Challenges & Innovations in Self-Direction

National Home & Community Based Services Conference 2018

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PCG | Public Partnerships
Supporting Choice. Managing Cost.™

Session Objectives

- Discuss major challenges facing states, MCOs, and FMS vendors or providers in design, implementation, and evaluation of self-directed services
- Explore innovative strategies and solutions
- Offer tips for procurement of FMS
- Questions and discussion

Who is in the audience today?

- Federal Agencies
- State Agencies
- Other Public Entities
- MCO’s
- FMS Vendors or Providers
- EVV Vendors
- Support Brokers
- Advocates
- Self Advocates
- Others

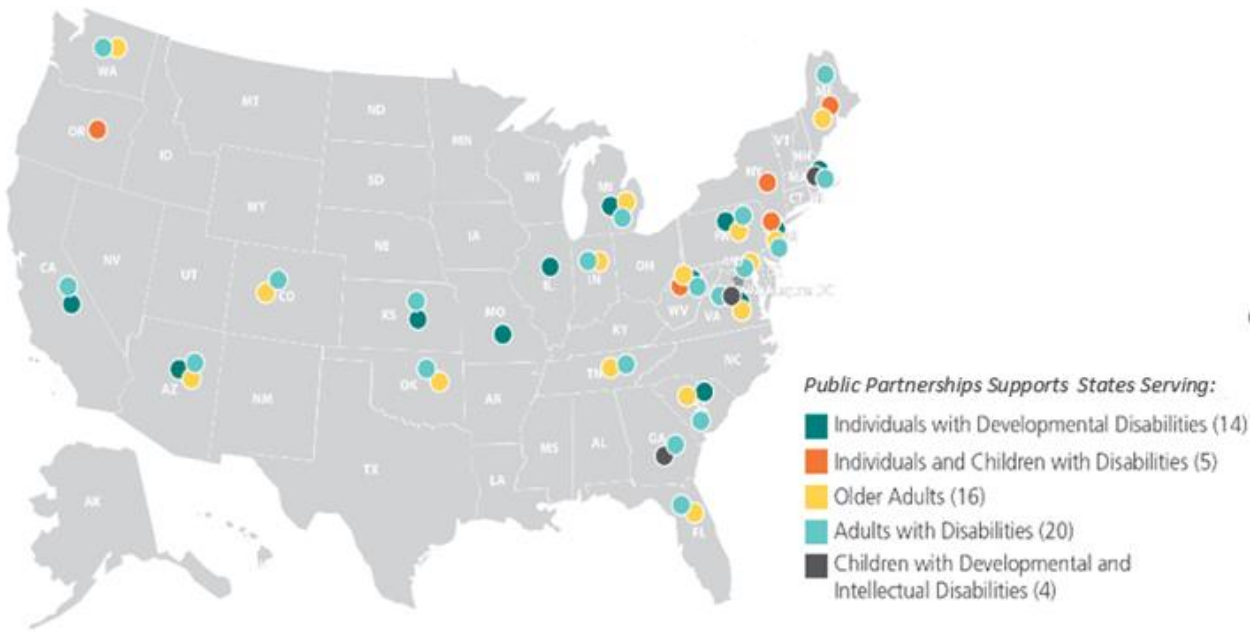
Financial Management Services (FMS)

Supporting participant choice and control in HCBS and providing stakeholders with information and tools they need to manage self-directed programs and services

Financial Management Services

- Fiscal/Employer Agent Model
- Enrollment & Credentialing
- Budgets & Authorizations
- Supports Brokerage (where applicable)
- Orientation & Training
- Payroll
- Customer Service
- Claims Submission
- Reporting

Public Partnerships LLC



153,000+ Participants

51 Programs

22 States

$2.7 Billion In Public Funds Under Management

19 Years Experience

Helping aging adults and individuals with disabilities to live independently and with dignity since 1999.

Challenges in Self-Direction

- ✓ Increased Regulation
- ✓ Shift to MLTSS
- ✓ Rising Customer Expectations
- ✓ Increased Provider Credentialing
- ✓ Expansion of Employee Benefits
- ✓ Increased Emphasis on Program Integrity and Quality
- ✓ Continued Growth and Expansion

You can't control the winds, but you can adjust your sails…

…and we are all in this together!

Before we begin…

- Sharing best practices
- Some represent industry standards; Some unique to Public Partnerships
- Intended to elevate the field of FMS
- Not intended as training on specific laws and regulations
- Not all content will apply to all programs

Increased Regulation

- USDOL Fair Labor Standards Act (FLSA) Home Care Final Rule
- IRS Notice 2014-7 Difficulty of Care (DOC) Income Exclusion
- 21st Century Cures Act Electronic Visit Verification (EVV) Requirements
- Fair Credit Reporting Act (FCRA)

USDOL Fair Labor Standards Act Home Care Final Rule

Major Provisions

- Narrowed definition of companionship such that few services qualify, requiring participant-level overtime by non-exempt employees to be paid at overtime rates (Example: Assisting with ADLs during community outing vs. primary role)

- Increased state and employer interest in the live-in exemption from overtime

- Clarified requirements of third-party joint employers

  - May not invoke companionship exemption or live-in exemption

  - Must pay cross-participant overtime and same-day travel time

USDOL Fair Labor Standards Act Home Care Final Rule

Challenges

- Awareness and understanding
- Need to differentiate between models of FMS
  - F/EA with Sole Employer
  - F/EA with Possible Joint Employer
  - Agency with Choice Joint Employer
- Widespread systems impact
  - Individual budgets
  - Service authorizations and rates
  - Timesheets
  - Payment systems
  - Claiming systems
- Reporting statutory wages attributable to third-party (where applicable)

Innovations

- ✓ Orientation and training
- ✓ Technical assistance
- ✓ Joint-employment worksheet
- ✓ Utilization reports to assess impact
- ✓ Hourly caps where applicable
- ✓ Address matches (participant and provider)
- ✓ Added live-in exemption “residency test” questions to enrollment packets and forms
- ✓ Date fields tied to live-in exemption
- ✓ Overtime service codes and rates
- ✓ Overtime service authorizations
- ✓ Employer adjustment of wage rates
- ✓ State adjustment of maximum billable rates
- ✓ Cross-participant overtime and same-day travel time
- ✓ 8655 Reporting Agent and dedicated state EIN
- ✓ Customer service

IRS Notice 2014-7
Difficulty of Care Income Exclusion

Major Provisions

"…payments under a Medicaid waiver program to an individual care provider for nonmedical support services provided under a plan of care to an eligible individual (whether related or unrelated) living in the individual care provider's home" are considered *"…difficulty of care payments excludable under § 131 of the Internal Revenue Code."*

Provider's Home:

"Place where the provider resides and regularly performs the routines of the provider's private life, such as shared meals and holidays with family."

- Not a tax exemption, FICA and FUTA still apply
- Not optional
- May impact provider eligibility for other tax incentives, such as Earned Income Tax Credit
- **Providers may request refunds for prior periods**
- **States may request IRS ruling on applicability to other (non-waiver) Medicaid programs**

IRS Notice 2014-7
Difficulty of Care Income Exclusion

Challenges

- Lack of awareness
- Misunderstanding
- Residency test for DOC differs from live-in exemption
- FMS may rely on *"…sworn statement under penalty of perjury"*
- Does not require corrected IRS Form W-2
- Few states (exception: MO) have enacted similar income exclusion, so state income tax is still withheld but providers may be eligible for refund of state tax as well

Innovations

- ✓ Orientation and training
- ✓ Technical assistance
- ✓ Address matches (participant and provider) to target information
- ✓ Added sworn statements to enrollment packets and forms to invoke and revoke
- ✓ Date fields tied to provider eligibility
- ✓ Verification letters upon request
- ✓ Customer service

When Public Partnerships introduced the DOC income exclusion in New Jersey eligible providers received substantial tax refunds

EXAMPLE

One provider received refunds of over $8,000 in federal and state taxes withheld by prior FMS

21st Century Cures Act
Electronic Visit Verification (EVV)

CMCS Informational Bulletin on Integration of FMS and EVV

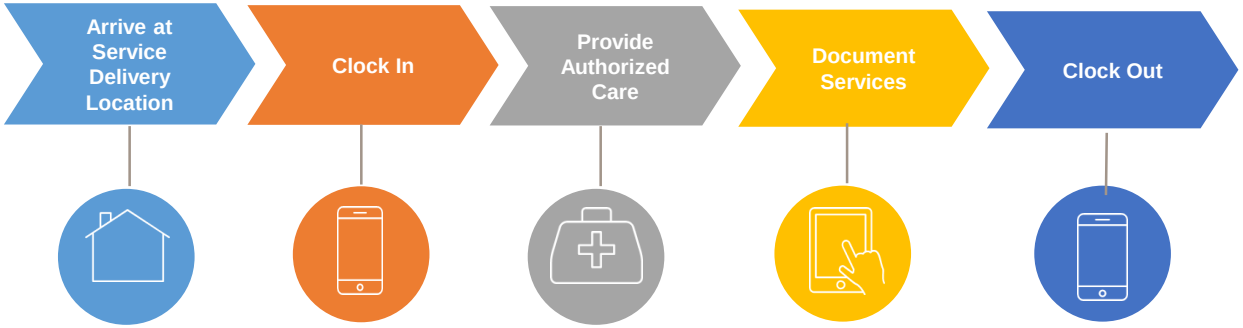
- *"States that integrate EVV with other state Medicaid data systems are better equipped to oversee and monitor delivery of services."*
- *"…improves data flow"*
- *"…increases program integrity"*

Challenges

- *Aggregation within and across programs and service models*
- *Aggregation pre-or post payment*

Public Partnerships Integrated EVV Solution

Process Flow



An integrated solution tailor made for self-direction…

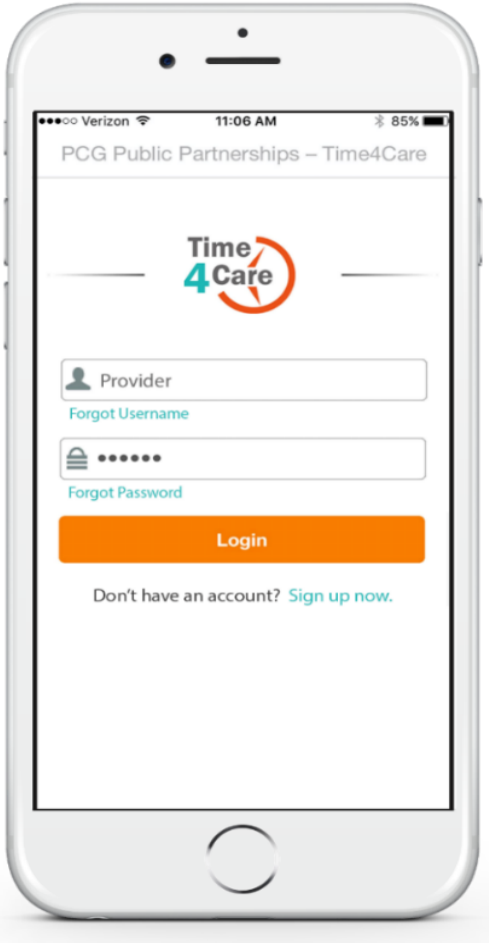
Public Partnerships
Time4Care™ Integrated EVV Solution

Provider Login

1. Overview of daily calendar
2. Clock in to begin service delivery
   a. View location details and associated participants
   b. View authorized services
   c. Record service activities from task list or enter notes
   d. Clock out & submit
3. Manual time entry & adjustments
4. Overview of pay periods
5. Notifications
6. Offline mode

Participant Login

1. Review submitted entries
2. Approve/reject provider time



IMPORTANT – Timesheet validation against individual budgets and service authorizations in real-time 24/7 at point of service

Managed Long-Term Services and Supports

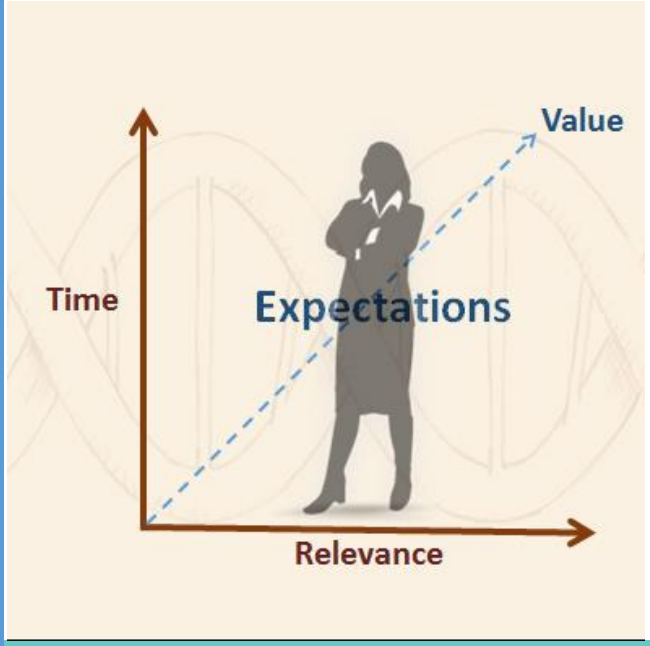
- Commitment to Continuity of Care
- Provider Network Development
- Focus on Health Outcomes
- Utilization Review

Challenges in MLTSS

- Generally managed as one program with one set of rules
- Often 3-5 contracts, data interfaces, claiming systems, etc.
- Transitions between ACOs/MCOs
- Care coordinators sometimes provide support brokerage duties in absence of clear roles and responsibilities

Rising Customer Expectations

- Ease of doing business
- Access to relevant information
- Responsiveness
- Timely resolution of issues
- Minimal distraction from what is truly important



Yesterday's FMS

Good, but not great

Paperwork Enrollment

- Paper packets faxed or mailed back and forth

Payroll Processing

- Paper timesheets faxed or mailed
- Delayed validation
- Paper checks or remittance advice mailed

Customer Service

- English or Spanish
- Language Line available for additional languages

Communication

- Phone, Mail, or Fax

Access to data

- Limited data
- Limited real-time access
- Info available via Customer Service
- Spending reports mailed monthly

Today's FMS

Online Enrollment

- Pre-populated packets to reduce errors
- Electronic signatures (where possible)
- Document management system to capture and retain forms
- Multiple channels to return packets (Email, Fax, Mail)

Payroll Processing

- Configurable pay controls tied to program rules (unit, shift, dollar limits)
- Electronic timesheets submitted via BetterOnline™ web portal or Time4Care™ mobile application
- Integration of FMS and Electronic Visit Verification (EVV) using Time4Care™
- Timesheet validation against individual budgets and service authorizations in real-time 24/7
- Providers know if they will be paid prior to working
- Paper timesheet and invoice options

Today's FMS (*continued*)

Real-Time Access 24/7 and Role-Based Privileges

- Participant/Representative/Employer
  - Individual budgets and service authorizations
  - Budget utilization and available balances
  - Associated providers
  - Review and approve timesheets via web or Time4care™
- Employee/Provider
  - Credentials tied to "Good-to-Go" Checklists
  - Alerts and reminders
  - Update demographic and bank information
  - Submit timesheets and review status
  - Enter work tasks from list/menu or enter activity notes in support of timesheet
  - View electronic remittance advice (check stubs)
- State/MCO/Other
  - View up-to-date program information
  - Run standard and ad-hoc reports via Universal Reporting Server

Today's FMS (*continued*)

Expanded Language Customer Service

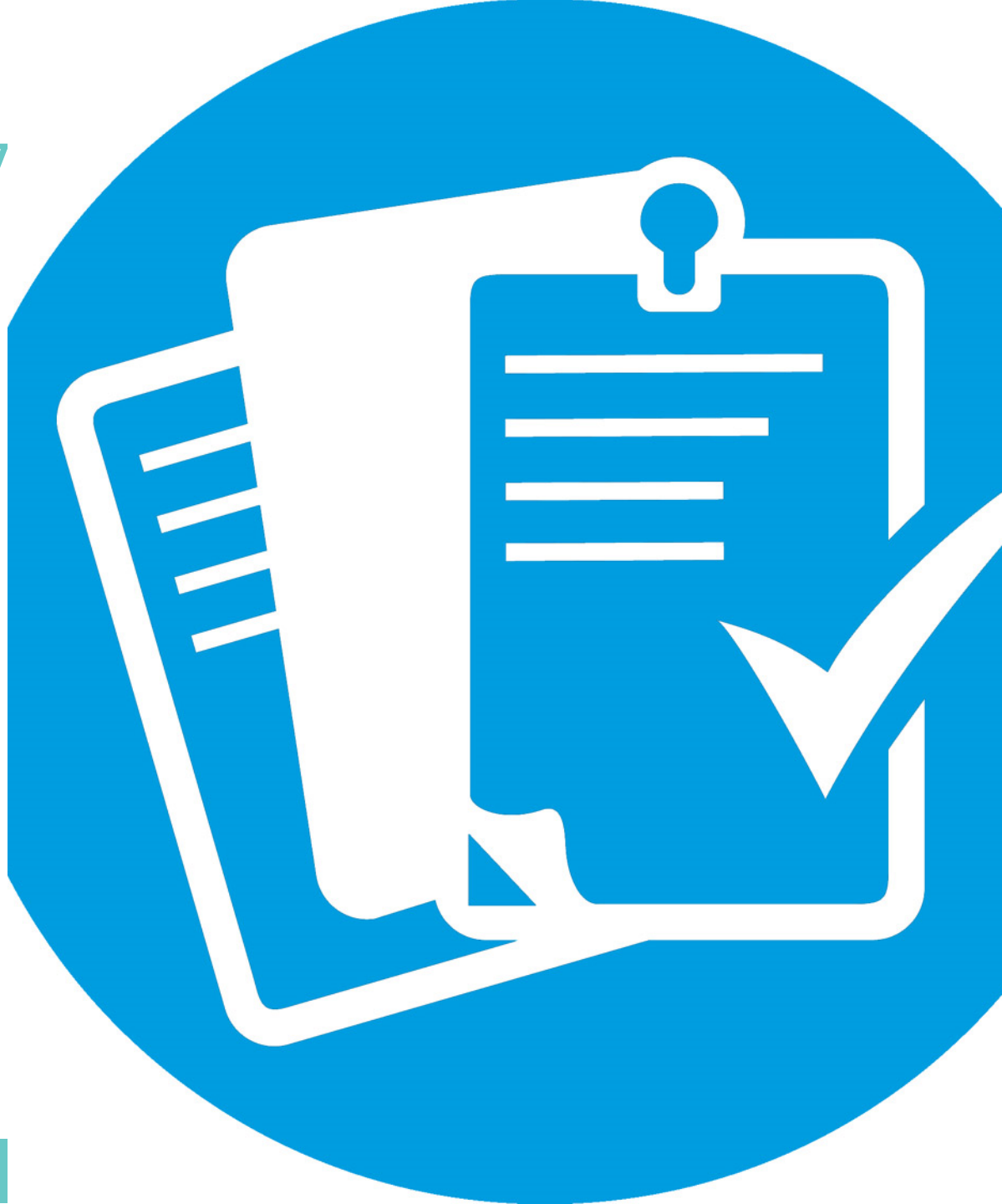
- Arabic, Cambodian, Cantonese, English, Korean, Laotian, Mandarin, Russian, Somali, Spanish, Tagalog, Ukrainian, Vietnamese
- Language Line available for additional languages

Expanded Communication

- Phone, Mail, Fax, or Secure Email
- Interactive Voice Response (IVR)
- *"Hold My Place"*
- Message of the Day
- Blaze Messaging Campaigns

Program Integrity and Quality

- OIG perception that self-directed programs are particularly vulnerable to fraud
- CMS emphasis on program integrity and preventing improper payments



OIG Portfolio:
Personal Care Services: Trends, Vulnerabilities, and Recommendations for Improvement (2012)

PCS Fraud Is a Growing Concern

The most commonly reported schemes involve conspiracies between PCS attendants and Medicaid beneficiaries to submit claims for services that either were never provided or were not allowed under program rules. Investigators have noted that ***self-directed Medicaid service models…, especially those that allow beneficiaries significant control over the selection and payment of PCS attendants, are particularly vulnerable to these fraud schemes****.*

"It's a short walk from perception to reality."

Recent OIG & CMS Guidance to States

- CMS Fact Sheet - *Preventing Medicaid Improper Payments for Personal Care Services (2015)*
- OIG *Investigative Advisory* on Medicaid Fraud and Patient Harm Involving Personal Care Services (2016)
- CMCS Informational Bulletin - *Strengthening Program Integrity in Medicaid Personal Care Services (2016)*
- CMS Paper – *Vulnerabilities and Mitigation Strategies in Medicaid Personal Care Services (2018)*

Why is Preventing Improper Payments Important?

- Participant Health and Safety
- Fraud, Waste, and Abuse
- Federal and State Budget Constraints and Waiting Lists
- Future Sustainability

CMS Fact Sheet: *Preventing Medicaid Improper Payments for Personal Care Services (2015)*

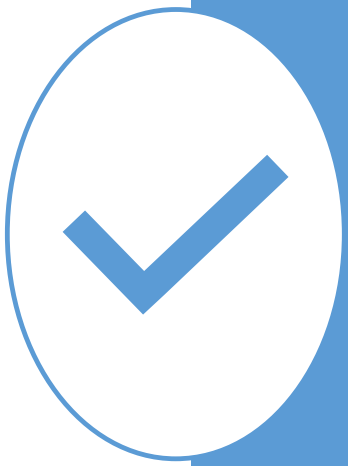
Findings

- ✓ Claims without supporting documentation
- ✓ Services not eligible under State Medicaid policy
- ✓ Services furnished without required supervision
- ✓ Services provided without State verification of PCA qualifications
- ✓ Care provided while a beneficiary was in an institution (not including payments made to a PCA to retain services or during a period in which the individual is receiving covered respite care)

CMCS Informational Bulletin:
Strengthening Program Integrity in Medicaid Personal Care Services (2016)

Program Integrity Safeguards

- ✓ Provider Qualifications and Basic Training
- ✓ Registry of PCS Attendants
- ✓ Screening of PCS Providers
- ✓ Verification of Need for Services
- ✓ Documentation of Claims
- ✓ Prepayment Edits
- ✓ Post-payment Review
- ✓ Audits



FMS Pre-Payment Controls

- ✓ Orientation & Training
  (**Do's and Don'ts, Examples, Penalties**)
- ✓ Attestations in Enrollment Packets
- ✓ **Participant Eligibility Checks (270/271 Query)**
- ✓ Provider Screening (OIG, State Abuse Registries)
- ✓ Provider Credentialing tied to "Good-to-Serve"
  - CPR, First Aid, CBC, Other
- ✓ Attestations on Timesheets and Invoices
- ✓ Access Controls and Role-Based Privileges
- ✓ Individual Budgets, Service Authorizations, Payment History
- ✓ Pay Controls (Unit/Dollar/Shift Limits, Ratios, Relationship Limits)
- ✓ **Blocking Excluded Entities from Payment**

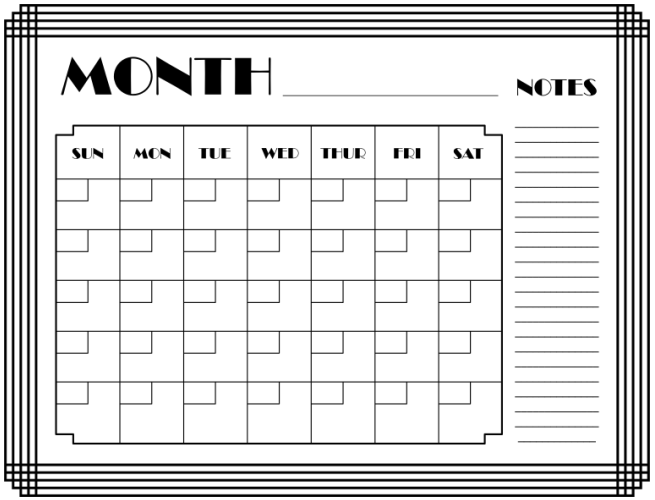
FMS Role in Reporting Fraud, Waste & Abuse

- Compliance Hotline
- Direct Email Link from Website
- Customer Service Call Coding and Documentation
- Mandated Reporting
- Reports to Medicaid Fraud Control Units

Post-Payment Data Analytics

Taking it to the next level

- Pended/Denied Timesheets
- High Earners
- Worker Proximity
- Threshold Report
- Multiple Participants
- # of Days without Services
- Budget Utilization
- Full Utilization
- Provider Age



Example of Improper Billing in Self-Direction

Employee submits (and participant/employer approves) timesheets for three consecutive 24-hour shifts "worked" the first few days of every pay period or every month

QUESTIONS:

1. *Is this physically possible?*
2. *Is this a violation of labor law, Medicaid policy, or program rules?*
3. *Is this consistent with service plans, individual budgets, and service authorizations?*
4. *Would your FMS, EVV, and/or MMIS system pend or deny payment?*
5. *Would this be "flagged" for review and counseling? If so, by whom?*
6. *Does it make any difference if employee is family member such as "mom" who provides natural supports (uncompensated care) 24/7?*
7. *What is the appropriate response?*


Independence
Control
Relationships
Support
Health and Safety
Quality in the Eyes of the Consumer

Measuring Quality in FMS

Beyond annual satisfaction surveys…Continued innovation by design…

Challenges with Growth & Expansion

- Large-Scale Transitions
- Excessive operating capital demands as programs grow (Example: 10,000 participants x $1,200 x 2 months = $2.4M) increases costs and reduces competition
- Consolidation of Multiple Programs Across Multiple Divisions of State Government in Single Procurement
- Dual enrollment across programs requiring calculation of overtime, wages, FICA thresholds, taxes, leave accrual, etc. across programs
- Direct Workforce Crisis and Competition from Private Pay Market

FMS Procurement Tips

- Solicit stakeholder input on program rules upfront
- Consider issuing a Request for Information (RFI) or seeking technical assistance
- Allow more than 90-days
- Ask for examples of FMS pre-payment controls and post-payment utilization reports
- Clearly specify reporting requirements
- Determine how reports will be used and who is responsible for taking corrective actions
- Align data systems (State, ASO/QIO, FMS, EVV, MMIS)
- Consider integration of FMS and EVV
- Specify whether EVV will be required or supported in non-Medicaid programs
- Clarify work flow, including aggregation of data across programs and service models where applicable
- Consider combining FMS and Information and Assistance (Supports Brokerage)

FMS Procurement Tips

- Coordinate mid-year transitions to coincide with new tax quarter
- Coordinate transfer of data and funds (including FICA wages and withholdings, sick leave balances, etc.)
- Consider implications of dual enrollment (overtime, FICA, leave accrual, etc.)
- Consider need to calculate third-party statutory wages (where applicable)
- Obtain dedicated EIN and contract for IRS Section 8655 Reporting Agent for third-party statutory wages
- Support electronic data exchange between state databases and other information technology systems and FMS vendors' systems
- Clarify role of FMS in capturing activity notes or documentation in support of timesheets
- Clarify role of the FMS in brokering and/or processing payment for workers' compensation insurance premiums
- Develop and implement a robust overtime exceptions processes if capping hours

FMS Procurement Tips

- Provide adequate operating capital to reduce overall expense and encourage competition among FMS vendors
- Consider including additional work clause and/or special projects fees
- Consider change request process and pricing due to changing laws and regulations

Tomorrow's FMS

- Provider Directories
- Online Competency-Based Training, Evaluation, and Certification
- Drug Testing
- Tracking Work Visa Status
- Text and Online Chat Support
- Other

Questions & Discussion