

Medicaid Waivers Overview

Brian Campbell, Roberta Matthews, and Betty Norris
Long Term Care



Virginia Department of Medical
Assistance Services

Long-Term Care Services Defined

➤ **Institutional Services**

- Nursing Facility
- Intermediate Care Facilities for the Mentally Retarded (ICF/MR)

➤ **Community Based Services**

- Waivers
- Program of All-Inclusive Care For the Elderly (PACE)

Alternate Institutional Placement According to Waiver

<i>Waiver</i>	<i>Alternate Institutional Placement</i>
AIDS	Nursing Facility/Hospital
CD-PAS	Nursing Facility
Developmentally Disabled	Intermediate Care Facility for the Mentally Retarded (ICF/MR)
Elderly and Disabled	Nursing Facility
Mentally Retarded	Intermediate Care Facility for the Mentally Retarded (ICF/MR)
Technology Assisted	Specialized Care in Nursing Facility for adults/Hospital for children

Eligibility for Long-Term Care Services

- To be eligible for Medicaid-funded long-term care services individuals must :
 - Qualify for Medicaid; and
 - Meet specified long-term care criteria according to a standardized long-term care assessment instrument
 - Uniform Assessment Instrument (UAI) for nursing facility level of care
 - Level of Functioning (LOF) Survey for ICF/MR level of care

Home and Community Based Services - 1915(c) Waivers

- Optional programs that afford States flexibility to develop and implement alternatives to institutionalization. Approved initially for 3 years, and then in 5 year increments.
- Virginia assures that people who do not meet LTC criteria are not admitted to LTC by screening individuals who request services. Virginia's preadmission screening program has been in place since 1977. (Mandated by Code of Virginia § 32.1-330.)

Home and Community Based Services Waivers -1915 (c)

42 C.F.R. 441.300 (Subpart G)

- Can waive statewideness.
- This means that the waiver may be limited to specific geographic areas.



Home and Community Based Services Waivers -1915(c)

42 C.F.R. 441.300 (Subpart G)

Can waive rules that require States to provide services, on an equal basis, to all people in the State (can target specific populations).

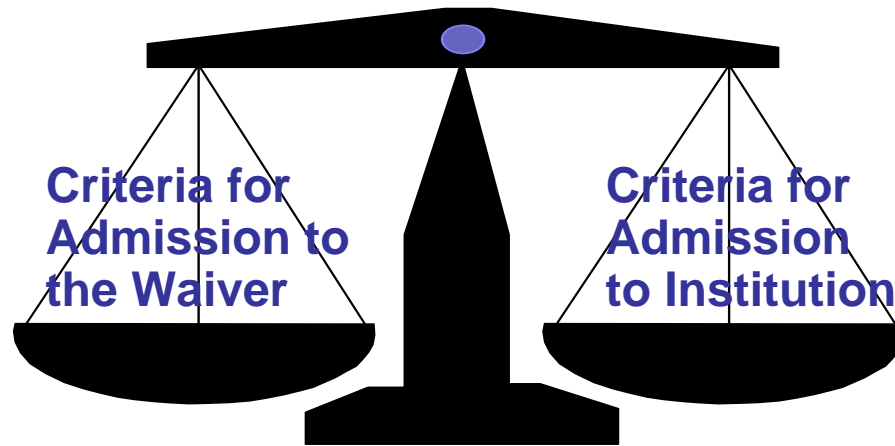
Home and Community Based Waivers

- Waivers can be targeted to specific groups or any subgroup of:
 - ◆ *aged or disabled, or both*
 - ◆ *mentally retarded or developmentally disabled, or both*
 - ◆ *mentally ill* * Medicaid does not pay for services in an IMD for people who are age 21 through age 64.

Alternate Institutional Placement

- There must be an alternate institutional placement for which Medicaid pays. Cannot get a waiver with an alternate institutional placement of an IMD.
- Must determine the alternate institutional placement, and must name that placement in the waiver application.
- This does not mean that the individual must actually be placed in the institution or make application to an institution.

Alternate Institutional Placement



The individual who is applying for a waiver must meet the same criteria that is used for admission to the institution. 42 C.F.R. 441.302 (c)(1); 42 C.F.R. 441.303 (c)(2)

To Receive Approval to Implement a Waiver

Must Offer Choice

In order to have a waiver approved by the Centers for Medicare and Medicaid Services (CMS), the applicant must be offered the choice between the waiver and the alternate institution.

42 C.F.R. 441.302(d)

To Receive Approval to Implement a Waiver

Waiver Must be Cost Effective

- In order to have a waiver approved by CMS, it must be cost effective
42 C.F.R. § 441.302 (e)
- That is, the Medicaid Agency must assure CMS it will not cost more to provide home and community based services than providing institutional care would cost. *To Receive Approval to Implement a Waiver*

Waiver Must be Cost Effective

- It can be individually cost effective or cost effective in the aggregate.
 - **Aggregate Cost Effectiveness** : The average cost to Medicaid of individuals on the waiver cannot cost more than the average cost to Medicaid of individuals in the comparable institution.
 - **Individual Cost Effectiveness**: Cost to Medicaid for the individual in the community can't exceed the cost in the comparable institution.

To Receive Approval to Implement a Waiver

The Single State Medicaid agency must:

- make policy
- administer the program
- can contract services but must retain responsibility for policy and administration of the program 42 C.F.R. 431.10
- The waiver Plan of Care must be subject to approval by the Medicaid agency. 42 C.F.R. 441.431(b)(1)

**Applies to
all
Medicaid
Services**

To Receive Approval to Implement a Waiver

The Medicaid Agency must also assure CMS that there are safeguards to protect the health and welfare of recipients.

42 C.F.R. 441.302(a)



Waiver Payments are for Services Rendered

- Waivers provide services that are not available to the general Medicaid population.
- Waivers don't have to offer the same services with the same service definitions as other waivers.



Medicaid waiver funds cannot pay for room and board.

To Receive Approval to Implement a Waiver

Medicaid Waivers

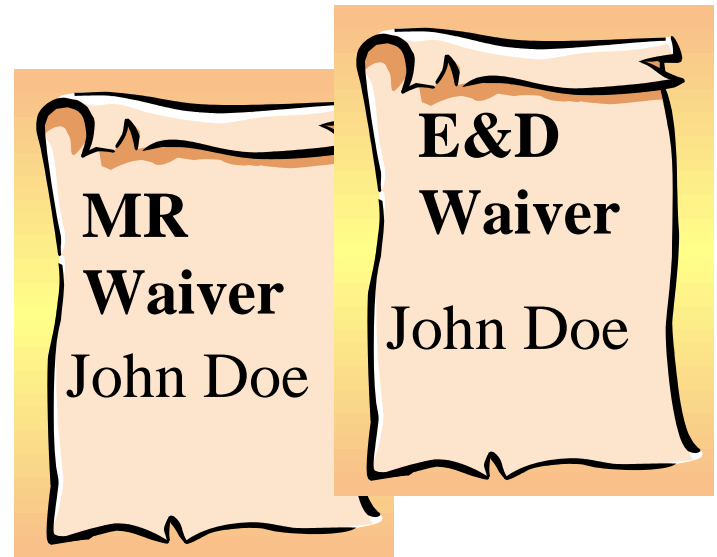
- **Virginia has 6 Home and Community Based Care 1915 (c) waivers**
 - **Elderly and Disabled Waiver** *12 VAC-30-120-10*
 - **Technology Assisted Waiver** *12 VAC-30-120-70*
 - **AIDS Waiver** *12 VAC-30-120-140*
 - **Mental Retardation Waiver** *12 VAC-30-120-210*
 - **Consumer-Directed Personal Attendant Services Waiver** *12 VAC-30-120-490*
 - **Individual and Family Developmental Disabilities Support Waiver (DD Waiver)** *12 VAC-30-120-700*

Waiver Eligibility - All Waivers

- Financial eligibility is determined as if the person is institutionalized (“institutional deeming rule”).
 - *The income and resources of parents are not deemed when determining eligibility for waivers.*

Waiver Eligibility - All Waivers

- Cannot be served in more than one waiver at a time (federal requirement).
- Can be on one waiver while on a waiting list for another waiver if meet the admission criteria for both waivers.



What
Waivers
Have in
Common

Waiver Eligibility - All Waivers

- The State and CMS agree to a number of slots that will be available for the waiver.
- The State cannot exceed the number of slots that have been agreed upon.

What
Waivers
Have in
Common

Waiver Eligibility

- Higher income level for long term care = 300% of SSI income level (currently \$1,635) - all waivers. (Federal law will not allow a state to use an income level higher than 300% of SSI.)
- For AIDS, CD-PAS, Elderly and Disabled, and Technology Assisted Waivers, individual could be on a spend-down if income is over this amount. There is no spend-down option for the MR and DD Waivers.

Waiver Eligibility

Most Waivers

- Most waiver recipients must contribute toward the cost of care through payment of a patient pay. The patient pay is usually all income in excess of 100% of the SSI income level - currently \$552.
- Two exceptions:
 - the AIDS waiver does not have a patient pay;
 - the CD-PAS, DD, and MR waivers allow individuals to keep more of their earned income.

Consumer Directed Services

- Available in four of Virginia's waivers:
 - AIDS (effective date)
 - CD-PAS Waiver
 - DD Waiver (personal care and respite)
 - MR Waiver (personal care, respite, and companion)

Consumer Directed Services

- Afford recipients or family caregivers direct control over who, how, and when services are provided.
- Waiver recipient is the employer of record with the IRS.
- In Virginia personal assistants are classified as domestic servants and are not subject to worker's compensation rules.

Consumer Directed Services

- At a minimum, personal assistants cannot be a legally responsible relative (a spouse or a parent of a minor child). * Waivers can and do define differently.
- Payment is not made to other family members unless there is objective, written documentation as to why there are no other providers available to provide the service. *

*These are federal requirements.

Consumer Directed Services

- The assistant is paid on behalf of the waiver recipient by a fiscal agent.
- The fiscal agent (currently DMAS*), is recognized by the IRS, and allows recipients to receive consumer-directed services while being assured that all employment tax responsibilities are properly handled.

Cost Factor #1. Number of Individuals Served/Expenditures in Waivers in FY 2003

Waiver	Recipients	Waiver Costs (in Millions)	Other Costs (in Millions)	Total (in Millions)
DD	254	\$3.7	\$1.5	\$5.2
MR	5,428	\$216	\$44.5	\$260.5
Tech	269	\$16	\$8 (2002)	\$24
Total	5,951	\$235.7	\$54	\$289.5

Cost Factor #1. Number of Individuals Served/Expenditures in Waivers in FY 2002

Waiver	Recipients	Waiver Costs (in Millions)	Other Costs (in Millions)	Total (in Millions)
AIDS	337	\$1.3	\$5.9	\$7.2
CD-PAS	191	\$2.7	\$1	\$3.7
DD*	124	\$1.2	\$.6	\$1.7
E&D	9,271	\$90.2	\$49.8	\$140
MR	5,367	\$198	\$37.5	\$235
Tech	308	\$17.9	\$8	\$25.98
Total	15,474	\$311	\$102.8	\$413.7.

**Projected – totals do not include DD waiver*

Overview of Specific Waivers



Technology Assisted Waiver



- Eligible if need both a medical device to compensate for the loss of a vital body function and substantial and ongoing skilled nursing care.
- Objective scoring tool used to help determine eligibility
- Case managed by DMAS nurses (RNs)
- Different rules for children and adults
- Cannot get more than 16 hours of care in a 24 hour day

Technology Assisted Waiver

ADULTS

- PAS completes UAI for adults only. DMAS staff completes screening for adults.
- Eligible if meets nursing facility specialized care criteria.
- Cost effectiveness = nursing facility specialized care - individual cost effectiveness

CHILDREN

- DMAS staff completes screening for children.
- Eligible if depends part of day on vent; or requires prolonged intravenous nutrition, drugs, or peritoneal dialysis; or daily dependence on other device-based respiratory or nutritional support
- Cost effectiveness = hospital costs - aggregate cost effectiveness

Technology Assisted Waiver

- Services:
 - Private duty nursing
 - Respite care
 - Assistive Technology (\$5,000 max per cal. year)
 - Personal care for individuals over 21
 - Environmental Modifications (\$5,000 max per cal. year)
- There is no waiting list for this waiver.

MR Waiver

- Eligible if have a diagnosis of mental retardation, or under the age of six at developmental risk. Screenings by local Community Services Board (CSB).
- Aggregate Cost Effectiveness
- “Needs based” - those who meet urgent criteria are served first.
- CSBs are given a number of slots to manage. They cannot exceed their slot allocation.
- There is a waiting list for this waiver.

MR Waiver Services

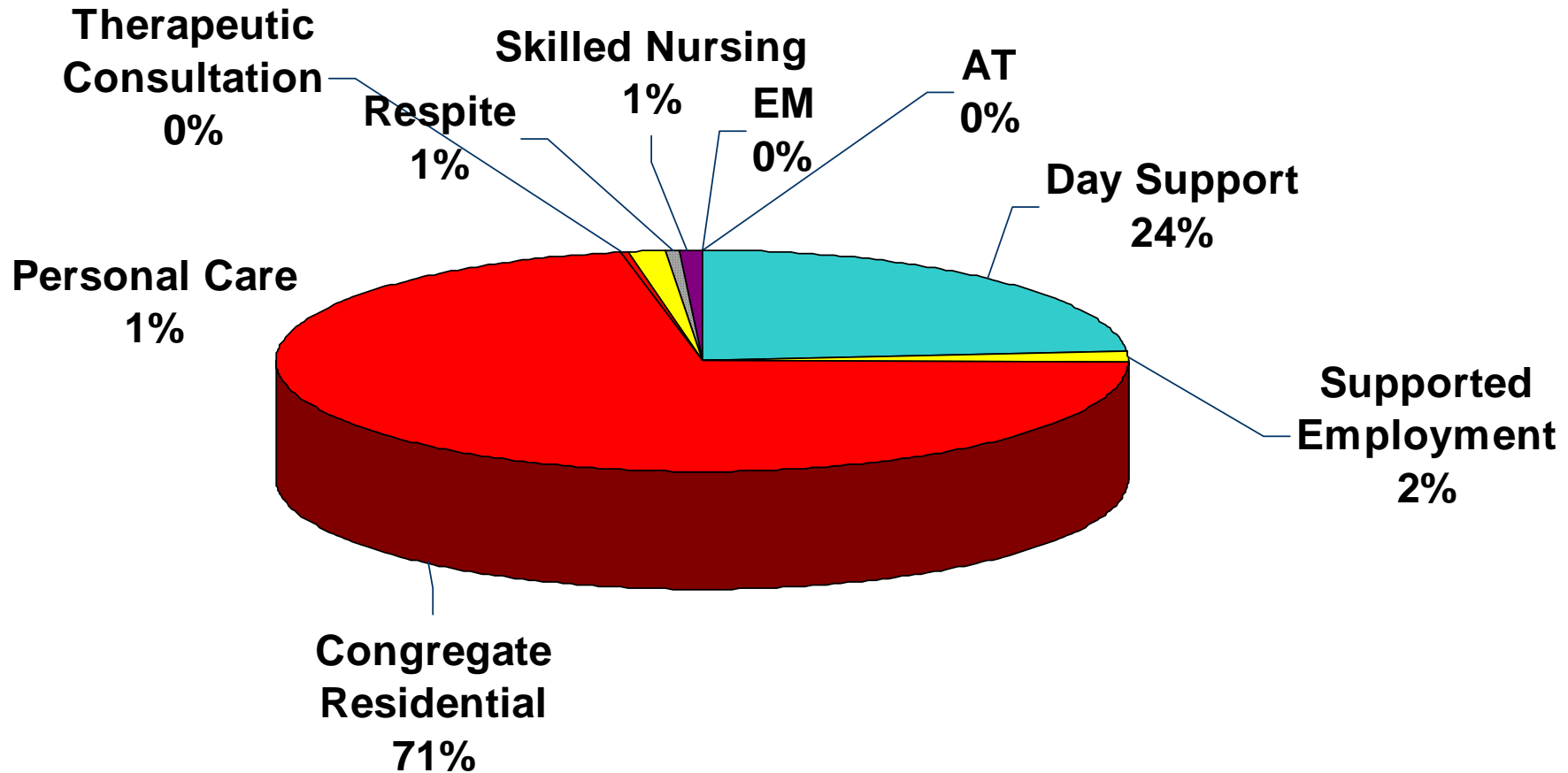
- **Services:**

- residential support
- day support
- supported employment
- personal assistance*
- respite care (720 hours max/year)*
- assistive technology (\$5,000 max/year)
- environmental modifications (\$5,000 max/year)

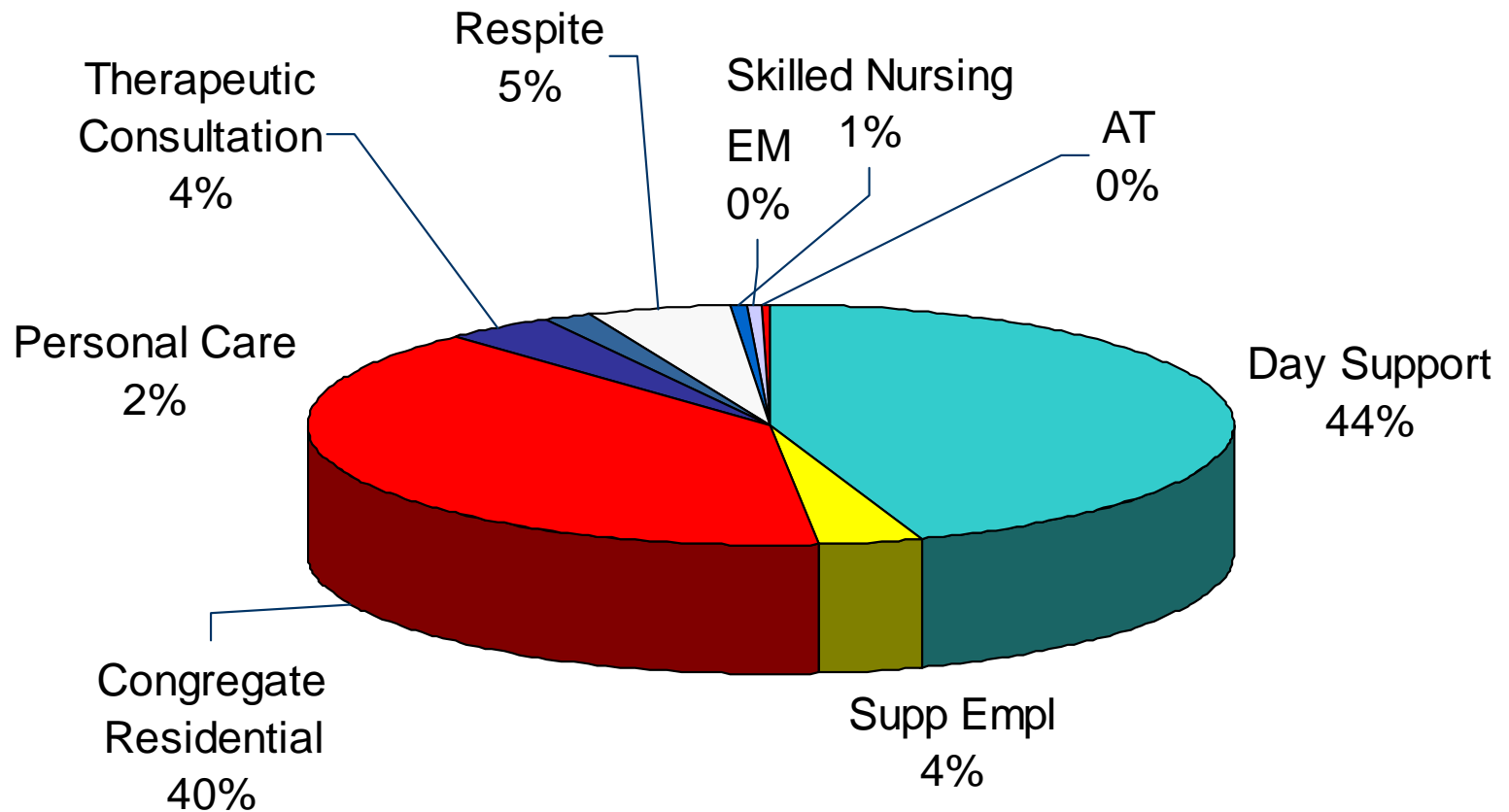
- prevocational services
- nursing services
- therapeutic consultation
- personal emergency response system (PERS)
- companion*

* agency or consumer directed

MR Waiver - Service Percentages by Expenditures



MR Waiver - Service Percentages by Number of Recipients



DD Waiver

- DMAS was directed by 1999 General Assembly Session to develop a new waiver for persons with developmental disabilities.
- In order to get waiver approval from CMS, there must be an alternate institutional placement.
- For this waiver the alternate placement must be an Intermediate Care Facility for the Mentally Retarded.

DD Waiver

- Screening request form submitted to DMAS.
- DMAS forwards request form to the appropriate clinic.
- Screenings conducted by Child Development Clinics throughout the State.
- Screeners determine functional eligibility and determine no diagnosis of MR

Eligibility for the DD Waiver ("Related Conditions" Waiver)

- The individual must:
 - be 6 years of age and older and meet the “related conditions” requirements of C.F.R. § 435.1009, including autism (can be screened 3 months prior to 6th birthday); and
 - Not have a diagnosis of mental retardation as defined by the American Association of Mental Retardation (AAMR); and
 - Meet the level of care for admission to an Intermediate Care Facility for the Mentally Retarded (ICF/MR).
 - Services are “first come-first served.”

Covered Services

- Support coordination (case management) - State Plan Option Service
 - Adult companion services
 - Assistive technology
 - Crisis stabilization
 - Environmental modifications
 - In-home residential support
(The DD waiver does not pay for group homes.)
 - Day Support
 - Skilled nursing
 - Supported employment
 - Therapeutic consultation
 - Personal emergency response system
 - Family/caregiver training
 - Respite care *
 - Personal attendant services *
- * Either consumer directed or provided by an agency.

DD Waiver Update for September, 2003

- Currently have 323 individuals enrolled; no slots available
- 481 individuals on the waiting list
- 20 individuals left the waiver after being enrolled
- 514 individuals who requested services did not meet criteria (diagnosis of MR, MI only, ADHD and did not meet functional criteria, were the primary reasons)

DD Waiver Diagnosis Summary

Autism Spectrum: 163 (51%)

Seizures/Epilepsy: 6

Cerebral Palsy: 84 (26%)

Spina Bifida: 5

Brain Injury: 30 (9%)

Quadriplegia: 4

Spinal Cord Injury: 9

Multiple Sclerosis: 3

Other Syndromes: 9

Friedrich's Ataxia: 2

Muscular Dystrophy: 8

DD Waiver Update for 2003

- Breakdown of age groups for individuals on the waiver:
 - Ages 6-21: 216 (67%)
 - Ages 22 and over: 107 (33%)

What's New?

Changes to Waivers

- Have clarified for AIDS, CD-PAS, E&D, MR, and DD Waivers that personal care can be provided in the workplace.
Cannot provide services required of the employer by the Rehab Act or the ADA.

DMAS Web Site

www.dmas.state.va.us

Long Term Care Unit

(804) 786-1465