



STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

RICK SNYDER
GOVERNOR

NICK LYON
DIRECTOR

November 9, 2016

TO: Interested Party

RE: Consultation Summary
Michigan's Section 1115 Brain Injury Waiver

Thank you for your comment(s) to the Medical Services Administration (MSA) relative to Michigan's Section 1115 Brain Injury Waiver. Your comment(s) has been considered in the preparation of the final publication, a copy of which is attached for your information.

Responses to specific comments are addressed below.

General Comments

Comment: The Michigan Department of Health and Human Services (MDHHS) received many letters of support for the proposed Brain Injury Waiver (BIW). Many comments came from professionals who provide services to individuals with brain injuries including: therapists, nurses, state employees, advocates, and family members. Commenters included reasons for their support, which are summarized below:

- The BIW is a necessary opportunity for people living with traumatic brain injury to maintain independence through home and community based rehabilitation.
- The waiver will allow more chances for in-home care, reducing housing instability and cost to taxpayers.
- Institutional living is more expensive than maintaining one's own housing with additional supports like visiting nurses, and caregivers who can assist a person with activities of daily living. Quite often a person will do fine when there is some assistance with shopping, housekeeping and bill paying.
- Person centered care is an important feature of the program.
- Institutional living can also be problematic for those with outbursts due to their condition, as there are far more "triggers" in group style housing.

- Allowing people to maintain their independent living status, with social and medical supports will enhance quality of life as well as reduce tax payer cost in the long run.
- Approval of this waiver will ensure Michigan citizens with a brain injury can lead fuller lives.
- Brain injury patients can be treated with quality care in their own homes where they will be more comfortable, not separated from their families and more able to participate in normal brain-stimulating activities, at less expense to taxpayers than if they are institutionalized.
- MDHHS must take precaution to assure the services provided through this waiver are of high quality.
- There are very few choices for those who need residential care and treatment which puts a huge burden on families.
- There are few residential group homes that specialize in serving individuals with brain injuries. That means that some individuals will end up in adult group homes and may need more care than these group homes provide.
- This waiver will allow individuals to receive the post-acute therapeutic services that will help improve their quality of life instead of languishing at home or in a nursing home that is ill-equipped to deal with their complex needs.
- Specialized services by competent caregivers provide better outcomes in the post-acute injury period for individuals with brain injuries and allows those individuals to realize their highest level of independence.
- One commenter indicated they frequently receive calls from individuals who are unable to find the support and services needed by individuals with brain injuries. This program will fill a gap in the current system.
- This is a step in the right direction to correct a long term failure of our Medicaid system.
- An advocacy group states the proposal follows many of the principles espoused by the state's Traumatic Brain Injury (TBI) Council and includes elements from the current TBI program.

Response: MDHHS appreciates this support and looks forward to implementing this program for the reasons identified above.

Comment: One commenter supports the BIW, but believes it is focused only on post-acute phase of recovery and does not encompass the full range of therapeutic services. They believe the program misses the opportunity to have a more significant impact on outcomes, quality of life, and overall costs. This commenter would like to help the State of Michigan craft a waiver that can have a greater impact on outcomes and costs.

Response: MDHHS appreciates your support. Exclusions regarding the type of services provided in the BIW have been made due to the limited budget and scope of this small demonstration program. MDHHS will take the commenter's offer of assistance into consideration when the opportunity to develop a more comprehensive program is available.

Comment: One commenter expressed support for the BIW, but asked why long-term supports and services and self-direction opportunities are excluded from this program?

Response: The BIW will focus on specialty services related to brain injuries. The services covered in the BIW are considered long-term supports and services. The BIW will focus on person-centered planning for these services. Other services (such as personal care) and opportunities for self-determination are provided by other programs which the BIW participants may utilize in conjunction with the BIW.

Comment: One commenter requested a copy of the webinar slides.

Response: The webinar slides are posted on the MDHHS website at www.michigan.gov/MDHHS >> Assistance Programs >> Health Care Coverage >> Michigan Brain Injury Waiver.

Section I – Program Description

Comment: One commenter requested wording changes under the “appropriate accreditation” section. Specifically, they requested to change “inpatient” to “Residential Rehabilitation Program” and “outpatient services” to “Outpatient Medical Rehabilitation Program” to mirror Commission on Accreditation of Rehabilitation Facilities (CARF) language. Additionally, the commenter requested consideration of adding to each of those items listed above the phrase “that meet the Brain Injury Specialty Program designation.”

Response: MDHHS considered the suggested changes but has not incorporated them in the BIW application. MDHHS did not want to be overly restrictive on provider qualifications.

Comment: Many comments were received regarding the availability of brain injury services to individuals under the age of 21. Concerns were raised about the availability and comparability of brain injury services for individuals seeking Early and Periodic Screening, Diagnosis and Treatment (EPSDT). Two commenters requested that MDHHS consider BIW eligibility for persons younger than 21, particularly for the transitional residential

rehabilitation services. These commenters were concerned about individuals aged 16-21 who tend to have higher injury rates. The commenter would not want this population overlooked.

Response: MDHHS is reviewing the services available to Medicaid beneficiaries under age 21 and working with the Medicaid Health Plans to assure that brain injury services are available to these individuals as needed. MDHHS staff will continue to collaborate to educate Medicaid providers, including Medicaid Health Plans, about the BIW.

Comment: In early versions there were 100 "slots" that could be filled. It now appears that a total of 100 people can be served – does that mean it is limited to a total of 100? I would like clarification regarding prioritization and the 100 slots. Does prioritization only come up on slot 101?

Response: The BIW is a small demonstration program with a limited budget. MDHHS limited the enrollment to 100 individuals over the course of a year. That number may change as MDHHS gains more experience with serving this population. If additional funding is allocated to the BIW or if MDHHS is able to serve more individuals within the budget, MDHHS may request an amendment to the demonstration to serve more individuals. MDHHS included a prioritization for enrollment in anticipation of receiving more requests for enrollment than may be supported by the allocated budget.

Comment: One commenter requested a decision rubric defining how MDHHS determines TBI versus a more general Acquired Brain Injury (ABI) determination, since the prior was noted as a priority over the latter?

Response: Page 3 of the application discusses the difference between a traumatic and an acquired brain injury.

Comment: Several comments were received regarding individuals with anoxic brain injuries, how these individuals are prioritized, and whether or not they are excluded from enrolling in the BIW. One commenter prefers these not to be prioritized and not excluded. Another commenter prefers the prioritization is kept and the exclusion is removed. That commenter likes prioritization better than exclusion, especially for individuals who have had a stroke because those groups benefit greatly from rehabilitation.

Response: MDHHS included the prioritization for individuals with traumatic brain injuries over those with anoxic brain injuries because this is a small demonstration program with a very limited budget. The prioritization description in Section I of the BIW application defines traumatic and acquired brain injuries. Section II of the BIW application identifies

individuals with certain diagnoses, diseases, and conditions that would be excluded from enrolling in the BIW. The intent of the exclusions was not to eliminate all individuals with acquired brain injuries, but only those who would have other resources available to them to address any functional deficits related to the injury. MDHHS reviewed the listing of excluded diagnoses, diseases, and conditions and made revisions in the final version of the BIW application.

Comment: If 100 people are not served within the year, can the budget accrue/carry over to the next year, so that federal match is not left on the table?

Response: No, budget allocations are authorized annually.

Comment: One commenter expressed concern about the hypotheses stating 75% of the participants will achieve at least 75% of their individual rehabilitation goals. The commenter states that recovery is slow. Achieving at least 75% of individual rehabilitation goals is dependent on how the goals are written and how they are measured. The commenter treats individuals with behavioral health, physical, social, and community access needs. An individual may have tremendous gains in three or four areas of importance for their quality of life, but may continue to struggle in five or six other areas and only achieve 50% of the rehabilitation goals, but have great outcome. The commenter continued that even if individuals don't meet 75% of their goals, meeting some goals or even 70% would be great for many patients and families. The commenter wondered about what this does to the hypothesis at the end of five years if MDHHS does not meet the stated hypothesis. Does the State revise the benchmark or do they fail at the end of the demonstration? Another commenter agreed, stating her daughter would never be able to achieve 75% of the goal, but stated that would depend on how the goal was set. Her daughter has severe TBI and thinks the 75% is too high.

Response: MDHHS will be working with case managers and other providers to determine how to assist individuals with setting their goals. Many individuals may have short term and long term goals. The goals measured for the BIW would be those related to the services received in the BIW. Additionally, MDHHS will be working with the Centers for Medicare and Medicaid Services (CMS) and independent evaluators to determine the best way to measure whether or not the hypotheses were met. All analysis will include an evaluation of both the hypotheses and the program data. When MDHHS evaluates the outcomes achieved, we will also evaluate whether or not the hypotheses were realistic. There are four hypotheses to evaluate over the course of this demonstration. If MDHHS fails on all four of them, then we would need to reevaluate how the

program was implemented and what we could do to improve it. However, if for example, 73% of the participants achieved 70% of their goals, then the conclusion may be that MDHHS set the bar too high to start. If MDHHS does not meet the goal of 75% of the participants achieving 75% of their goals, but 99% of the participants have a better quality of life after going through the program, there is still an indication that the program is effective despite not meeting our goals.

Comment: Is there a report or summary at the end of five years?

Response: Yes, a report is required at the end of the Demonstration.

Comment: Regarding the hypothesis and that 24 other states have a waiver, do the other states have the same assumptions or does the state know? Could the State of Michigan reach out to other states and see what the other states are doing?

Response: It depends on what type of waiver each state has. MDHHS decided to implement a §1115 waiver, which requires a hypotheses on what is being demonstrated. MDHHS looked at other States' waivers and discussed the different aspects of their waivers and their hypotheses during the development of this waiver. Staff found other states' hypotheses to be similar.

Comment: The waiver states the individuals are eligible for 24 months of service. Do the providers have autonomy within that 24 months to set rehab goals in those timeframes? Do providers set the timeframe of a goal to achieve in 6-8 months, will they have the opportunity to provide that treatment for 6-8 months, or is there a possibility the person will become ineligible based on some determination?

Response: The rehabilitation goals must be person-centered. This means the provider would not act autonomously in setting the rehabilitation goals, but work with the individual to set those goals. MDHHS would expect that many individuals will have a combination of short and long term goals. The goals set by each individual do not need to be confined to rehabilitation goals. There is always the possibility that somebody would lose their Medicaid eligibility. If an individual is not eligible for Medicaid, he/she is not eligible for the BIW.

Comment: Regarding hypothesis number 3, if we felt it needs to be less to be approved or could we say cost would be neutral on an annual basis. Since the hypothesis is on an annual basis and not over a longer period of time, one of the stakeholders would like MDHHS to revise the waiver to

state that the total Medicaid costs will be no more than the costs of services had the participants received institutional care. The stakeholder would like MDHHS to add that the life-time Medicaid costs will be decreased. The way hypothesis number 3 is written, I am concerned that it is written as 100 people received service last year and incurred less cost than had they received institutional care. It is not saying that by implementing this program society will be better over the course of time. It says last year they incurred less than if they had been in a nursing home or institutional care. Depending on what the goal of the program is, I think the statement should be reflective. Can we change hypotheses number 3 to say it will be neutral or less than cost or equal to or less than?

Response: MDHHS has to demonstrate budget neutrality, which is not the same as savings. Hypothesis number 3 is intended to mean that BIW services will not cost any more than services received in an institution. MDHHS took these comments and suggestions into consideration and re-phrased hypothesis number 3. Additionally, MDHHS revised the evaluation language for this hypothesis to include not only current BIW participants, but also previous BIW participants in the evaluation.

Section II – Demonstration Eligibility

Comment: One commenter inquired about dollar amount for 300% above the poverty level and whether this amount was for an individual. The commenter also asked if a patient would be eligible with income up to 300% of Supplemental Security Income (SSI).

Response: Currently, the SSI rate for an individual is \$733. 300% of that amount equates to \$2,199 gross income per month. Yes, individuals with incomes up to 300% of SSI or \$2,199 per month could be eligible for the BIW.

Comment: If the patient worked and their income was above the guidelines and then had an accident, how long would it take to become eligible?

Response: There are many factors to consider regarding Medicaid eligibility. Each person's situation is unique. Most categories of Medicaid eligibility include income and asset tests. The individual would need to have an income within the income limit of 300% of SSI, and also meet any asset tests (usually countable assets of no more than \$2,000) to become Medicaid eligible. Eligibility determinations normally take about 45 days from the date the application is submitted to the MDHHS Local Office.

Comment: One commenter questioned whether the reason for denial into the program would be made public.

Response: MDHHS revised the waiver application and included reasons for denying enrollment in the BIW in Section II of the application.

Comment: One commenter questions what rises to the level of “abuse of legal substances” that disqualifies someone. The commenter suggests removal from the criteria since it is somewhat subjective and self-medication can be a coping mechanism for those not getting proper treatment. If substance use is being used as a disqualifier than it should be defined so all stakeholders have a clear understanding of the disqualification. The commenter suggested a revised statement such as, “The individual does not have current substance misuse issues that rise to a level that creates a barrier to participating in and benefitting from an intensive rehabilitation for TBI.”

Response: MDHHS made revisions to the admission requirements.

Comment: One commenter asked whether the admission criteria require individuals to have a neuro-psych evaluation. The BIW states the evaluation would be a comprehensive evaluation. Most transitional programs have a neuro psychologist as part of the program and once someone is there, it becomes quite easy to do some of the testing. The commenters expressed concerns that patients cannot do eight hours of testing for a comprehensive evaluation and the neuro psychologist may have to make several trips to the hospital to finish the evaluation. The commenters expressed that the neuro psychologists are unhappy with the Medicaid reimbursement rate. The commenters questioned the necessity of the evaluation to enroll in the BIW and indicated that access to qualified professionals who can complete a neuro-psychological evaluation is a barrier to access. The commenters suggested requiring only a consultation from a qualified physician who can determine if the individual is likely to benefit from specialized treatment upon application. They further suggested that any further questions regarding the impact of the brain injury can be answered through the provider's evaluation process once the treatment has begun.

Response: MDHHS appreciates your comments and has evaluated these concerns and revised this requirement in the BIW application.

Section III – Demonstration Benefits and Cost Sharing Requirements

Comment: Several commenters expressed concern about the exclusion of individuals receiving pregnancy related services. Concern was expressed regarding discrimination based on gender and that pregnancy is a discrimination based on gender. The stakeholders would like the State to reconsider excluding individuals receiving pregnancy related services. Section 1557 of the Affordable Care Act addresses discrimination based on individuals' sex, including pregnancy. The commenter stated that for these reasons, excluding pregnant women from the waiver may impede Federal approval. Additionally, the commenter advocates that rehabilitation is equally beneficial for women who are pregnant and those who are not pregnant, and waiting for the full term of the pregnancy to engage in rehabilitation is not beneficial and in fact could be hurtful to both the rehabilitation potential and child's health.

Response: MDHHS appreciates these comments and has removed this exclusion from the final version of the BIW.

Comment: One commenter asked if someone had a knee replacement and is seeing a physical therapist but is also eligible for the BIW, would that person have to disenroll from the knee physical therapy and re-enroll with BIW physical therapy?

Response: Yes. Individuals enrolled in the BIW are expected to receive all therapy services through the BIW.

Section IV – Delivery System and Payment Rates for Services

Comment: One commenter asked about the number of MI Choice waiver agencies. Another commenter wondered if six of our individuals come through the organization, but all six come from different waiver agencies, we would be in a process of reaching out to the agency negotiating the contract for their personal care services before they come in. The commenter also wondered if this process was realistic.

Response: There are 20 MI Choice waiver agencies throughout Michigan. At most, there are two MI Choice waiver agencies in each service area. Therefore, the most number of waiver agencies with which a transitional residential rehabilitation provider may need to negotiate a contract for the provision of non-BIW services would be two.

Comment: One commenter asked, if they would still have only two contracts per service area at the most, even if the person came from the Upper Peninsula and choose services in the Lower Peninsula. Another commenter asked if each waiver agency agreement was personalized.

Response: If the person is receiving transitional residential services, you will work with the local MI Choice waiver agency. Waiver agencies renew contracts on a yearly basis. You are able to contract with the agencies whether or not you had a participant. It is not negotiated for each participant. Contracts include a reimbursement rate and what each entity is expected to provide via the contract. As a provider within the waiver agency's provider network, you would receive a service authorization that is unique to each individual.

After the BIW is submitted, MDHHS will have some provider meetings to help providers with issues, such as how to enroll in the Community Health Automated Medicaid Processing System (CHAMPS) and how to work with other entities, and we would bring waiver agencies to the table so that you can all hear the same thing at the same time. MDHHS does plan on helping the providers work through that process during the fall and winter, so everyone is prepared to implement on January 1, 2017.

Section V – Implementation of Demonstration

Comment: One commenter asked how individuals will find out about this waiver and whether it is just a matter of knowing the BIW exists.

Response: MDHHS continues working with providers from the current TBI program to assure they know about the BIW. Once the BIW is approved, there will be a press release, a description of the BIW on the MDHHS website, and the Beneficiary Helpline will be given information on BIW to relay to potential participants. Additionally, MDHHS will alert the Local Offices about the program so that individuals who may benefit from the program will be referred to the BIW.

Section VI – Demonstration Financing and Budget Neutrality

Comment: One commenter asked about the pressures are there to show "cost savings" on the cost neutrality sheet.

Response: MDHHS only needs to demonstrate budget neutrality with this demonstration and does not have to show cost savings. MDHHS calculated the budget neutrality using tools provided by CMS. This

analysis showed that the services through the BIW will be less than the other settings.

Section VII – List of Proposed Waivers and Expenditure Authorities

MDHHS did not receive comments on this section of the BIW application.

Attachment A: Long-Term Services and Supports Form

Comment: One commenter would like MDHHS to consider the use of “participant” and “participant’s authorized representative” throughout Attachment A. There are references where only the participant is granted rights, but they may not be their own guardian or even cognitively able to make some the decisions that they are granted in this document.

Response: MDHHS thanks the commenter for this suggestion and has made the revisions.

Comment: One commenter raised concerns regarding the requirement to develop the initial plan of service “within seven days of program approval.” This commenter believes the time frame may be unreasonable, particularly for those coming from a hospital setting where program approval may come a few days before admission and the completion of initial evaluations. The commenter suggested revising this requirement to “within seven days of receiving program services”.

Response: MDHHS thanks the commenter for this suggestion. MDHHS explains the difference between an interim and initial plan of services in Attachment A of the BIW application. In the situation described above, an interim plan of service would be used to start BIW services and the initial plan of service would be finalized within 30 days.

Comment: One commenter asked if personal care services are covered under the BIW.

Response: The BIW does not cover personal care services. BIW participants will be able to receive these, or similar services through another Medicaid-funded plan or program, such as the Healthy Michigan Plan, MI Choice waiver, MI Health Link and the Home Help program while enrolled in the BIW.

Comment: One commenter asked if the personal care services the provider currently provides through the organization can be negotiated with the Community Mental Health (CMH) the person is currently part of.

Response: Individuals who qualify for services through their local CMH agency could continue to receive those services as long as the services were not duplicative.

Comment: One commenter asked for clarification regarding whether the Mayo-Portland Adaptability Inventory (MPAI) is an assessment or rating and if the MPAI applies to all participants even if they are only receiving case management.

Response: MPAI is a rating. MDHHS expects every participant to complete a MPAI even if he/she is only receiving case management.

Comment: Several commenters questioned the billing of services. They wanted to know if a provider can bill for different services on the same day. The commenters also questioned how to bill for services if services are less than five hours.

Response: Based on the robust discussion around transitional residential rehabilitation services during the public hearings, MDHHS has revised how this service will be billed. It is now meant to be an all-inclusive BIW service. Individuals using the transitional residential rehabilitation service will only be eligible for this service and specialized medical equipment and supplies. Individuals who are not using the transitional residential rehabilitation service will be able to use more than one BIW service per day. The outpatient and home and community-based service providers may bill for different services rendered on the same day.

Attachment B – Long Term Supports and Services Benefit Specifications and Provider Qualifications

Comment: Attachment B of the BIW application states duration of benefit/service, is limited to five days per week, but does it need to specify only weekdays or could someone participate on Saturday/Sunday instead if that is more accessible/convenient for them or their family?

Response: The limitation is not based on days of the week, but is based upon the number of days individuals typically receive services. It is typical that individuals would need at least two days off of therapy services per week. MDHHS does not specify which days of the week are non-therapy days.

Comment: Attachment B of the BIW application states: "Environmental accessibility adaptations needed...will not be considered completed until the individual returns to their home." Does this mean the contractor will not be paid until the person returns home? If so, consider that this will cause access

barriers to contractors who may not be willing to wait on payment of services. Typically a contractor expects some payment upfront and the remainder upon completion.

Response: This limitation applies only to individuals who are currently receiving transition residential rehabilitation services. These individuals temporarily reside away from their homes. MDHHS understands that some environmental accessibility adaptations may need to be made to the home so that the individual can return to that home. However, this service is only billable once the individual returns home. Therefore, the service is considered complete upon the individual's return to the home. Typically Medicaid-covered services are not billable until they have been rendered in full.

Comment: Attachment B of the BIW application states counseling is limited to eight units or two hours per week and includes psychology, social work, applied behavioral analysis, and registered nurse. For some individuals with TBI, particularly those with self-regulation and executive functioning issues requiring the Applied Behavioral Analysis services, the two hour limit per week will not meet the need.

Response: MDHHS revised the transitional residential rehabilitation service to be all-inclusive so that providers will have the flexibility to furnish services, including counseling, as needed based on the individual's needs and preferences. The counseling available through the BIW does not duplicate similar services that may be available through other programs. More intensive counseling or therapy is covered as a state-plan service.

Comment: One commenter raised concerns about the Counseling service. In the 'Other' box, it states individuals who qualify for counseling in other systems (CMH, State Plan, and MI Choice Waiver) are excluded from counseling from the BIW. While this exclusion will be problematic for several of the service offerings in the BIW, it will be detrimental for the Residential Rehabilitation Services. The counseling services are a fully intertwined part of the residential program and the presence of the counseling staff within the program on a fulltime basis allows for a consistency of programming that is not available if the counseling professional is not an integrated part of the treatment team.

Response: MDHHS has reconsidered how it defines the service package for individuals using transitional residential rehabilitation services. It was not the intent to exclude counseling services received during the transition residential rehabilitation from being billed through the brain injury waiver.

MDHHS has now defined transitional residential rehabilitation services as a package of services that is all-inclusive.

Comment: One commenter raised concerns about Attachment B of the BIW application, Page 11 – Prevocational Services – Per the Provider Qualification, this service requires an Occupational Therapist or Vocational Therapist. Typically a vocationally trained staff would carry out these services under the direction of an Occupational Therapist or a Rehabilitation Counselor, but the licensed therapist themselves would not perform this service directly. The service is paid at \$12.50 per unit also indicating that it is not intended to be the fully licensed therapist performing the services.

Response: The unit for this service is 15 minutes, which equates to \$60.00 per hour. MDHHS has made changes to this section of Attachment B in the BIW application to allow for trained staff working under a licensed professional to deliver this service.

Comment: One commenter raised concerns about Attachment B of the BIW application, under supported employment, and would like job coach as a provider type. The commenter added that the reimbursement of this service is \$7.80 per unit which does not support the use of an occupational therapist or other licensed therapist for this service. Additionally, it would not be best practice to use only higher-level licensed staff for on-going supported employment.

Response: MDHHS appreciates your comments and has made changes to this section of Attachment B of the BIW application.

Comment: One commenter requested clarification of what is intended by “Neurobehavioral Rehabilitation Therapist” as this therapist type is not standard.

Response: MDHHS includes any licensed therapist that specializes in neurobehavioral rehabilitation in this category. Neurobehavioral rehabilitation focuses on integrating neuro-psychiatric therapy with behavioral therapies for those with brain injuries.

Comment: One commenter suggested the provider qualifications are currently indicating both licensure and certification for all provider types, even for types where there is not both certification and licensure available in the State of Michigan.

Response: MDHHS has reviewed the providers for BIW services and made changes.

Comment: For the Residential Rehabilitation, I understand that the expectation is a braiding of funding sources to create a total reimbursement package, not all of which is shown in the Waiver. This model will create an additional administrative burden on providers that has direct costs and which should be considered in the rates paid to providers. It would be helpful to see an example of how the program developers are expecting the braided funding to work, along with the typical amount of dollars that can be expected from each funder. It is difficult to comment on the adequacy of the funding without seeing the full picture. However I remain concerned that providers will not be able to serve the population under this braided funding due to the intensity of services and supervision required by this population.

Response: MDHHS appreciates your comments and has taken them into consideration. The rates were developed by the MSA Actuarial Division, with Milliman assisting with review of the rates. Because of the many comments received regarding the transitional residential rehabilitation services, MDHHS has made significant changes in how this service is defined.

Comment: What is day treatment and would it include personal assistance, such as hygiene?

Response: Day treatment services are intended to reinforce therapeutic services on the days when the individual is not actually receiving therapy. An individual would go to the day treatment program to reinforce what they learned in therapy. A component of day treatment may be the provision of personal assistance during the individual's duration in the day treatment program.

Comment: One commenter inquired about whether case management is external or through the provider or waiver agency.

Response: The case management will be rendered by qualified providers. These providers may be employees of an organization, or an individual that meets the qualifications specified in the BIW application. BIW participants will be able to select a qualified provider of their choice.

Comment: One commenter stated that he assumed personal care was not included because another program covered it and wanted to know what program covers it. Another commenter asked if individuals are able to select their own providers if they are enrolled in MI Health Link, Home Help, or MI Choice.

Response: Programs that cover personal care include MI Health Link, Home Help, Healthy Michigan Plan, and MI Choice. Each of these programs offer choice of providers.

Comment: One commenter wondered if when a provider is furnishing transitional residential rehabilitation services, getting paid for the therapies, and billing for the personal care services, would the provider select the caregivers.

Response: BIW participants are able to choose from qualified providers. If the individual selects a transition residential rehabilitation setting, then the individual is selecting the providers available at that setting. Since the BIW does not cover personal care services, and all Medicaid programs that do cover personal care services (or an equivalent) require choice of provider, the individual would be able to choose their provider of personal care services.

Comment: One commenter asked if the provider would bill SSI for room and board and bill personal care services under another waiver.

Response: The BIW participant would be responsible for their room and board. The provider would bill the appropriate program for the participant's personal care services.

Comment: One commenter indicated that typically transportation is covered in residential charges and it is being said that transportation is not covered. Is transportation included in the residential? If you want to transport somebody, should the provider bill the transportation other benefit that is available to brain injury participants? Is that the reason transportation is not included in the brain injury waiver?

Response: Non-Emergency Medical Transportation (NEMT) will be covered for all brain injury waiver participants. Individuals who are concurrently enrolled in the MI Choice program or the MI Health Link program may have transportation covered through that program. If a BIW participant's goals include learning to manage local transportation, this could be included as a therapy service through the BIW.

Comment: A commenter asked what services are included in the BIW if room and board, transportation, and personal care services are not included. Additionally the commenter inquired if there were a requirement that services offered elsewhere have to be carved out or if this was a choice made to meet the budget.

Response: A list of services covered by the BIW is included in Section III of the BIW application. Each service is further defined in Attachment B of the BIW application. MDHHS placed limitations on the BIW services offered to maximize the impact of BIW-specific services given the limited budget. The BIW allows Michigan to offer unique services based on the BIW participants assessed needs that will enable the participants to maximize their independence and increase their quality of life after injury.

Comment: A commenter expressed concern about the definition of minimal, complex, and intermediate and the reimbursement rates associated with the levels, stating that the levels do not reflect the whole picture. Payment is based on the expected amount of therapy the participant will receive, and the commenter requested that MDHHS consider assigning the rates by 'hours of therapy recommended/prescribed' instead of agitation/direct care needs level of the patient. The least agitated patient may benefit the most from the highest intensity of services but under the proposed model this patient would have the 'minimal' therapy reimbursement rate.* Under the braided funding model proposed, the Waiver Agencies should be considering the supervision needs in their payment. A more complex/agitated patient will get more supervision which should translate in to a higher payment from the Waiver Agency for PCS services. The commenter asked if the language could be changed.

Another commenter asked about a schedule of different levels of intensity for therapies, rates, and if more information was available.

Response: MDHHS understands some individuals in transitional residential rehabilitation require different levels of intensity, necessitating different amounts of staff time. Minimal level of care includes individuals who have a Rancho-Los Amigos score of VI-VIII, are medically stable, may have mild aggression that is easily redirected, behavior also is redirected easily, need assistance with basic care and daily living activities. Intermediate level of care includes individuals who have a Rancho-Los Amigos score of V-VIII, are medically stable, display mild to severe aggression, are impulsive, easily frustrated, inappropriate verbalization that require structure, cues, and redirection, impulsive verbalization, minimal confusion. Complex/high tech level of care includes individuals who have a Rancho-Los Amigos score of V-VI, are medically stable, impulsive, display inappropriate behaviors, easily frustrated, have attentional deficits, require redirection, and have inappropriate verbalizations.

The transitional residential rehabilitation rates are set for complex, intermediate, minimal. Rates were originally developed based on an average of 5 hours of therapy per day. MDHHS made revisions to the

rates and underlying assumptions for the transition residential rehabilitation service after consideration of this and other comments regarding the transitional residential rehabilitation service.

Comment: One commenter asked if the waiver application gives a definition of therapy.

Response: Therapy is not defined in the waiver application. MDHHS expects the licensed providers who will be furnishing BIW therapy services to be familiar with this definition.

Comment: One commenter asked if psychology services or neurobehavioral services are covered. The commenter also asked if neurobehavioral was under counseling and included in attachment B. Further, would counseling be billed separately from other services?

Response: The psychology services are included as counseling. Counseling is a separate service when the individual is not receiving transitional residential rehabilitation services.

Comment: Can providers with accreditation from the National Committee for Quality Assurance (NCQA) provide BIW services?

Response: Yes. Providers may be accredited by the National Committee for Quality Assurance (NCQA), but MDHHS would additionally require certification as a brain injury specialist.

Attachment C – Brain Injury Services and Rates

Comment: One commenter asked how MDHHS determined fee-for-service rates included in Attachment C.

Response: MDHHS developed a rate structure and payments for the BIW. The BIW will offer multiple services and corresponding rates. Some services use existing provider payment rates, others require prior authorizations to manually determine the costs for the services, and others required new methodology to determine the rates.

Some of the services offered by the BIW are services for which MDHHS already has existing provider payment rates. The four home and community based rehabilitation services include physical therapy, occupational therapy, speech-language therapy, and activity therapy; Targeted Case Management and Counseling were the services that utilized existing rates.

The reimbursement for any home modifications, specialized medical equipment, and community transition services will utilize prior authorizations and be determined manually for each service.

The Transitional Residential Rehabilitation Services were broken down into three tiers based on the level of care needed by the participant. Each tier assumed an average weekly amount of therapy time, broken down by physical, occupational, speech-language, and activity therapies, the participant would need. The existing rates for these services were then multiplied by the assumed hours to determine the rate for each tier. Next MDHHS added in the assumed costs for day treatment programs, case management, counseling, and pre-vocational services that would also be provided in conjunction with the therapies while using the transitional residential rehabilitation service. No room and board or personal care costs were factored into the rates. The provider may bill one per diem rate for all transitional residential rehabilitation services for each day the participant is at the residence. During the transitional residential rehabilitation tenure, this per diem rate encompasses all services except specialized medical equipment and supplies.

The rate for the Day Treatment Program service is an hourly rate that was calculated using data received by Michigan providers that currently offer these services. Rates for Supported Employment and Pre-Vocational Services are rates per 15 minute segment and also utilized data from Michigan's providers.

All rates that had not been previously utilized by MDHHS have also been compared, for reasonability purposes, to the rates of similar services offered by states that currently have an established Brain Injury program.

Comment: The reimbursement rates included in the waiver are low and likely will reduce the interest by providers to serve this population. I understand the desire is to get a Waiver in place, show savings, and then address the reimbursement issues in later years. Based on this desire, what rates were utilized in future year calculations included in these worksheets? From the budget assumptions on the expansion population, I am concerned that rates may not have been adequately increased over the five year budget plan since the expansion population expenditures show only minor increases, likely due to increased enrollment instead of rate adjustments. The rate increase should be clear in the proposal and the financial assumptions.

Response: The rates were developed by the MSA Actuarial Division, with Milliman assisting with review of the rates. The rates were reviewed again after stakeholder input and have been revised. Rates will be reviewed annually and revised as needed. Any rate revisions after initial CMS approval of the BIW will require MDHHS to submit a BIW waiver amendment and receive approval by CMS.

Attachment D – Budget Neutrality Form

Comment: The more people you serve, the more people you save.

Response: MDHHS agrees and plans to increase enrollments in the future.

Comment: If you spend more today, you will save more over the next 20 years and the argument is that you spend more upfront. It might actually cost more the first year through intensive rehabilitation.

Response: MDHHS understands the value and cost of the BIW services. Since this is a demonstration program, we will continually evaluate program data to see what data best measure outcomes.

Attachment E – Demonstration Financing Form

Comment: One commenter asked if the \$2.5 million budget came from all funds or the general funds.

Response: The \$2.5 million budget includes both State and Federal funding.

Attachment F – Brain Injury Waiver Workbook

Comment: One commenter observed that \$13.2 million is what the state would expect to spend for people with brain injuries next year for institutional care. Is the \$13.2 million for the entire brain injury population or just 100 people? Can we get clarification on why it was \$13.2 million for 100 participants?

Response: Yes, it is for 100 people and assuming 100 people participate for 12 months. The biggest costs are services rendered in hospitals and nursing facilities. The assumption is that 365 days are spent either in the hospital or nursing facility.

Comment: I noticed that the financial hypothesis appears to only look at a one-year snap shot, however the savings are over a lifetime. What flexibility is there to look at a longer time frame for cost savings? For example, perhaps the first year is as expensive as or more than institutional care, but years two through five show big savings.

Response: This is a summarization of the entire waiver application. The waiver application goes through estimated cost savings over the entire five-year period of the waiver.

I trust your concerns have been addressed. If you wish to comment further, send your comments to the Long Term Care Policy Section at:

Long-Term Care Policy Division
Bureau of Medicaid Policy and Health System Innovation
Medical Services Administration
P.O. Box 30479
Lansing, Michigan 48909-7979

Sincerely,

A handwritten signature in black ink that reads "Chris Priest". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Chris Priest, Director
Medical Services Administration