



March 24, 2020

Dear Director Baker and Director Poole:

As things rapidly develop regarding what we know about COVID-19, Providers are requesting action to address real issues facing people we support, their families and the Provider network.

- I. Policies around telehealth have been developing. It was announced on March 17, 2020 that the Telehealth Waiver in Medicare under HR 6074 has been implemented. Below is how the Medicare fee-for-service telehealth policies now stand.

HIPAA:

A change was made regarding the Health Insurance Portability and Accountability Act (HIPAA) "Effective immediately, the HHS Office for Civil Rights (OCR) will exercise enforcement discretion and waive penalties for HIPAA violations against health care providers that serve patients in good faith through everyday communications technologies, such as FaceTime or Skype, during the COVID-19 nationwide public health emergency." <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/index.html>

If the Office of Civil Rights allows for technologies such as FaceTime or Skype, what is South Carolina doing to move in this direction? Providers around the State that are reimbursed based on a fee for service system for both Case Management, HASCI and Early Intervention, are "dying on the vine" due to the fact that we are this far into the COVID-19 pandemic with no direction or resources to successfully provide direct services to people we support and their families.

- II. The COVID-19 public health emergency has severely impacted SC Human Service Providers ability to provide waiver services as defined in current regulations. Providers are desperately searching for safe ways to provide services to people we support and their families during this national health care crisis. The closure of schools, day cares and businesses, along with the need to ensure "social distancing" by staying at home

to prevent the rapid spread of COVID-19 has had far reaching implications for employees trying to provide services to SC's most vulnerable citizens. Many employees are afraid to come to work and/or are trying to take care of their children or family members who may be sick. Advocacy for Direct Support Staff to be considered essential at all levels of government is imperative, specifically related to the upcoming E-FMLA and Unemployment regulations. If Direct Support Professionals are not exempt from these requirements, Providers will face significant staff shortages.

III. CMS has reminded State Officials that there is a process that can be used to gain greater flexibility in providing Medicaid services. States have been instructed to submit plans, defined in Appendix K of the Medicaid Manual, to request changes to their waiver documents. Several states have already submitted these plans. SCHSPA has requested to work with DDSN and DHHS in drafting the changes. The following represents areas identify that are critically needed in order to continue to provide services. We still welcome the opportunity to openly discuss with DHHS and DSN as the document is prepared.

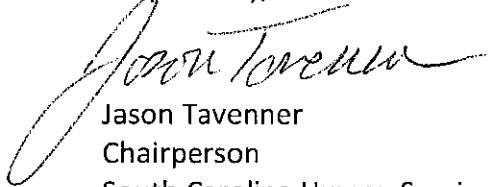
1. Waive the Day Service reporting requirements temporarily. Day Service facilities have been closed to eliminate large crowds in small buildings. Right now, most Day Programs are closed and Day staff are working at the homes to cover shifts during first shift. We have put a lot of additional burden on these staff during this crisis and requiring them to do more documentation just adds additional hardship.
2. Allow Early Intervention, HASCI and Case Management Providers to have virtual visits with families and their children. Many families are afraid to have people in their homes but are requesting supports through other means.
3. Allow Behavior Intervention staff to use "tele-communication" means to work with families and individuals who need Behavior Intervention Supports.
4. Increase the Case Management reimbursement rate for Non Face-To-Face contacts. The current rate was calculated based on a mixture of face-to-face and non-face-to-face visits that is not achievable during the current emergency. Not being able to utilize the "face-to-face" rate may bankrupt case management providers.
5. Providers need to be paid for travel time and protective gear when going into consumer homes. When people we support and their families need Case Managers, HASCI and Early Intervention staff supports in home to maintain their existing services, Providers need to be paid to provide this service and to be able to provide this service in a safe manner for all involved.
6. Allow FaceTime or SKYPE to meet with people we support and their families when home visits are not appropriate to identify needs, complete individual

plans of care/single plans/IFSP's, conduct family training and provide real time assistance.

7. Make using "tele-health" services available to individuals using waiver services.
8. Other modifications to the waivers are needed. Suggested items for inclusion are increasing the number individuals served under a waiver, creating an emergency person-centered service plan, expanding provider qualifications or removing some of the provider qualifications to increase an expanding work pool, permitting payment to HCBS providers when an individual is in a short-term hospital or institutional stay, modify service, scope or coverage requirements, allow people to exceed their service limitations, add services to the waiver that may assist in preventing out of home placement or critical circumstances, and most importantly permit payment for services rendered by family caregivers or legally responsible individuals when normal channels are unavailable.

As this virus continues, it is becoming more obvious that hospital systems are not equipped to deal with the sheer number of potential cases. By taking immediate action, DHHS and DDSN can reduce the likelihood of DDSN waiver participants from being exposed unnecessarily or requiring supports of the hospitals. The lives of thousands of people with lifelong disabilities, their families and the employees supporting them need your help now. Providers are already reducing staff in an effort to make their business plan more sustainable. It has been recommended by DDSN officials many times over the last several months that we modify our business plan to assure sustainability. Yet we are now faced with many de-stabilizing decisions. Surely this current state of emergency has reemphasized the need for Providers to be the safety net for our most vulnerable population.

Respectfully,



Jason Tavenner
Chairperson
South Carolina Human Service Providers Association

CC: DDSN Commission
SC Governor
SC Association of Advocates