



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

November 30, 2023

The Honorable Guy Guzzone, Chair
Senate Budget and Taxation Committee
3 West Miller Senate Office Bldg.
Annapolis, MD 21401-1991

The Honorable Ben Barnes, Chair
House Appropriations Committee
121 House Office Bldg.
Annapolis, MD 21401-1991

Re: 2023 Joint Chairmen's Report (p. 130) – Report on a Remote Services Model for Adult Medical Day Care Clients and Centers

Dear Chairs Guzzone and Barnes:

Pursuant to the requirements of the 2023 Joint Chairmen's Report (p. 130), the Maryland Department of Health (MDH) submits this report on its efforts to develop a remote services model, in collaboration with the Medical Day Care Advisory Committee, for medical adult day care clients and centers.

If you have any comments or questions, please contact Megan Peters, Acting Director of Governmental Affairs, at megan.peters@maryland.gov.

Sincerely,

Laura Herrera Scott, M.D., M.P.H.
Secretary

cc: Marie Grant, Assistant Secretary for Health Policy
Ryan Moran, Deputy Secretary, Health Care Financing and Medicaid
Tricia Roddy, Deputy Director, Office of Health Care Financing
Marlana Hutchinson, Director, Office of Long-Term Supports and Services
Megan Peters, Acting Director, Office of Governmental Affairs
Sarah Albert, Department of Legislative Services (5 copies)



**Report on a Remote Services Model for Adult Medical Day Care
Clients and Centers**

Pursuant to the 2023 Joint Chairmen's Report (p. 130)

October 2023

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Background

The purpose of medical day care (MDC) is to provide in-person services and supports to individuals who have been determined eligible for the Maryland Medical Assistance Program (Maryland Medicaid), require nursing facility level of care (LOC), and are choosing to receive a cost effective community-based alternative to institutional care. Programs that offer the medical day care service (MDCS) include the Waiver for Adults with Brain Injury¹, the Home and Community-Based Options Waiver², the Community Pathways Waiver³, the Community Supports Waiver⁴, the Medical Day Care Services Waiver⁵, and the Home Care for Disabled Children Under a Model Waiver⁶ program. The regulations that govern the MDCS are contained in the Code of Maryland Regulations (COMAR) 10.09.07⁷. As noted in the regulations, medical day care centers may offer the MDCS and be reimbursed for services for individuals who are ages 16 or older, have an assessed medical need for the MDCS, have an eligible financial Medical Assistance coverage group, and meet criteria for a nursing facility level of care. The MDCS affords individuals the opportunity to stay connected to their families and communities through the person-centered planning process, which is designed to support their health and safety while allowing them to direct the process by sharing their own preferences and goals.

The goals of the MDCS are to provide health support services, maximize optimal health functioning and independence, and serve as (1) respite and relief for families and/or caregivers, (2) an integrated service within community-based care, serve as rehabilitation or re-training of impaired functions, (3) an alternative to or delay of institutional care. The reimbursement for the MDCS is an all-inclusive per diem rate for skilled nursing services, nursing assessments, medication administration and monitoring, social work services, activity programming, assistance with activities of daily living, daily living skills training, transportation for access to medical appointments and therapies, personal care, meals, and nutrition services provided by the medical day care provider or via referrals in the community.

Medical day care centers are operated for the purpose of providing MDCS in an ambulatory care setting to medically compromised adults who do not require 24-hour institutional care, but due to their degree of impairment, are not capable of full-time independent living. The MDCS not only provides critical medical services to prevent or delay institutionalization; it also provides critical social, cognitive, and physical stimulation to preserve independence.

The MDCS delivery model relies on MDCS providers who must be MDCS centers licensed by the Maryland Department of Health (MDH) Office of Health Care Quality (OHCQ) and approved by MDH's Office of Long Term Services and Supports (OLTSS) program staff according to provider standards developed by Maryland Medicaid. Prior to the COVID-19 public

¹ <https://health.maryland.gov/mmcp/waiverprograms/Documents/BI%20Waiver%20Fact%20Sheet.pdf>

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<https://health.maryland.gov/mmcp/longtermcare/Resource%20Guide/03.%20Program%20Fact%20Sheets/Fact%20Sheet%20-%20CO%20Waiver%20March%202018.pdf>

³ <https://health.maryland.gov/dda/Pages/community%20pathways.aspx>

⁴ https://health.maryland.gov/dda/Pages/Community_Supports_Waiver_Services.aspx

⁵ <https://health.maryland.gov/mmcp/longtermcare/Pages/Medical-Day-Care-Services.aspx>

⁶ <https://health.maryland.gov/mmcp/waiverprograms/Pages/Model-Waiver-Fact-Sheet.aspx>

⁷ [COMAR 10.09.07](#)

health emergency (PHE), MDCS was required to be rendered in-person. The current in-person per diem rate, as of FY 2024, is \$104.81.

The Public Health Emergency (PHE) Impacts on MDCS

On March 16, 2020, pursuant to the Governor’s executive order declaring a State of Emergency, MDH’s Secretary notified medical day care centers of the required immediate closure⁸. Centers remained closed until March 12, 2021 for existing participants, and until May 1, 2021 for new participants to slow the spread of COVID-19⁹. At the onset of the PHE, there were 4,466 active adult medical day care participants receiving services across 110 licensed providers. Given the large number of vulnerable participants who were dependent on the MDCS, Maryland Medicaid explored all options to continue to support participants temporarily until the medical day care centers reopened to in-person services.

To ensure the health and welfare of participants and sustainability of the provider network throughout the temporary closure, Maryland Medicaid sought approval from the Centers for Medicare and Medicaid Services (CMS) to authorize a temporary remote service delivery model ultimately putting in place a telephonic service that was effective March 12, 2020¹⁰. Centers were able to bill Maryland Medicaid a percentage of the in-person per diem rate as an administrative per diem rate for telephonic services delivered. The percentage of the per diem rate which could be billed as telephonic service changed over the course of the PHE – March 12, 2020 the rate was eighty-five (85) percent; October 1, 2021 the rate was fifty (50) percent; December 1, 2021 the rate was twenty-five (25) percent; and April 1, 2022 the rate was fifty (50) percent. The gradual decrease of the percentage over time was intended to phase out the telephonic rate as participants returned to in-person MDCS. The increase in the percentage of the in-person per diem for telephonic services noted on April 1, 2022 was funded by the American Rescue Plan Act (ARPA); this additional funding was authorized, by way of the approved spending plan, through the end of the PHE or sooner if the State provided a 30-day notice to providers.

The telephonic service consisted of an optional daily phone call to participants. Specifically, medical day care centers called participants to assess their needs and make community referrals as necessary (e.g., assist with setting up medication or meal delivery, receive notice of an adverse event (e.g., hospitalization) and file a reportable event for the MDH’s situational awareness and follow-up. Medical day care staff documented all contacts via the Daily Care Connection form¹¹. Through this temporary provision, medical day care centers were authorized to bill the telephonic service rate for the number of days the participant would, under normal circumstances, attend the center to participate in in-person activities. Participants were able to decline the daily call without impacting the center’s ability to bill Maryland Medicaid through April 30, 2023 when the temporary provision sunset. As such, providers were no longer able to bill for the telephonic service as of May 1, 2023¹². Far before this time, there were no longer

⁸[COVID-19 #2: Temporary Closure of Adult Medical Day Care Facilities, Interim Guidance, and Administrative Per Diem Rate](#)

⁹[COVID-19 #19: Reopening of Adult Medical Day Care Facilities and Availability of Administrative Per Diem Rate](#)

¹⁰ [COVID-19 Temporary Closure of Adult Medical Day Care Centers Frequently Asked Questions March 31, 2020 \(revised\)](#)

¹¹ See Attachment: Daily Care Connection Form

¹² [Public Health Emergency \(PHE\) and Administrative Day Rate Unwinding](#)

COVID-19 restrictions in place for businesses within Maryland and all businesses were allowed to resume normal business operations. More importantly, however, is the positive impact to program participants who could now have full access to the MDCS that they are entitled to receive within the provision of the service under State and federal authorities.

Table 1 illustrates the usage and expenditure of the in-person service per diem procedure code of S5102 for the Medical Day Care Service Waiver and the administrative telephonic service per diem procedure code of W5102 from the beginning of its use in the second quarter of CY 2020 through the fourth quarter of CY 2022¹³.

Once medical day care centers were allowed to safely reopen to in-person services in March 2021¹⁴, existing participants were given the opportunity to receive services in person or to receive administrative remote/telephonic services. Therefore, the number of users for in-person services and telephonic services may contain duplicative representation of participants after March of 2021, inflating the actual enrollment numbers. As of May 2021, centers were allowed to resume enrollment of new Medical Day Care Service Waiver participants.

Table 1: Medical Day Care Enrollment and Utilization Data

Calendar year	Fiscal year	Service Quarter	MDC Enrollee	S5102 : MEDICAL DAY CARE			W5102 : Medical Day Care Admin		
				Expenditure	Unit	User	Expenditure	Unit	User
2020	2020	2020Q2	4,466	\$58,757	839	29	\$22,264,057	318,514	4,255
2020	2021	2020Q3	4,308	\$48,803	653	22	\$22,913,838	316,161	4,142
2020	2021	2020Q4	4,143	\$40,511	556	18	\$22,396,524	307,944	4,013
2021	2021	2021Q1	4,021	\$104,595	1,254	117	\$21,860,964	289,421	3,862
2021	2021	2021Q2	4,096	\$5,757,903	64,943	2,385	\$16,852,328	222,886	3,803
2021	2022	2021Q3	4,171	\$12,927,373	145,685	3,063	\$11,191,339	148,014	3,460
2021	2022	2021Q4	4,179	\$17,732,415	192,937	3,632	\$4,788,912	98,740	3,237
2022	2022	2022Q1	4,269	\$18,297,705	195,983	3,648	\$2,131,939	90,820	3,105
2022	2022	2022Q2	4,325	\$20,625,777	220,781	3,775	\$2,314,206	75,262	2,904
2022	2023	2022Q3	4,395	\$23,846,500	228,634	3,902	\$3,902,492	74,589	2,916
2022	2023	2022Q4	4,445	\$24,487,037	233,979	3,970	\$3,841,635	73,315	2,970

Courtesy of the Hilltop Institute¹⁵

Note: Unit is defined as a unit of service. MDC is billed as a daily service; therefore, one unit represents a day of service.

Medical Day Care Services Waiver Advisory Committee Recommendation

The OLTSS operates the Medical Day Care Services Waiver (MDCSW). As such, program staff complete all tasks associated with the program including but not limited to program enrollments and disenrollments, claims review, provider audits, and State and federal authority updates such as COMAR proposals, waiver amendments, and waiver renewals. Regular updates regarding the

¹³ The Department is conducting investigations of all non-compliant centers that billed while centers remained closed under the Governor’s executive order during CY 2020 Quarters 2 through 4 and CY 2021 Quarters 1 and 2.

¹⁴ [COVID-19 #19: Reopening of Adult Medical Day Care Facilities and Availability of Administrative Per Diem Rate](#)

¹⁵ The Hilltop Institute is a nonpartisan research organization at the University of Maryland, Baltimore County. The Hilltop Institute collaborates with the Department to conduct objective, evidence-based research and analysis to inform state health policy.

MDCSW are provided to the Medical Adult Day Care Advisory Committee (the “Advisory Committee”) and the Advisory Committee makes official recommendations to OLTSS for consideration.

In September 2021, the Advisory Committee recommended that Maryland Medicaid permanently adopt a remote service delivery model option providing two distinct models for consideration. As a result, a number of interested Advisory Committee members and OLTSS staff began a Remote Services Workgroup (RSWG) to discuss the proposal of a remote service delivery model. The RSWG is composed of Advisory Committee members and OLTSS program staff, including but not limited to, the chief of the Division of Community Long Term Care, (“Advisory Committee Chair”), and the MDCSW program supervisor (“Advisory Committee Co-Chair”). The initial series of meetings commenced January 2022 through May 2022.

After the May 2022 RSWG meeting, the RSWG elected to halt future meetings as OLTSS was engaging with CMS during the MDCS waiver’s renewal process. In this process, CMS identified a conflict between federal regulatory requirements and Maryland’s current administration of the MDCSW. Specifically, federal regulations state that the content of a request for a waiver¹⁶ must delineate the case management entity and the home and community-based services (HCBS) provider (i.e., the HCBS provider cannot serve as the case manager). Currently, Maryland’s MDCSW relies on the staff of the medical day care centers to serve as the case manager, which is a violation of 42 CFR 441.301. Therefore, CMS required the OLTSS to analyze its administration of the waiver and provide a plan of correction to resolve the conflict of interest of not offering a choice of case management providers before it would approve the waiver for another five-year period. On June 28, 2023, MDH’s plan of correction was accepted by CMS as actualized by the renewal of the waiver application. The current waiver program is effective July 1, 2023 with the understanding that MDH is actively working on its implementation of case management in the MDCSW.

At the Advisory Committee meeting on June 29, 2023, MDH informed stakeholders that the waiver renewal had been approved by CMS and that the OLTSS would resume the RSWG meetings. The RSWG resumed on August 22, 2023, at which time medical day care providers once again proposed two distinct remote service delivery options – Remote and Remote Plus. The Remote service would essentially resume the administrative telephonic service of placing a Daily Care Connection (DCC) phone call to the participant to engage him/her and assess his/her general wellbeing. The Remote service option is proposed to be reimbursed at sixty-five (65) percent of the in-person per diem rate. The Remote Plus service would be available if the DCC phone call resulted in the center providing a service from the list on the same day; this service is proposed to be reimbursed at eighty-five (85) percent of the in-person per diem rate. Medical day care service providers proposed the following service delivery options below.

¹⁶ [441.301 Content of a request for a Waiver](#)

Table 2: Proposal by the Remote Services Workgroup¹⁷

Remote - 65% of per diem	Remote Plus - 85% of per diem Daily Care Connection Call and 1 item on list
<ul style="list-style-type: none"> ● Daily Care Connection Call ● Be exempt from the four (4) hour minimum requirement that must be met by way of regulation. 	<ul style="list-style-type: none"> ● Transportation <ul style="list-style-type: none"> ○ Medical Transport <ul style="list-style-type: none"> ▪ Dr.'s office visit ○ Transport reducing social isolation ● Food Delivery ● Medical supply/medication delivery ● Social Worker/Nurse consult ● Virtual Activity <ul style="list-style-type: none"> ○ Virtual platform ● Consult with physician/family - Plan of Care depending <ul style="list-style-type: none"> ○ Case Management ○ Psych/behavioral ○ Medical ○ Medication adjustments ○ Caregiver Support ● Activity kit delivery <ul style="list-style-type: none"> ○ Person-centered enrichment activities for participant to complete at home

Upon submission of the two aforementioned remote service delivery options, the medical day care providers participating in the Advisory Committee shared that New Hampshire (NH) implemented remote services for their MDCS (referred to as adult day care service in NH's model).

New Hampshire's Remote Service Delivery Model

As of June 2022, the New Hampshire Department of Health and Human Services (NH DHHS)¹⁸ received approval to renew its Choices for Independence Waiver (CFI) for another five-year term. The renewal application approved by CMS includes a remote service provision for the Adult Day Service; thus, participants of the CFI Waiver now have an option to become eligible to receive Adult Day Services via telehealth.

There are key differences between NH DHHS' CFI Waiver and Maryland's MDCSW. Most important is that the NH DHHS has an independent case management component responsible for developing a person-centered plan of care with collaboration from the participant. Maryland is working to establish an independent case management agency model and has an active plan of correction with CMS until case management is operationalized.

Secondly, the NH DHHS has implemented a Telehealth Checklist tool which the case manager uses to determine the appropriateness of telehealth services for the vulnerable population served

¹⁷ Cannot exceed our daily license capacity (i.e., Licensed capacity: 100 - 20 on-site billing and 80 remote/remote plus billing), maximum remote services can be utilized 2 days per week. If, State of Emergency/Mandate closes day programs, this would not apply.

¹⁸ [NH Choices for Independence Waiver Renewal and Amendments 2022-2027 | New Hampshire Department of Health and Human Services](#)

by the waiver. If MDH adopts the remote services delivery model for MDCS, Maryland Medicaid will need to develop program integrity and compliance requirements that will provide guardrails for program participants' health and welfare needs and meet the MDCSW's federal assurances.

The last key difference is that the NH DHHS CFI Waiver¹⁹ offers an array of services and supports that are included in one or more of Maryland's State Plan programs (e.g., Community First Choice, Disposable Medical Supplies/Durable Medical Equipment, Pharmacy).

Maryland's Community First Choice Program

Maryland offers and operates an optional state plan benefit - Community First Choice (CFC)²⁰ - that MDCSW participants may be enrolled in concurrently with the MDCSW program. Participants of the CFC program gain access to independent case management agencies, referred to as Supports Planning Agencies, for person-centered plan of care development and maintenance. Once OLTSS operationalizes its medical day care case management service, all participants receiving MDCS, those enrolled in CFC and those who are not, will have access to an independent case manager who will coordinate services and supports on behalf of the participant.

In many instances, the array of HCBS services and supports offered in Maryland's CFC program duplicate the items listed in the Remote Plus list proposed by the Advisory Committee. The CFC service package²¹ includes: personal assistance services (PAS); personal emergency response systems (PERS); technology; environment assessments, accessibility adaptations; consumer training; supports planning; transition services; nurse monitoring; and home delivered meals. Additionally, CFC participants are eligible to receive other Maryland Medicaid services which may include but not be limited to: physician and hospital care; pharmacy; laboratory services; mental health services; disposable medical supplies; and durable medical equipment. Since some of the proposed services and supports in the remote services plus model are duplicative of those services and supports already available or are in the process of implementation (i.e., case management), the proposed model will not be approved by CMS. MDH will continue to consult CMS and work with the RSWG to continue to develop the two distinct models to alleviate or address service duplication in programs that allow concurrent enrollment.

Conclusion

As noted in this report, Maryland is actively engaged with a variety of stakeholders to determine if a remote service delivery model is feasible and in the best interest of MDCSW participants. The RSWG resumed its meetings on August 22, 2023 and will continue monthly thereafter to continue analyzing, developing, and working with the Maryland Medicaid program regarding the proposal to add a remote service delivery model option to the existing MDCSW. Any operational

¹⁹ [NH DHHS CFI Waiver Renewed June 2022](#)

²⁰ <https://health.maryland.gov/mmcp/longtermcare/pages/Community-First-Choice.aspx>

²¹

<https://health.maryland.gov/mmcp/longtermcare/SiteAssets/SitePages/Community%20First%20Choice/CFC%20Facit%20Sheet%20-%20July%202015.pdf>

changes to the MDCSW will require an amendment to the approved waiver application. Amendments require a minimum of a 30-day public comment period before submission to CMS for approval. Maryland's Medicaid program will use feedback from CMS, the RSWG, and its participants to inform its next steps.

Attachment - Daily Care Connection Form

Adult Medical Day Care - Daily Care Connection	
Name of Participant:	Date of Birth:
Who did you speak with?	Date and Time of Contact:

Questions		
1. Do you have enough food and fluids?	Yes	No
2. Are you taking all of the medicines your doctor told you to take?	Yes	No
3. Are there any essential supplies that you need?	Yes	No
4. Remind the participant to contact their doctor if they don't feel well. If the participant has any significant change in their health or reports new medical complaints, then the caller shall notify the center's nurse.	Yes	No

Comments (use the back of this page for additional comments):	
Signature of Employee:	Print Name:
By signing above, I hereby certify, under penalty of perjury, that the foregoing information is true and correct. This record will be maintained for at least 5 years from the date of creation and shall immediately be made available to the Maryland Department of Health upon request.	