



**Meeting Notice for the
Governor's Commission on Disabilities
Legislation Committee's
Medicaid Buy-In Subcommittee
Tuesday February 16, 2010 1 – 2:30 PM**

John O. Pastore Center, 41 Cherry Dale Court,
Cranston, RI 02920-3049

(voice) 401-462-0100 (tty) 462-0101 (fax) 462-0106

(e-mail) disabilities@gcd.ri.gov (website) www.disabilities.ri.gov

----- Minutes -----

Attendees: Linda Ward (Chair.); William R. Inlow (Vice Chair); Rosemary C. Carmody; Paul Choquette; Tim Flynn; Elaina Goldstein

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| Call to Order | Linda Ward, Chairperson | 5 min. |
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Chair called the meeting to order at 1:05 PM.

| Action Items: | Discussion Leader: | Time: |
|---|--------------------|---------|
| Amending the Sherlock (Medicaid Buy-In) Act and/or its Regulations | Paul Choquette | 80 Min. |

Discussion: Paul explained the Department of Human Services proposal to revise the eligibility and premium structure (see attached draft Sherlock Plan Enhancements). The members discussed the proposal, reviewed the current regulations and the law and decided that legislation and General Assembly § 42-12.4-7 authorization, were needed. In addition to the language (below) the Commission's Executive Committee approved, section 40-8.7-6 would need to be revised to include spousal earned income.

SECTION 1. Section 40-8.7-7 of Chapter 40-8.7 of the General Laws entitled "Health Care Assistance for Working People With Disabilities" is hereby amended to read as follows:

40-8.7-7 Premiums and cost sharing. – (a) The department of human services is authorized and directed to promulgate such rules to establish the monthly premium payments for employed individuals with disabilities who opt to participate directly in the Medicaid buy-in program. To participate in the Medicaid buy-in program, the employed individual with disabilities shall be required to make payment for coverage in accordance with a monthly payment or payment formula to be established by the department, ~~which shall count the individual's monthly unearned income in excess of the medically needy income limit [MNIL] and shall count a portion of their earned income on a sliding scale basis, in accordance with rules to be established by the department;~~

(b) The department is further authorized and directed to promulgate such rules to encourage businesses, especially small businesses to hire individuals with disabilities, and to allow employed individuals with disabilities who have access to employer-based health insurance and who are determined eligible by the department pursuant to this chapter, to determine the optimal health insurance coverage in consultation with the employer and the Medicaid agency.

SECTION 2. This act takes effect upon passage.

§ 40-8.7-6 Eligibility. – To be eligible for benefits under the Medicaid buy-in program:

- (1) The person shall be an individual with disabilities as defined in § 40-8.7-4, but without regard to his or her ability to engage in substantial gainful activity, as specified in the Social Security Act, 42 U.S.C. § 423(d)(4);
- (2) The person shall be employed as defined in § 40-8.7-4;

22 (3) The ~~person's~~ individual or the couple's net accountable income shall not exceed two hundred fifty percent
23 (250%) of the federal poverty level, taking into account the SSI program disregards and impairment-related
24 work expenses as defined in 42 U.S.C. § 1396a(r)(2);

25 (4) A maximum of ten thousand dollars (\$10,000) of available resources for an individual and twenty
26 thousand dollars (\$20,000) for a couple shall be disregarded as shall any additional resources held in a
27 retirement account, in a medical savings account, or any other account, related to enhancing the independence
28 of the individual and approved under rules to be adopted by the department; and

29 (5) The person shall be a current medical assistance recipient under § 40-8.5-1 [CNIL] or § 40-8-3(v)[MNIL];
30 or shall meet income, assets, (except as modified by subdivision (4) above) and eligibility requirements for the
31 medical assistance program under § 40-8.5-1 [CNIL] or § 40-8-3(v) [MNIL], as such requirements are modified
32 and extended by this chapter.

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| MOTION: To direct staff, in consultation with DHS, draft a revision of the language above to amend §40-8.7-6 and § 42-12.4-7 authorization. TF/BI passed unanimously | | |
| Adjournment | Chairperson adjourned the meeting at 2:30 PM | |
| Resource persons: | Bob Cooper, Committee Staff | |

DHS DRAFT
Sherlock Plan Enhancements

Comparison Grid

(Proposed Changes Only)

| Discussion Area | Existing Policy | GW Emp. WG Recommendation | DHS Recommended Change | Impact on Consumer | Requirements for Change |
|-----------------|--|---|---|---|--|
| Eligibility | <ul style="list-style-type: none"> • Income of Applicant only | <ul style="list-style-type: none"> • Replace the current Balanced Budget Act Medicaid Buy-in with the more generous earnings buy-in afforded in the Ticket to Work Act. | <ul style="list-style-type: none"> • Spouse's income included • Earned income only counted • Standard Disregards (\$65/month and $\frac{1}{2}$ earned income) | <ul style="list-style-type: none"> • Minimal negative impact, unless combined income exceeds \$72,000 (family of 2) | <ul style="list-style-type: none"> • Policy Change • Will Discuss with CMS (GW Category Changes) |
| Premium | <ul style="list-style-type: none"> • All unearned income over MNIL owed as Premium • Income of applicant only • 4 premium's based on FPL (\$42, \$62, \$82 and \$100) | <ul style="list-style-type: none"> • No recommendation specific to Premium | <ul style="list-style-type: none"> • Allow recipient to keep all unearned income (no premium owed for unearned income over MNIL) • Spouse's income included • Earned and Unearned Income counted | <ul style="list-style-type: none"> • Minimal negative impact, substantial positive impact by eliminating unearned income over MNIL owed as premium | <ul style="list-style-type: none"> • Policy Change • Will Discuss with CMS (GW Category Changes) |

DHS DRAFT

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|-----------------|---|--|---|---|--|
| Services | <ul style="list-style-type: none"> • Access to all Categorically Needy Benefits • Personal Care Assistance only through HHA • LTC services only if enrolled in Waiver (Share required) | <ul style="list-style-type: none"> • In addition to the mandatory services all Medicaid beneficiaries receive Sherlock Plan beneficiaries should be eligible for a set of long term services and supports modeled after the Core Home and Community Based service and supports stipulated in the Global Waiver Terms and Conditions, as well as, services and supports the Rehabilitation Option affords to behavioral health beneficiaries. | <ul style="list-style-type: none"> • Access to all GW Preventive Level services and Personal Care and Employment Supports (no LOC required, based upon functional need) • Pers. Care Assistance through any delivery system (HHA or Personal Choice) • Access to additional Core Services if applicant meets LOC (no share) • Co-Pay(s) for additional Core level services? (no co-pay for participants <100% FPL) | <ul style="list-style-type: none"> • Positive impact for Waiver participants who have a Cost of Care contribution • Would require separate LOC determination (can be done concurrently with application for Sherlock) | <ul style="list-style-type: none"> • Policy Change • Will Discuss with CMS (GW Category Changes) |
| Delivery System | <ul style="list-style-type: none"> • Application path through Field Offices • No CM available • No Assessment of need (disability specific or employment specific) | <ul style="list-style-type: none"> • Individuals with disabilities who apply for Medicaid eligibility under the Sherlock Plan should no longer be required to go through the long-term care eligibility portal in order to obtain the supports and services they need to work. Similar to individuals eligible for Medicaid under the behavioral health category | <ul style="list-style-type: none"> • Apply through LTC or OCP (one or the other)? • CM provided by OCP? • Contract out for assessment of need disability specific? • ORS to assess for employment support needs? | <ul style="list-style-type: none"> • Simplified application process • CM available • Assessment of Need available • Better Integration with ORS funded services | <ul style="list-style-type: none"> • Policy Change • Will Discuss with CMS (GW Category Changes) |

DHS DRAFT

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|-----------------|-----------------|---|------------------------|--------------------|-------------------------|
| | | <p>and those eligible under 1619(a)(b), Sherlock Plan beneficiaries will be considered “community” Medicaid.</p> <ul style="list-style-type: none"> • A new comprehensive long term support and service evaluation/assessment tool, with specific modules for medical, social and employment supports, should be developed. A team of individuals, including the Medicaid beneficiary and his or her family if appropriate, who are qualified to assess each of these modules also needs to be put in place and a team coordinator should be designated. | | | |

GW Emp. WG= Global Waiver Employment Workgroup, CMS= Centers for Medicare and Medicaid Services, GW= Global Waiver, MNIL= Medically Needy Income Limit, FPL= Federal Poverty Level, HHA= Home Health Agency, LTC= Long Term Care, LOC= Level of Care, CM= Case Management, OCP= Office of Community Programs, ORS= Office of Rehabilitation Services