver.

Rationale: The DHS MHCP Provider Manual defines “Independent Living Skills” for HCBA waiver programs as:

Independent living skills (ILS) services are directed at the development and maintenance of community living skills and community integration. Services may include supervision, **training**, or assistance to the recipient with self-care, communication skills, socialization, sensory/motor development, reduction or elimination of maladaptive behavior, **community living and mobility**. (emphasis added)

Given the functional definition of orientation and mobility services, deafblind individuals who are eligible for the MA CADI program should be able to receive such needed services if assessed to be in need of ILS. Also, with the anticipated expansion of consumer directed options for all waivers in July 2003, deafblind persons eligible for MA waived services should be able to purchase and receive orientation and mobility services.

Conclusion: Given the cost impact of adding a new MA service category for O& M services, it seems a more prudent alternative is to educate both deafblind consumers and counties about the option for deafblind individuals to obtain needed O&M services through the existing ILS service category for the CADI waiver and/or through any of the MA waivers when the consumer directed option becomes available. In addition, DHS will identify and address any MA waiver assessment issues that may currently impede deafblind children and adults from being found eligible for MA waived services.

D. Rehabilitation teaching services

Rehabilitation teaching services is defined as follows:

"Instruction in and non-mechanical aids needed to use alternative techniques other than outdoor cane travel". (See MN Rules 3325.0110, Subpart 66) These alternative techniques include **instruction in** Braille, activities of daily living, money management, home management, self-care activities, etc. Non-mechanical aids are such **adaptive**

devices as talking or large print clocks, watches; slate and stylus for writing Braille; talking or large print calculators; large number phones; etc.

Question: Can deafblind Minnesotans receive rehabilitation teaching services within currently covered MA service categories?

Answer: Deafblind individuals who are only eligible for MA or MA home care services cannot receive rehabilitation teaching services within existing MA service categories. However persons eligible for the CADI waiver could receive some such services under the MA service category of “Independent Living Skills” if they are assessed to be in need of such services. Note: ILS is not available under the current CAC or MR/RC waiver. In addition, some elements of rehabilitation teaching services may be available to persons eligible for the CADI, MR/RC or CAC waiver if assessed to be in need of certain “Modification and Adaptation” services.

Rationale: The DHS MHCP Provider Manual defines “Independent Living Skills” for HCBA waiver programs as follows: “Independent living skills (ILS) services are directed at the development and maintenance of community living skills and community integration. Services may include supervision, training, or assistance to the recipient with self-care, communication skills, socialization, sensory/motor development, reduction or elimination of maladaptive behavior, community living and mobility.”

Portions of “instruction in Braille, activities of daily living, money management, home management, self-care activities, etc.” (from the definition of rehabilitation teaching services) seems to fit within the parameters of “...training...with self-care, communication skills, socialization...community living and mobility”. Therefore persons eligible for the MA CADI program should be able to receive such needed services if assessed to be in need of ILS. Also, with the anticipated expansion of consumer directed options for all waivers in July 2003, deafblind persons eligible for MA waived services should be able to purchase and receive rehabilitation teaching services.

In addition, the DHS MHCP Provider Manual defines “Modifications and Adaptations” as “...adaptations to the home...which are necessary to ensure the health, welfare and safety of the individual or which enable the recipient to function with greater independence.” Within this service category, deafblind persons eligible for the CADI, CAC or MR/RC waiver may be able to receive “...adaptive devices (such) as talking or large print clocks, watches; slate and stylus for writing Braille; talking or large print calculators; large number phones; etc.

Conclusion: Again, given the cost impact of adding a new MA service category for rehabilitation teaching services, it seems more prudent to educate both deafblind consumers and counties about the option for deafblind individuals obtaining such needed services through the aforementioned existing ILS service categories and for DHS to

identify and address any MA waiver assessment issues which may currently impede deafblind children and adults from being found eligible for MA waived services.

SUMMARY

Because it appears that deafblind Minnesotans who are eligible for MA and receive services from MA-enrolled providers with 15 or more employees may not have equal communication access to MA-provided services, the Legislature may want to address this issue.

For deafblind adults and children eligible for “standard” MA services, the services which we believe deafblind consumers and their families are most concerned about – intervenors and SSPs – can be provided within existing MA covered services. However the rate of reimbursement for providers who can communicate directly with deafblind individuals using sign language or other specialized communication techniques is something that the Legislature may want to address. To do so may result in cost savings for MA while also enhancing access to needed services.

Deafblind adults or children eligible for a MA waiver should be able to purchase and receive intervenor, support service provider, orientation and mobility and rehabilitation teaching services once all MA waivers have the consumer directed option.

To ensure that all deafblind children and adults are appropriately assessed for MA and MA waiver eligibility, DHS will:

- 1) Undertake efforts to educate parents of deafblind children whose income exceeds the MA eligibility standards about TEFRA.
- 2) Offer training to deafblind adults and parents of deafblind children about MA, MA waivers and the MA waiver assessment process.
- 3) DHS will develop and offer guidelines for county public health nurses and others who screen deafblind adults and children to determine their eligibility for MA waivers. Such guidelines will include information regarding the ways in which a dual hearing and vision sensory loss impacts activities of daily living (ADLs) and may include the development of a short supplement to the Preadmission Screening Assessment (LTCC form) as has been done for children under 18.