



HCBS Innovation During COVID: Federal State, DD Act Partners

2020 HCBS Technical Assistance Series
October 1, 2020 3:00-4:30 p.m. ET



Agenda

Opening Remarks

CMS

ACL

HCBS Beneficiary

Overview of State Actions During COVID

- Kaiser Family Foundation

Innovation in Action During COVID

- State of Oregon
- DD Act Partners

Advocate Considerations

Q&A/Discussion

OPENING REMARKS



Michele MacKenzie

Technical Director

Division of Long Term Services & Supports

Disabled & Elderly Health Programs Group

Center for Medicaid & CHIP Services

Centers for Medicare & Medicaid Services



Carlos Villalta

Program Analyst

Office of Policy Analysis & Development

Center for Policy & Evaluation

Administration for Community Living

HCBS Beneficiary Perspective



Dennis Heaphy

HCBS Dual Eligible (Medicare/Medicaid) Beneficiary

PRESENTERS

MaryBeth Musumeci

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Rose Herrera

Home and Community-Based Services (HCBS)
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Director of Advocacy, Center for Public
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Dave Machledt

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State Actions to Support Medicaid LTSS During COVID-19

MaryBeth Musumeci

October 1, 2020

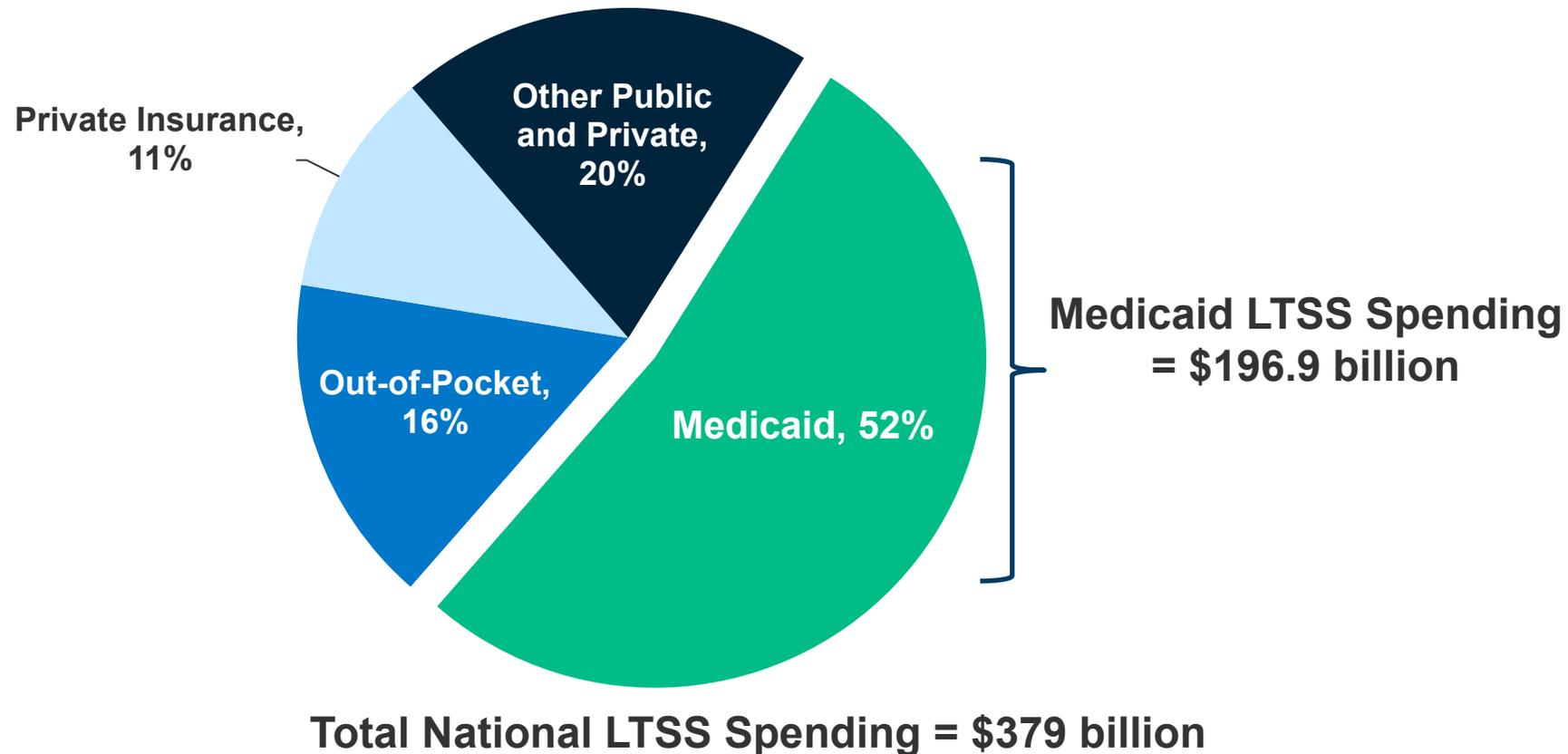
ACL/CMS Webinar

KFF

Filling the need for trusted information on national health issues.

Figure 7

Medicaid continues to finance the majority of long-term services and supports (LTSS), 2018.



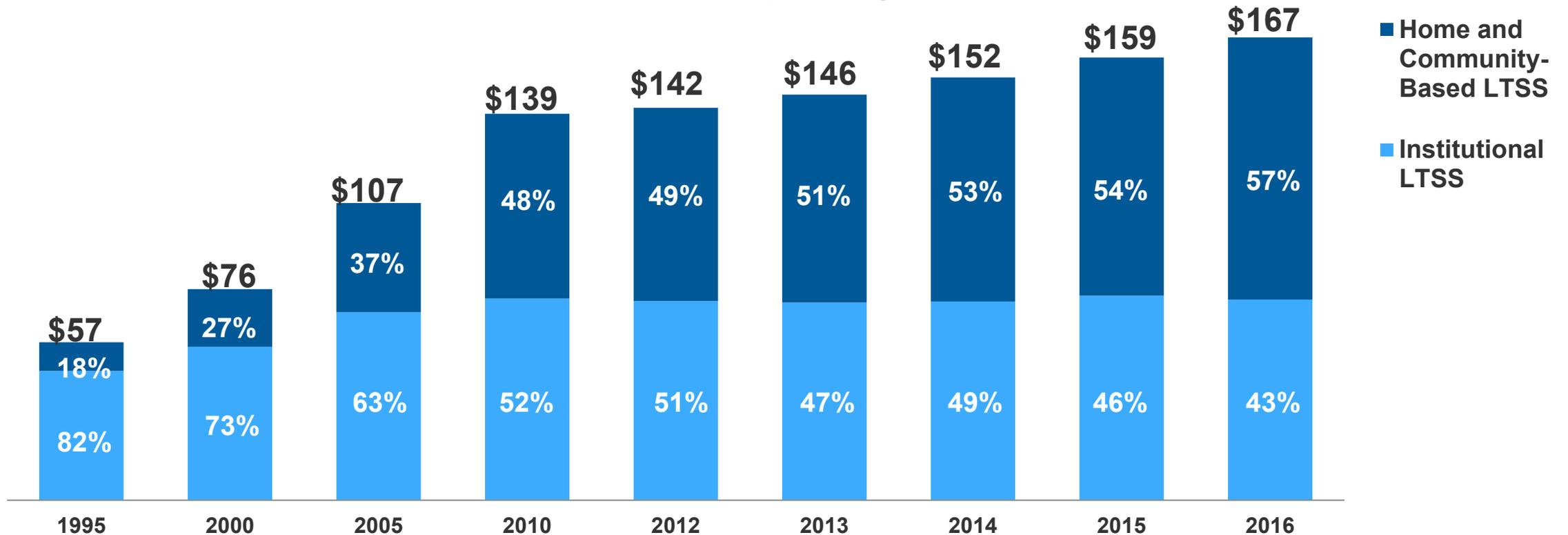
NOTE: Total LTSS expenditures include spending on residential care facilities, nursing homes, home health services, and home and community-based waiver services. Expenditures also include spending on ambulance providers and some post-acute care. This chart does not include Medicare spending on post-acute care (\$83.3 billion in 2018). All home and community-based waiver services are attributed to Medicaid.

SOURCE: KFF estimates based on 2018 National Health Expenditure Accounts data from CMS, Office of the Actuary.

Figure 8

States have made steady progress shifting the balance of Medicaid LTSS spending from institutions to the community.

Annual Medicaid LTSS Spending, in billions:



SOURCE: Steve Eiken, Kate Sredl, Brian Burwell, and Angie Amos, Medicaid Expenditures for Long-Term Services and Supports in FY 2016 (IBM Watson Health, May, 2018), <https://www.medicaid.gov/medicaid/ltss/downloads/reports-and-evaluations/ltss expenditures2016.pdf>.

Figure 9

COVID-19 has disproportionately impacted people who use LTSS.

Who needs LTSS?

People who use LTSS may have:

- ✓ Cognitive disabilities
- ✓ Physical disabilities
- ✓ Disabling chronic conditions
- ✓ Aging-related disabilities

Why are they at risk?

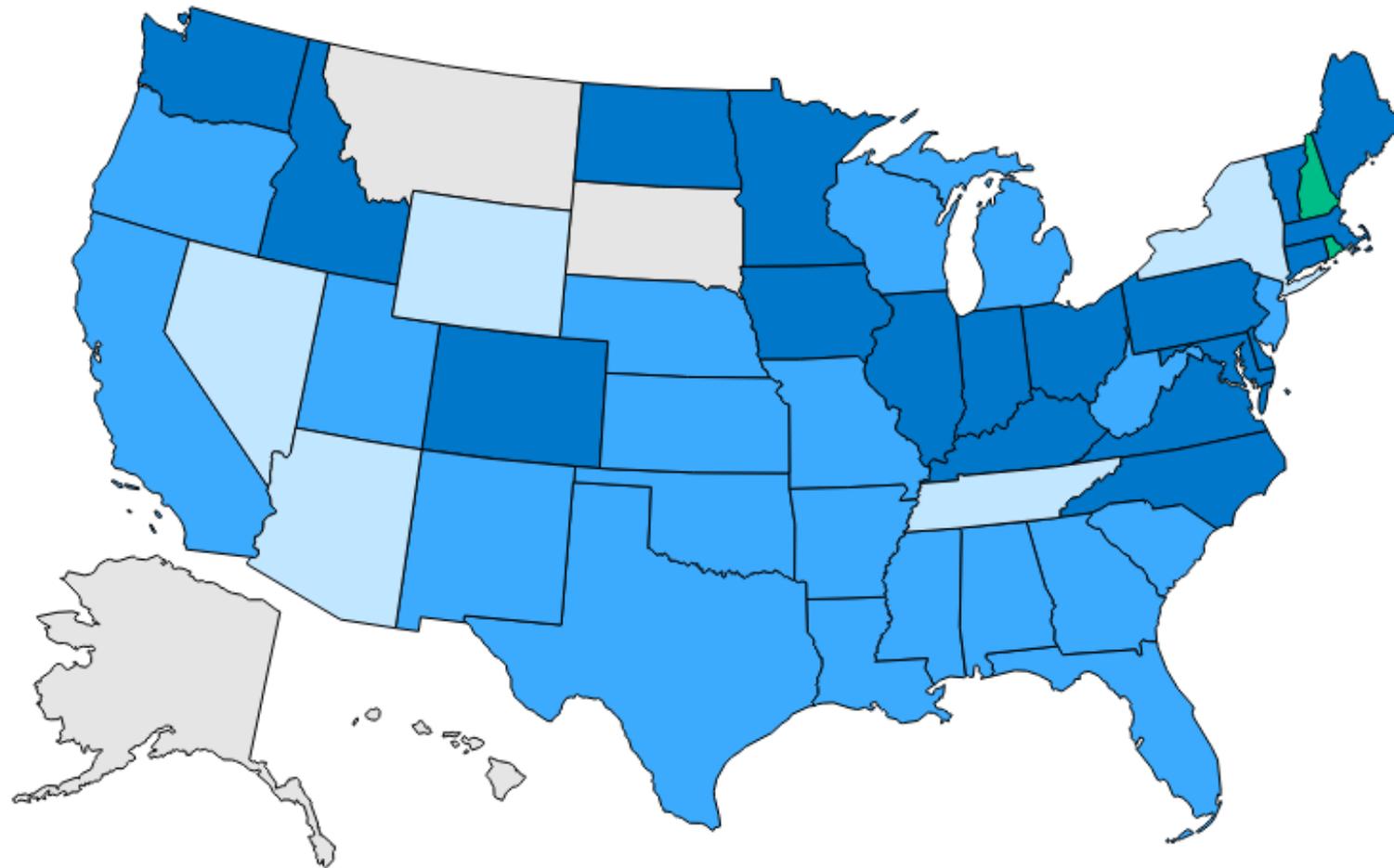
- ✓ Old age and chronic illness
- ✓ Residence in congregate settings such as nursing homes or group homes

Why does LTSS matter?

- ✓ Seniors and people with disabilities rely on Medicaid LTSS for daily self-care and independent living needs
- ✓ Crucial for coverage and access to care to continued uninterrupted during the pandemic

Figure 10

As of September 17, 2020, deaths in long-term care facilities comprise over 40% of all COVID-19 deaths.



United States Totals:

Facilities with
Known Cases: **19,909**

Cases: **496,708**

Deaths: **80,006**

LTC Cases
as a Share of
Total Cases: **8%**

LTC Deaths
as a Share of
Total Deaths: **41%**

**LTC Facility Deaths as a
Share of Total State Deaths**

- Less than 25%
- 25%-49%
- 50%-74%
- Greater than or Equal to 75%
- Data Unavailable in State

SOURCE: KFF, [State Data and Policy Actions to Address Coronavirus](#) (Sep. 2020).



Figure 11

States have adopted policies to support Medicaid LTSS using a variety of emergency authorities.

Authority	Description	Expiration
Disaster-Relief SPA	Temporary changes to eligibility, enrollment, premiums, cost-sharing, benefits, payment.	End of PHE or earlier
Traditional SPA	Change state plan provisions, such as eligibility, services, payment.	When subsequently amended or terminated
HCBS Waiver Appendix K	Temporary changes to provisions such as eligibility, services, payment, provider qualifications, service planning, incident reporting, settings to respond to emergency.	1/26/21, or earlier
Section 1115 Waiver	Waive regular program rules to protect health, safety, and welfare of individuals and providers affected by COVID-19.	60 days after PHE ends or earlier
Section 1135 Waiver	Waive regular program rules to ensure sufficient health care services available to meet enrollee needs and reimburse providers.	End of PHE, per CMS guidance

NOTE: PHE = public health emergency

SOURCE: KFF, [State Actions to Sustain Medicaid Long-Term Services and Supports During COVID-19](#) (Aug. 2020).



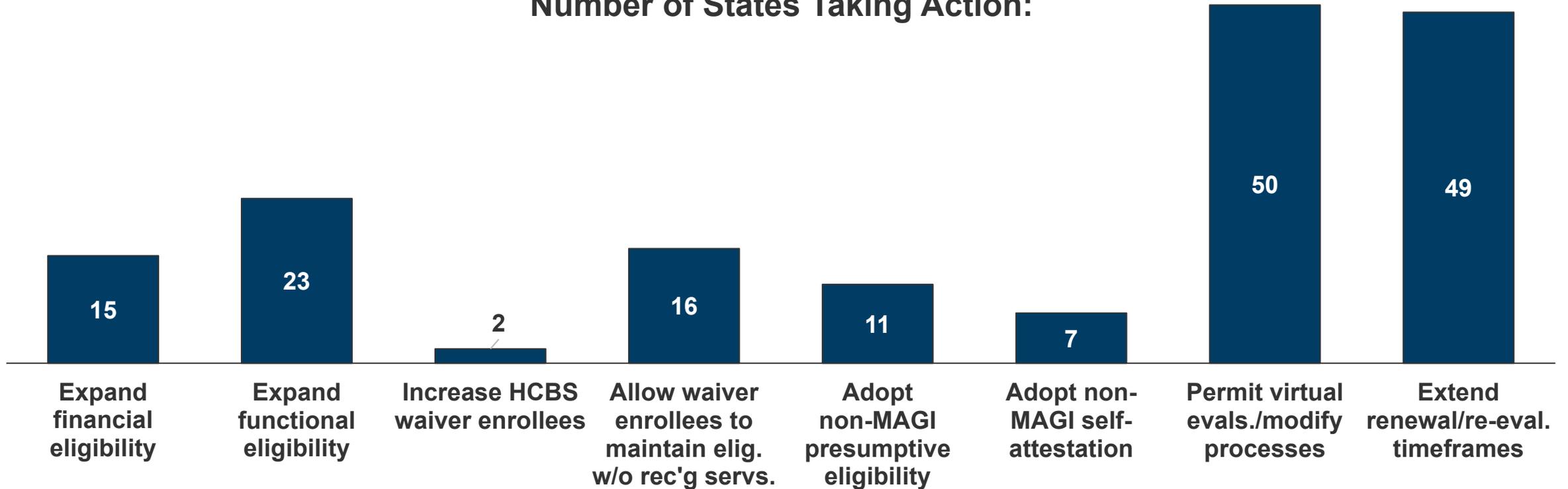
Retainer payments during the pandemic are limited to three 30-day episodes.

- Allow provider to continue to bill for care plan services that circumstances prevent an individual from receiving, such as:
 - Acute spell of illness or other medically necessary absence from HCBS setting
 - COVID-19 self-quarantine or temporary program closure
- Available for personal assistance services under 2000 *Olmstead* guidance:
 - Lesser of 30 consecutive days or number of days for which state authorizes nursing facility bed hold
 - No limit on number of episodes
- Up to 30 days available in Section 1915 (c) waiver or Section 1915 (i) or (k) SPA
- Up to three 30-day episodes during disasters through Appendix K or Section 1115, with guardrails:
 - Limit to reasonable amount, e.g. percent of current rate
 - Ensure recoupment if duplicate payments
 - Provider attest to not laying off staff and maintaining wages

Figure 13

Nearly all states have streamlined enrollment processes, while about half have expanded eligibility criteria, as of 8/21/20.

Number of States Taking Action:



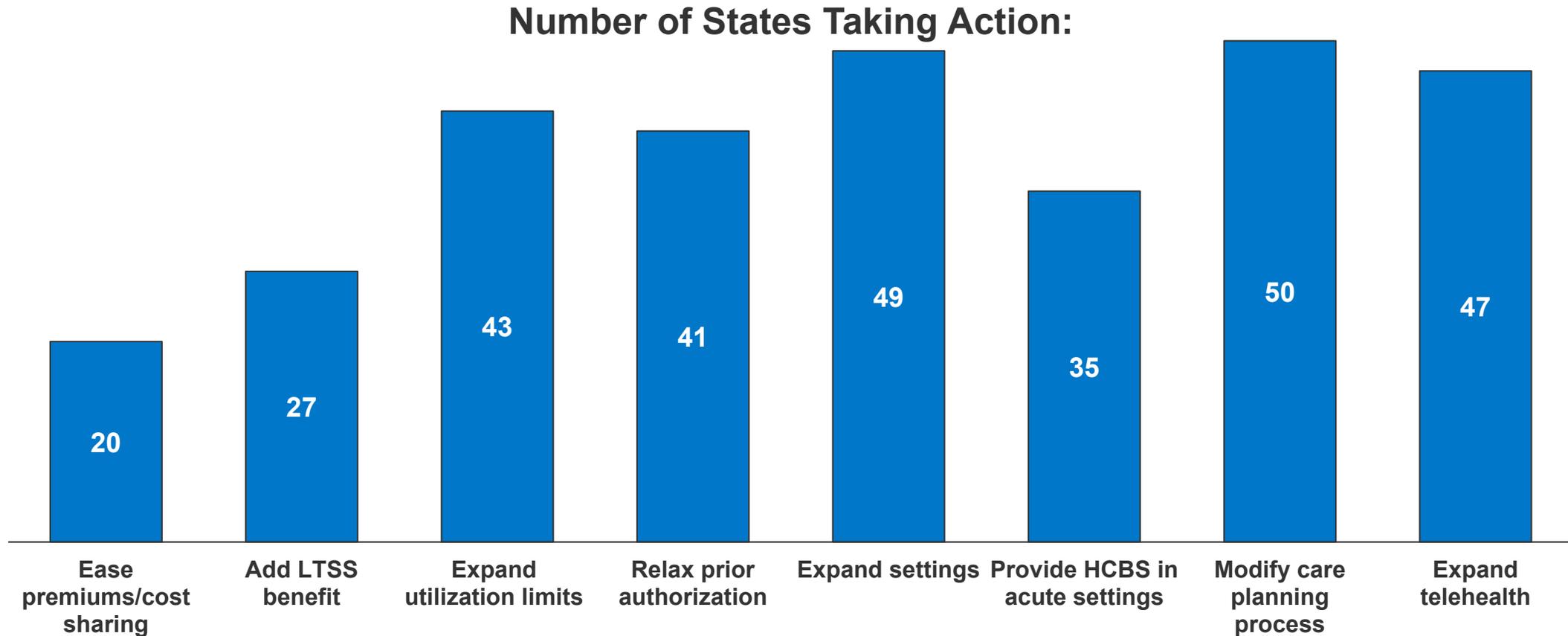
NOTE: LTSS = long-term services and supports. HCBS = home and community-based services.

SOURCE: KFF analysis of approved [Appendix Ks](#) and the [Appendix K Template](#); [approved SPAs](#) and the [Medicaid Disaster Relief SPA Template](#); approved COVID-19 Public Health Emergency [Section 1115\(a\) demonstrations](#); approved [Section 1135 waivers](#); and Medicaid actions to address COVID-19 posted on publicly available state websites.



Figure 14

Most states have increased service utilization limits, relaxed prior authorization, and expanded telehealth, as of 8/21/20.



NOTES: LTSS = long-term services and supports. HCBS = home and community-based services.

SOURCE: KFF analysis of approved [Appendix Ks](#) and the [Appendix K Template](#); [approved SPAs](#) and the [Medicaid Disaster Relief SPA Template](#); approved COVID-19 Public Health Emergency [Section 1115\(a\) demonstrations](#); approved [Section 1135 waivers](#); and Medicaid actions to address COVID-19 posted on publicly available state websites.



Figure 15

Nearly all states have increased provider payment for at least 1 LTSS and modified provider qualifications, as of 8/21/20.

Number of States Taking Action:



NOTES: LTSS = long-term services and supports. HCBS = home and community-based services.

SOURCE: KFF analysis of approved [Appendix Ks](#) and the [Appendix K Template](#); [approved SPAs](#) and the [Medicaid Disaster Relief SPA Template](#); approved COVID-19 Public Health Emergency [Section 1115\(a\) demonstrations](#); approved [Section 1135 waivers](#); and Medicaid actions to address COVID-19 posted on publicly available state websites.



CMS issued a March 2020 State Medicaid Director Letter inviting Section 1115 state demonstrations to respond to COVID-19.

- **Demonstration Purpose:**
 - “to furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by COVID-19”
- **Examples of Demonstration Template Provisions:**
 - Authorize retainer payments for personal care and habilitative state plan service providers
 - Allow self-attestation of income, assets, and level of care in LTSS eligibility determinations
 - CMS may consider approving other provisions
- **Application Process and Oversight:**
 - State and federal public comment periods and budget neutrality requirement do not apply
 - States must complete a final monitoring and evaluation report one year after demonstration ends
- **Duration:**
 - Can be retroactive to March 1, 2020 and will expire no later than 60 days after the public health emergency ends

CMS approved the first emergency COVID-19 Section 1115 waiver in Washington in April 2020.

- **Approved:**
 - Retainer payments for personal care and habilitative state plan service providers
 - Allow self-attestation of income, assets, and level of care for LTSS eligibility
 - Vary amount/duration/scope and triage access to LTSS based on highest need
 - Provide LTSS even if care plan not updated timely or delivered in alternative setting
- **Still Under Review:**
 - Medicaid expenditure authority to create a Disaster Relief Fund to cover COVID-19 treatment costs for uninsured individuals, housing, nutrition supports and other COVID related expenditures
 - Retainer payments to home and community-based service providers beyond the 30-day limit
 - Allow transportation brokers to directly provide non-emergency medical transportation
- **Denied:**
 - New temporary eligibility group that would use Medicaid funds to provide additional subsidies for individuals enrolled in Marketplace Qualified Health Plans with income at or below 200% FPL

Looking Ahead

- **Will states retain any LTSS policy changes after the public health emergency (PHE) ends?**
 - Will the PHE be extended beyond 10/23/20?
 - How will states transition once emergency authorities expire?
- **Will states be able sustain policy changes without additional federal fiscal relief?**
 - 6.2 percentage point FMAP increase expires at the end of the quarter when PHE ends
 - Current FMAP increase is unlikely to fully offset state revenue declines and address budget shortfalls
 - Economic impact of pandemic likely to persist beyond PHE period
- **How will the pandemic's impact in long-term care settings continue to be addressed?**
 - Policy recommendations for nursing homes and other institutional settings
 - Impact of COVID-19 in congregate community-based settings
- **How will the election affect Medicaid LTSS policies?**
 - Biden plan to increase access to HCBS
 - Trump proposals to cap federal financing and invalidate ACA, including HCBS options

Filling the need for trusted information on national health issues.



Thank you.

Supporting Individuals with Intellectual and Developmental Disabilities during the COVID-19 Pandemic in Oregon

Rose Herrera

Home and Community-Based Services (HCBS) &
Residential Program Settings Specialist

Oregon Department of Human Services, Office of
Developmental Disabilities Services

Rose.K.Herrera@dhsosha.state.or.us

Oregon is utilizing an intensive multi-disciplinary emergency response

Oregon's Office of Developmental Disabilities Services is a part of the team which includes partners such as:

Other HCBS and State Administered Programs- Aging and Persons with Disabilities, Mental Health, Protective Services, Child Welfare, Oregon Health Authority, and Public Health Agencies



The statewide team collaborates with state leadership to establish mandates and guidelines for following Governor directives. Efforts also include:

Assistance to community partners in implementing precautionary and infection control measures

Focused efforts on coordinating access to PPE

Monitoring outbreak trends

Centralized Communication

ODDS developed a dedicated webpage for COVID-19 related communication and resources.

Anyone can subscribe to the page to receive all updates to the page

Oregon Department of Human Services / Seniors & People with Disabilities / Intellectual and Developmental Disabilities

ODDS-COVID-19-Information

- I/DD HOME
- ABOUT US / ODDS STORIES
- CONTACTS
- COUNTY PROGRAMS
- COVID-19 INFORMATION**
- SERVICES AND ELIGIBILITY
- EMPLOYMENT SERVICES
- I/DD DIRECTOR'S MESSAGES
- REQUEST A HEARING

 [Subscribe to receive email updates](#)

Visit the [Oregon Health Authority's COVID-19 page](#) and [211info COVID-19](#) for information and resources

[COVID-19 Information for ODDS Residential Settings](#)

Specific ODDS questions can be directed to the ODDS Emergency Management Specialist at ODDS.FieldLiaison@dhsosha.state.or.us

COVID-19 Important Notices

[Scenarios for ODDS Services Related to COVID-19](#)
[ODDS COVID Transmittal Explanations \(PDF\)](#)

Information is organized by audience, including:

Individuals
and Families

Case
Managers

Providers

In addition to the ODDS COVID-19 Webpage, ODDS communication efforts include:

- Virtual stakeholder meetings
- Case management webinars
- Provider webinars
- Podcasts
- Directors' messages
- Policy transmittals
- Guides
- PowToon videos
- Social Media platforms such as Facebook



How to support individuals to have Home and Community-Based living experiences during a pandemic “stay home” order

ODDS focused on options to allow individuals to be connected to services and significant people in their lives through remote technology

Efforts included making remote technology accessible and available for individuals supported in our service system, such as:



Access to devices with video feed capabilities so individuals could be in touch with their case managers, providers, advocates, and friends and family

(utilizing K-Plan state plan assistive device and assistive technology coverage and Oregon state general funds)



Individuals and families were connected to internet services

(internet providers offering free services, community partner subsidies, K-plan state plan assistive technology coverage and Oregon state general funds)

Individual Medical Rights

Oregon Legislature collaborated with ODDS and partner organizations to pass SB 1606 in a special session, which:

Prohibits a hospital or health care provider from conditioning or communicating that treatment is dependent upon an individual having a POLST, advanced directive, or other similarly related structure in place

Gives individuals the right to have a support person present with them in the hospital

80th OREGON LEGISLATIVE ASSEMBLY--2020 Special Session

A-Engrossed

Senate Bill 1606

Ordered by the Senate June 26
Including Senate Amendments dated June 26

Sponsored by Senators COURTNEY, GELSER (at the request of Joint Committee on the First Special Session of 2020)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits hospital from conditioning admission or treatment, or suggesting that treatment is conditioned, on patient having POLST or executing advance directive or other instruction regarding administration, withholding or withdrawing of life-sustaining procedures or artificially administered nutrition and hydration.

Requires hospital to permit presence of support person for person with disability in emergency department and during hospital stay under specified conditions. Allows hospital to impose conditions to ensure safety of patient, support person and staff.

Monitoring and Service Authorization During Pandemic

Monitoring of service delivery and individual welfare is conducted through remote technology wherever possible

When there is a concern of safety, health, or welfare of an individual, responders (including case managers, protective services, or licensors) take precautionary measures to respond in person

Using technology to limit activities that would require in-person contact, such as electronic signatures to approve plans or having person-centered planning meetings occur through video conferencing

Oregon is utilizing opportunities of allowable flexibilities for service delivery, including case management services.

Safety and Advocacy

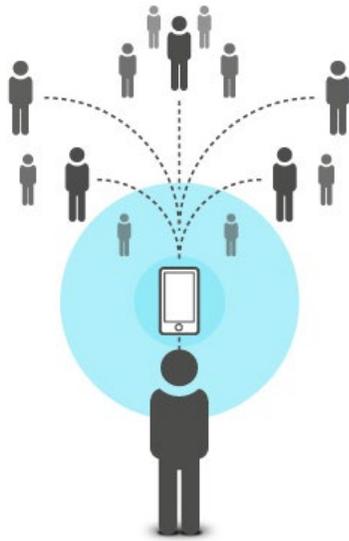
ODDS has focused on ensuring that providers and partners are aware that Mandatory Abuse Reporting responsibilities continue to apply during the pandemic

Outreach to individuals and families to inform them of advocacy resources and rights

Collaboration with community partners including the Residential Facilities Ombudsman, Disability Rights of Oregon, and Oregon Council on Developmental Disabilities



Creative Resources and Provider Support



ODDS developed a staffing support line

Providers report available, qualified direct support staff whose work site or duties have been closed or suspended due to the pandemic

Providers of services impacted by a shortage of available workers or an increased need for staffing contact ODDS Staffing Support to access an available workforce

Re-Opening

ODDS is constantly adapting to changes and progress in re-opening of Oregon

Re-opening is by county at the direction of Oregon's governor

ODDS has created comprehensive guides for all service types, settings, and roles to set expectations for each phase of re-opening

Re-opening allows for improvements in community-living opportunities, but there are still important precautions and limits due to individuals with I/DD considered a high-risk population

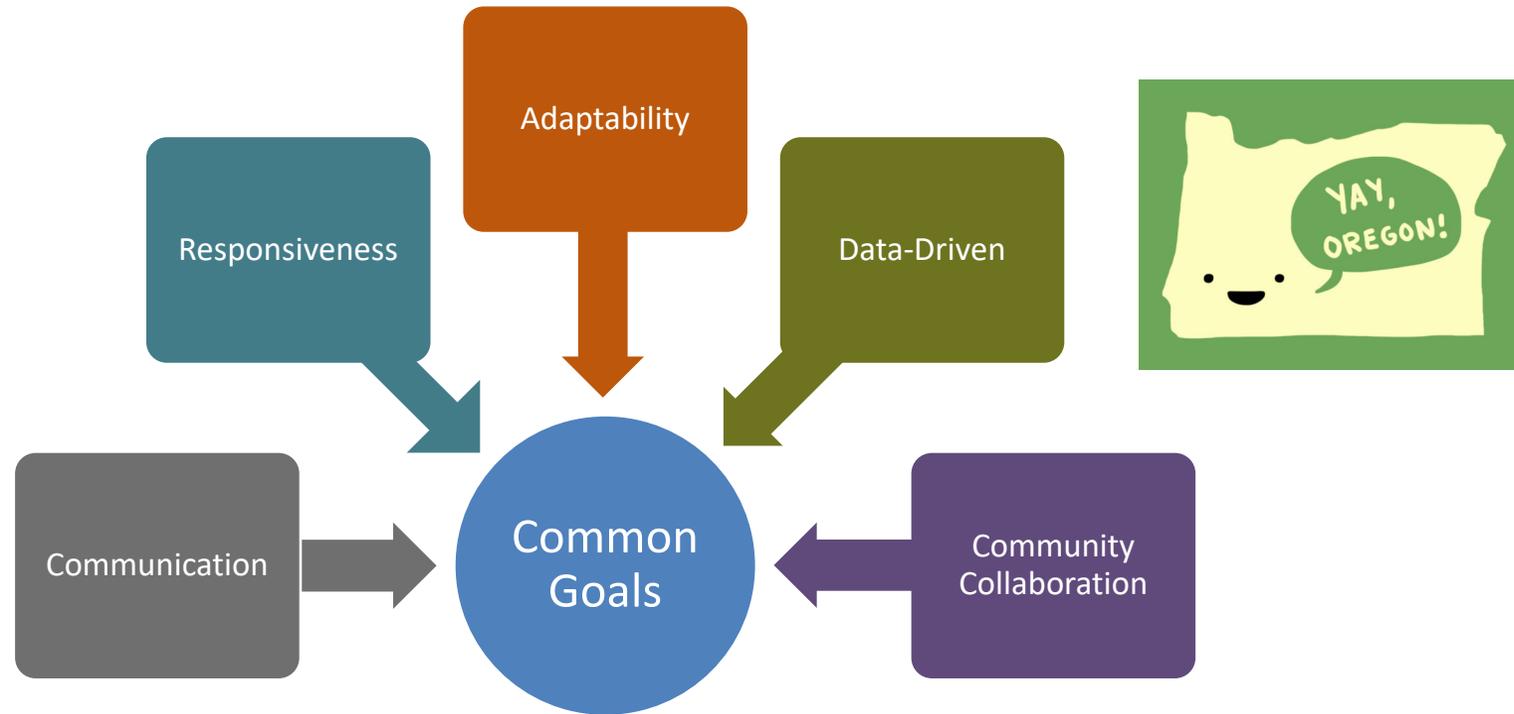
Re-opening of group services can only occur when a county reaches Phase 2 and providers are required to submit a comprehensive re-opening plan that is reviewed by ODDS

There is great variation in county classification with some counties being downgraded as a result of increase in infection rates



We're in this Together

Oregon has had a generally positive response from providers and the community regarding policy and expectations around the COVID pandemic



“Living rich, full lives. Making personal choices. Meaningful employment in integrated community jobs. Support to families. Those are among the key goals of Oregon’s system for people with intellectual and developmental disabilities.”

Questions?

- Contact Rose Herrera-
Rose.K.Herrera@dhsosha.state.or.us

Additional Information

- Visit Oregon's ODDS COVID-19 Website:
<https://www.oregon.gov/dhs/SENIORS-DISABILITIES/DD/Pages/ODDS-COVID-19-Information.aspx>

State Developmental Disabilities Councils: Activities, Innovations, and Impacts During the COVID-19 Public Health Crisis



Erin Prangley

Director of Public Policy

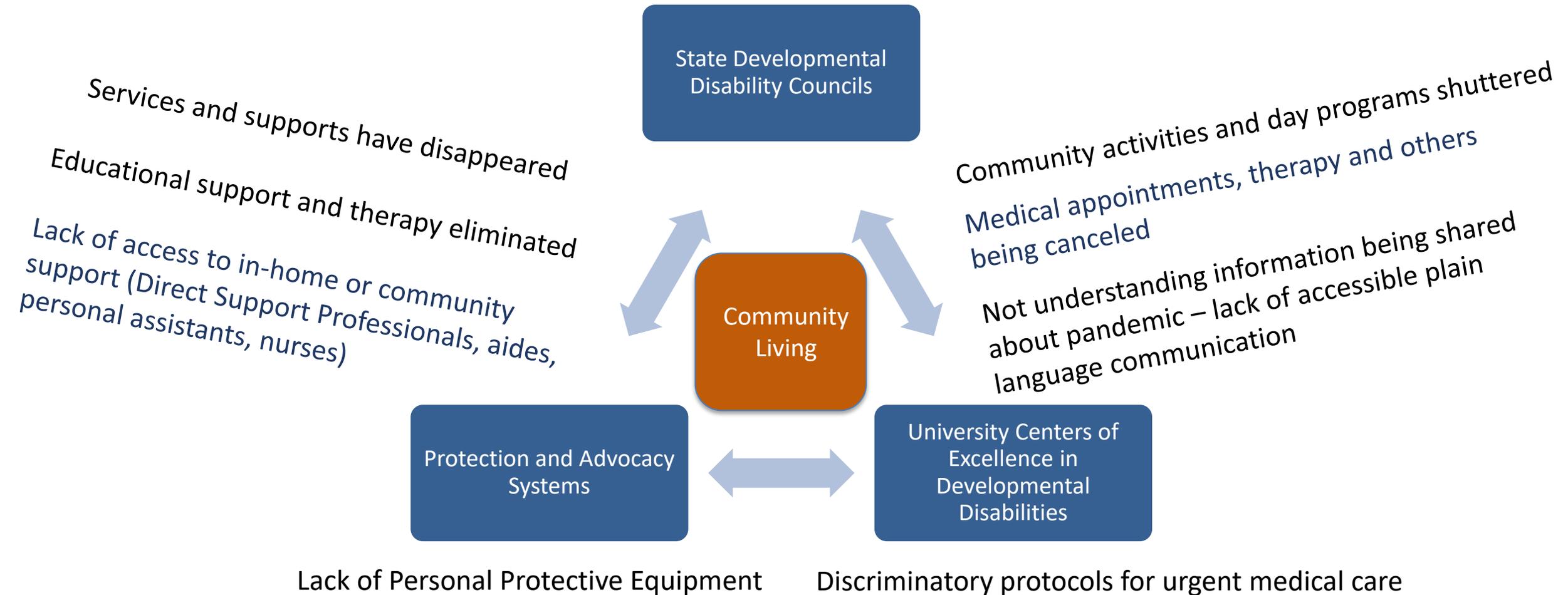
National Association of Councils on Developmental Disabilities (NACDD)

eprangley@nacdd.org

www.nacdd.org

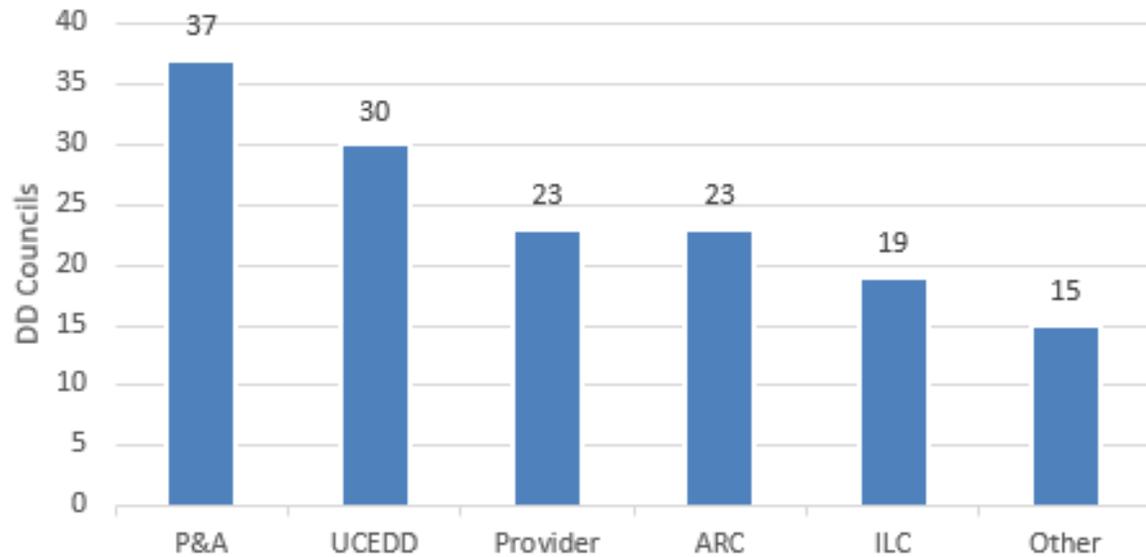


Developmental Disabilities Assistance and Bill of Rights Act (DD Act) Programs Response to COVID-19

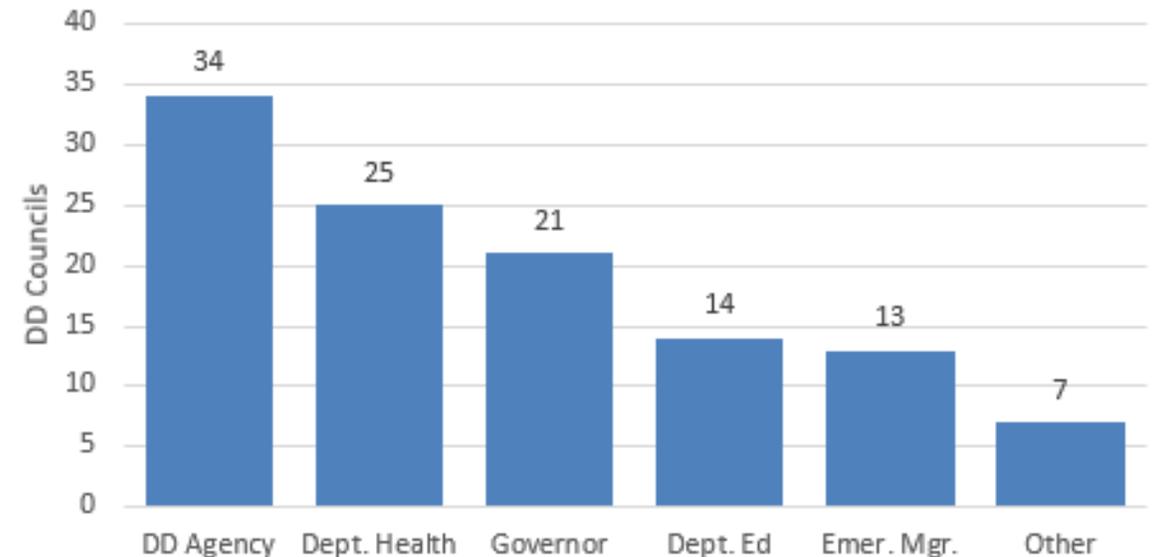


Importance of Partners and Coalitions for Successful Innovation

Collaboration with Partners



Collaboration with State Agencies



Other Partners: state self-advocacy organization, Statewide Independent Living Council, family advocacy/support organizations, home health agencies, case management entities, unions, grantees, Mental Health Trust Authority, Ombudsman for MH-DD; American Civil Liberties Union, Census 2020 Complete Count Committee; Center for Health Equity, American Civil Liberties Union, and existing coalitions.

Other State Agencies: state self-advocacy organization, Statewide Independent Living Council, family advocacy/support organizations, home health agencies, case management entities, unions, grantees, Mental Health Trust Authority, Ombudsman for MH-DD; American Civil Liberties Union, Census 2020 Complete Count Committee; Center for Health Equity, American Civil Liberties Union, and existing coalitions.

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DD Act Authority

Over 90% prepared surveys, education and outreach, mini-grants, partnerships, and plain language documents (a majority in multiple languages).

CA Council leveraged existing relationships to provide over 100M pieces of protective equipment to people with disabilities, families and providers.

Executive Orders

Over 25% worked with Governors to issue Executive Orders to exempt direct service professionals from initial "stay home" orders.

In March 2020, the Maryland DD Council shared concerns with Governor Hogan and advocated for an executive order. Two weeks later, Governor Hogan enacted Emergency Orders to expand telehealth and upgrade designation of disabilities services personnel as essential workers.

Medicaid Waiver Authority

41 different Medicaid Waivers to expand HCBS services during pandemic.

HCBS services expanded when the AZ DD Council worked with the state agency to obtain a "K" waiver to make habilitation and employment services available via telehealth (and more). AZ plans to continue some of the services available through telehealth and extended respite care as part of an amended state Medicaid plan.

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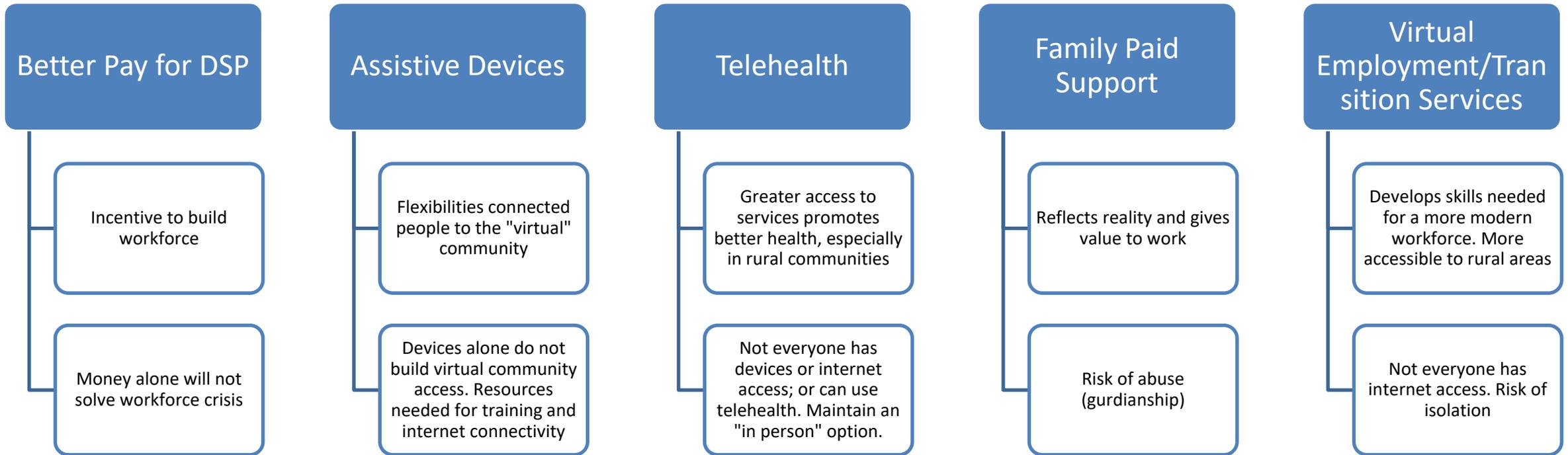


"Thank you, SCDD!
On behalf of Access staff,
riders, and contractors, we
appreciate the generous gift
of Personal Protective
Equipment to help keep
everyone safe during the
pandemic."

- Access Services of Los Angeles
Paratransit for persons with disabilities who
cannot ride the accessible public fixed route
buses and trains.

Beyond COVID-19

Has the landscape changed for Medicaid service delivery?





STATE COUNCILS ON DEVELOPMENTAL DISABILITIES

COVID-19 Report

Council Activities, Initiatives, and Impact

July 2020



For more information, see the
"State Councils on Developmental
Disabilities COVID-19 Report"

<https://secureservercdn.net/198.71.233.87/718.d58.myftpupload.com/wp-content/uploads/2020/09/COVID-19-Report-2020.pdf>.

References

- Cox, Brian. "State Councils on Developmental Disabilities COVID-19 Report: Council Activities, Initiatives, and Impact." Information and Technical Assistance Center for Councils on Developmental Disabilities. Sept. 2020, <https://seureservercdn.net/198.71.233.87/718.d58.myftpupload.com/wp-content/uploads/2020/09/COVID-19-Report-2020.pdf>.
- "PRIDE Industries Joins Effort to Distribute PPE to People with Disabilities." PRIDE Industries, 23 Jun. 2020, <https://www.businesswire.com/news/home/20200623005249/en/PRIDE-Industries-Joins-Effort-Distribute-PPE-People>. Press Release.
- "Governor Hogan Enacts Emergency Orders to Expand Telehealth, Upgrade Designation of Disabilities Services Personnel." Office of Governor Larry Hogan, 1 Apr. 2020, <https://governor.maryland.gov/2020/04/01/governor-hogan-enacts-emergency-orders-to-expand-telehealth-upgrade-designation-of-disabilities-services-personnel/>. Press Release.
- McFadden, Erica. "Letter from ADDPC to State Leaders about Disability Services in COVID-19 Crisis." 24 Mar. 20, <https://addpc.az.gov/newsroom/letter-addpc-state-leaders-about-disability-services-covid-19-crisis>.

Advocacy Considerations



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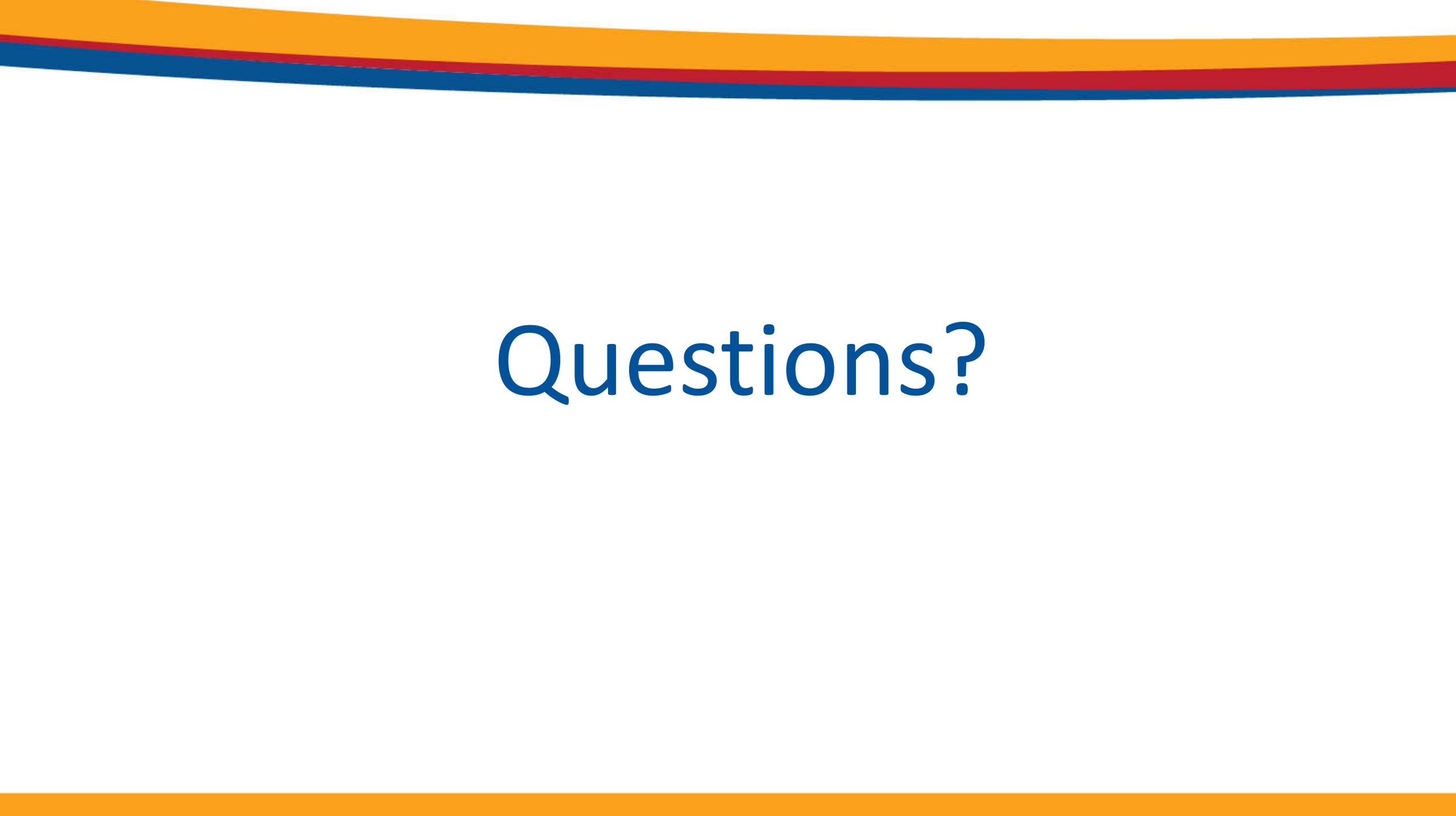
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Senior Policy Analyst
National Health Law
Program



Center for Public
Representation





Questions?

Survey

Please complete this brief survey to help us monitor the quality and effectiveness of our presentations.

Please use the survey link: <https://www.surveymonkey.com/r/93JCJLD>



SAVE THE DATE!

HCBS Innovation During COVID: Payers & Providers

2020 HCBS Technical Assistance Series
November 12, 2020 3:00-4:30 p.m. ET

