

# Tapping into Medicaid Financing Streams: Strategies for MLPs

May 16, 2019

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- **Current MLP Funding Streams**
- **Innovative Financing Opportunities in Medicaid**
- **Questions and Discussion**
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# Project Overview and Objective

Manatt and the National Center for Medical Legal-Partnership (NCMLP) are completing a two-phased engagement to better understand current financing strategies for medical-legal partnerships (MLPs) across the country and identify opportunities for them to access innovative financing streams

## Initial Survey Phase (Completed)

- Survey disseminated to subset of MLPs
- Focus group of 18 MLPs

## Webinar on Financing Opportunities

### Today's Focus

- Describe potential Medicaid-related financing streams that MLPs may be able to access
- Discuss strategies on how to pursue these opportunities

# Thank You!

We could not have completed this work without the valuable insights from these MLPs who participated in our survey and group interview.

1. Arkansas Legal Aid
2. MLPB
3. Children's Hospital of Philadelphia (CHOP)
4. Children's National Health System
5. Cincinnati Child Health-Law Partnership (Child HeLP)
6. Delaware Community Legal Aid Society (DeCLASI)
7. Indiana Legal Services
8. Lancaster General Health
9. Legal Clinic for the Disabled
10. Los Angeles County
11. Montana Legal Services Association
12. New York Health + Hospitals
13. North Carolina
14. People's Community Clinic
15. Salud Family Health Center
16. Santa Clara Valley Medical Center
17. Seattle Children's Hospital
18. Waimanalo Health Center
19. Whitman Walker

More than 300 MLPs nationwide provide a range of services and activities that address SDOH factors

## Activities

- Direct legal services (range from brief legal advice to full representation)
- Consultations with health care providers about patients' legal needs
- Training for health care staff on SDOH
- Advocacy

## i-HELP Framework



Income



Housing



Education and  
Employment



Legal Status



Personal and Family  
Stability

# Current MLP Funding Streams

## Sources of Funding

- Health care partner generally secures most of the total MLP budget
  - Operating budget tends to be largest share
  - Federal, state and local grants are also relatively sizable
  - Philanthropy and in-kind support are smaller shares
  - Direct Medicaid funding is rare

## Stability of Funding

- Funding for several of the mature MLPs have evolved over time
- Sustainability of financing streams is a primary concern

### Spotlight on Health Resources & Services Administration (HRSA) Enabling Funds

- 41% of health centers with MLPs report using enabling services funds for legal services for their patients.

### Medical Legal Partnership Quick Facts

- Median Annual MLP Budget: \$100,000
- 2/3 of Medical-Legal Partnerships rely on 2+ sources of funding
- Approximately half of MLPs are included in their health care organization's operating budget
- Median MLP Staffing:
  - 1 FTE attorney per health care organization
  - 0.2 FTE health care organization support staff
- Average Availability of On-Site Legal Services:
  - 1-2 Full days or 4 half days per week

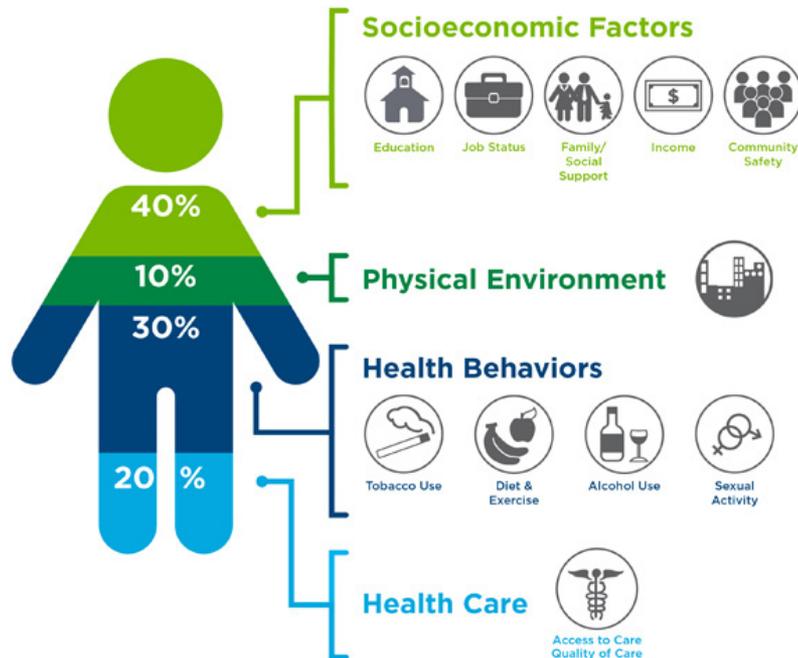
*Note: Data is drawn from a national NCMLP survey of more than 100 MLPs. Source: NCMLP Financing Fact Sheet, 2019*

## Why Now?

- The time is ripe to explore innovative funding streams for MLPs specifically through Medicaid
- **Medicaid funding for Social Determinants of Health (SDOH)** is gaining traction
  - **35 out of 39 states** with managed care require or encourage their managed care organizations (MCOs) to screen enrollees for social issues and provide referrals to community services.
  - State, local, and other actors are also interested in addressing SDOH
- **To the extent that MLPs can demonstrate that legal services effectively address SDOH and align with the funder's objectives, they may have an opportunity to tap into these funding streams.**

# Social Determinants of Health: Definition & Impact

Social determinants of health (SDOH) are conditions in the environments in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.



Socioeconomic factors, physical environments, and health behaviors drive health outcomes more than medical care.



Having at least one unmet social need is associated with increased rates of depression, diabetes, hypertension, ED overuse, and clinic “no-shows.”



Nearly 80% of physicians believe addressing social needs is as important as medical care, but most do not feel prepared to address them.

Source: Institute for Clinical Systems Improvement, Going Beyond Clinical Walls: Solving Complex Problems (October 2014)



(1) Booske, B.C., Athens, J.K., Kindig, D. A., et al. *Different Perspectives for Assigning Weights to Determinants of Health*. University of Wisconsin Population Health Institute. February 2010.  
(2) Bachrach, D., Pfister, H., Wallis, K. and Lipson, M. *Addressing Patients’ Social Needs: An Emerging Case for Provider Investment*. Commonwealth Fund. May 2014.  
(3) Blendon, R.J., Donelan K., Hill C., Scheck A., Carter W., Beatrice D., Altman, D. “Medicaid beneficiaries and health reform.” *Health Affairs*, 12, no.1 (1993): 132-143.

# How Medicaid Funds Services

There are three primary ways in which Medicaid dollars can be used to cover non-medical services for beneficiaries: state plan authority, MCO discretion, and waiver authority

## Key State Plan Authorities

- Case Management\*
- Care Management\*

## MCO Discretion

- In-lieu of services (requires state approval)\*\*
- Value-added services\*\*

## Waivers

- 1915 (c)
- 1115

*\*For more information regarding federal authorities in the context of social interventions, including state plan authorities, see Bachrach., D., Guyer, J., and Levin, L., Medicaid Coverage of Social Interventions: A Road Map for States, available at <https://www.milbank.org/wp-content/uploads/2016/09/MMF-NYS-Health-Issue-Brief-FINAL.pdf>.*

*\*\*For managed care provisions describing in-lieu of services and value-added services, see 42 C.F.R. § 438.3, available at <https://www.federalregister.gov/documents/2016/05/06/2016-09581/medicaid-and-childrens-health-insurance-program-chip-programs-medicaid-managed-care-chip-delivered>.*

## Funding Sources

### 1 Medicaid Managed Care

- Case management
- Care management
- Value-added services

### 2 Medicaid Special Funds

- CHIP Health Services Initiative (HSI) funding
- CMMI InCK grants
- Section 1115 Waivers

# Medicaid Managed Care: Case Management

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Case management is an optional benefit that state Medicaid agencies can provide; certain legal services may qualify as case management activities.

## Funding Opportunity

- **Case Management:** services that “assist eligible individuals to gain access to needed medical, social, educational, and other services,” including:
  - Comprehensive assessment and periodic reassessment of individual needs
  - Development (and periodic revision) of a specific care plan
  - Referral and related activities
  - Monitoring and follow-up activities

*(42 C.F.R. § 440.169)*
  
- **Limitations:** Case management activities must **not**:
  - Be “an integral and inseparable component of another Medicaid service” (State Medicaid Manual (SMM) 4302.F)
  - “Constitute the direct delivery of underlying medical, educational, social, or other services to which an ineligible individual has been referred” (42 C.F.R. 441.18(c))
  - Be provided by “third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program. . .consistent with §1903(c) of the Act. (§§1902(a)(25) and 1905(c))

# Sample Case Management Specifications in SPAs

SPA case management specifications are often broad; some only use regulatory language while others add additional requirements. Case management provider qualifications are also specified. Depending on specifications, which states can modify, MLP activities may qualify.

State	SPA	Regulatory Requirement	Sample Specifications
 <b>Kentucky</b>	#14-002-A	Comprehensive assessment and periodic reassessment of individual needs	Adds an additional requirement: “an assessment or reassessment must be completed at least annually, or more often if needed based on changes in the individual’s condition”
 <b>Michigan</b>	#08-010	Development (and periodic revision) of a specific care plan	Uses regulatory language: “specifies the goals and actions to address the medical, social, educational, and other services needed by the individual”
 <b>Maine</b>	#13-038	Referral and related activities	Uses regulatory language: “activities that help link the Individual with medical, social, educational providers, or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan”
 <b>New Hampshire</b>	#08-011	Monitoring and follow-up activities	Adds additional requirements: “At least one face to face contact every sixty days to include a review of services”
		Provider Qualifications	Uses flexible requirements for case managers, such as: “Have demonstrated knowledge of the local service delivery system and the resources available to participants”

# Medicaid Managed Care: Care Management

MCOs are expected to coordinate services for their enrollees. To the extent MLPs can frame their services in the context of this care management function, they may be able to tap into MCO Medicaid funds.

## Funding Opportunity

- MCOs are required to coordinate community-based non-medical care that an enrollee receives from community and social support services (42 C.F.R. § 438.208(b)(2)(iv))
- States have a **high degree of discretion** in determining what functions to require under their contract with plans. If states leave requirements broad and nondirective, MCOs also have a high degree of discretion in determining what services to include under care management.
- Federal managed care rules provide a **minimum standard** that States can build upon:
  - Screening
  - Designation of coordinator
  - Coordination of services between settings, with other payers, and with community / social support providers
  - Comprehensive assessment and care plans for members with LTSS needs and special health care needs
- Some services provided by MLPs could fit into the definition, though direct legal representation is not one of them

# Case Study: North Carolina

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## North Carolina

- North Carolina (NC) expects its plans to go beyond minimum requirements and offer robust care management services
- NC's RFP for prepaid health plans (PHPs) requires a number of additional care management services, including:
  - Peer support
  - Self-management training
  - In-person application assistance for individuals in need of government benefits such as SNAP
  - Housing assistance from a housing specialist
  - **Access to medical-legal partnerships** for legal issues adversely affecting health, subject to availability and capacity of medical-legal assistance providers

(1) <https://files.nc.gov/ncdhhs/30-19029-DHB-1.pdf>

MCOs have discretion to fund “value-added services” and to the extent that MLPs can demonstrate their services improve health outcomes and/or reduce costs, they may be able to secure funds from an MCO.

## Funding Opportunity

- **Definition of value-added services:** Additional services including *non-medical services* that are outside of the Medicaid benefit package, but that seek to improve quality and health outcomes, and/or reduce costs by reducing the need for more expensive care. 42 C.F.R. § 438.3(e)(1)(i)
- Historically, value-added services have typically addressed physical health needs (e.g. air conditioners for asthma) but states are starting to explore funding SDOH-related activities as value-added services
- States may incentive value-added services through procurement, contracting, and rate setting
- With respect to MLPs, legal support can, for example, help patients with persistent asthma secure mold remediation services from landlords, and thereby improve health outcomes for the member

## Direct-to-MCO Advocacy (Near-Term Strategies)

- Pursue contracts with MCOs to provide case management, care management or value-added services
  - Consider population-specific pitches based on the plan’s stated priorities (e.g., helping children with asthma)

## State Advocacy (the “Long Game”)

- Encourage state to pursue a SPA to provide case management services as an optional benefit
- Encourage state to establish requirements in its managed care contracts (during procurement or through amendments) to require or encourage SDOH-related care management activities and to encourage MCO investment in “value-added services”
- Advocate that the definitions of care management and value added services be broad enough to encompass the activities of MLPs

## **Opportunity:** MLPs will want to research:

- Whether their state has a SPA for case management services, and if so, whether the language is broad enough that MLP services may qualify
- Medicaid procurement schedules in their state to time their state outreach with those opportunities (state planning usually starts long before the procurement is released)

**Value Proposition:** Framing MLP activities in the context of “case management,” “care management and coordination” or “value-added services” that can advance funders’ SDOH objectives will best position the MLP to secure funding.

## **Pricing Model:**

- If MLPs have a receptive audience, they will need to consider a payment model for their services
  - Fixed amount (e.g., Eskenazi Health)
  - Fee-for-service payment (e.g., Cincinnati HeLP)

## Indiana Legal Services



- Previous Funding
  - A managed care entity provided \$70,000 to the MLP
  - The two-year funding was not renewed after the MCE was acquired
- Current Funding
  - Anthem is providing one year of grant funding to Indiana Legal Services for Medicaid beneficiaries
  - Indiana Legal Services can use funding to provide services for any Medicaid beneficiary, not just those with Anthem plans
  - The MLP's service area has expanded to 18 counties across Central Indiana

MLPs are advocating for states to set contractual expectations for MCOs on SDOH that enable flexibility to pay for MLP services.

## Delaware Community Legal Aid Society (DeCLASI)



COMMUNITY LEGAL  
AID SOCIETY, INC.  
EQUAL ACCESS TO JUSTICE

- Recently met with Delaware Medicaid in an effort to convince the state to require MCOs to reimburse legal services to address SDOH
- Has also secured \$417,000/year in state funding (not Medicaid related)

## Funding Sources

- 1 Medicaid Managed Care
  - Case management
  - Care management
  - Value-added services

- 2 Medicaid Special Funds
  - CHIP Health Services Initiative (HSI) funding
  - CMMI InCK grants
  - Section 1115 Waivers

## CHIP-Health Services Initiatives (HSIs) present another potential funding source for MLPs.

### Funding Opportunities

- A **CHIP Health Services Initiative (HSI)** is an activity designed to improve the health of low-income children regardless of eligibility or enrollment in Medicaid/CHIP. HSIs can be used to cover the costs of direct services (e.g., operating poison control centers) or to support public health priorities (e.g., promoting lead screening)
  - **10% of CHIP coverage expenditures** can be used for both administrative and HSI costs, but states generally spend below the cap (average 4.2% in FY2017)
  - **Federal matching rates for CHIP** are significant higher than Medicaid (~15% higher)

### Strategies

- Advocate for the state to utilize HSI funding through a CHIP SPA to support MLP services and highlight the enhanced match rate\*
- Frame MLP services as improving health of low-income children and advancing state's public health objectives

### Implications

MLPs should research the current state of HSI funding in their respective states to get a better sense of the magnitude of potential funding

*\*For additional guidance on HSI funding, see State Health Official Letter, Health Care Financing Administration, December 8, 1997 available at <https://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD120897b.pdf>.; State Health Official Letter, Health Care Financing Administration, August 6, 1998 available at <https://www.medicaid.gov/Federal-Policy-Guidance/downloads/sho080698.pdf>.*

# Approving the Use of CHIP HSI funds for SDOH services

Some states have approved CHIP Health Service Initiative (HSI) funds to be used to address SDOH.



**Massachusetts:** HSI funding was approved to fund after school programs. These programs are intended to curb youth violence, address trauma, and promote healthy development



**Oklahoma:** In 2018, HSI funding was approved to increase the percentage of children attending well-child visits and receiving standardized developmental screenings. Funds are being used to train pediatric primary care providers at the University of Oklahoma College of Medicine in the use of standardized developmental screening tools

# Medicaid Special Funds: CMMI-InCK

The Center for Medicare and Medicaid Innovation (CMMI) provides grants and other funding opportunities to support innovative health care payment and service delivery models. One example, the Integrated Care for Kids (InCK), is described below.

## Funding Opportunities

- **CMMI's Integrated Care for Kids (InCK) Model:** Child-centered local service delivery and state payment model aimed at reducing expenditures and improving quality of care for children in Medicaid/CHIP
  - 7-year funding opportunity for up to 8 states; application deadline June 10, 2019
  - Lead Organizations (HIPAA entities) and Medicaid partner to implement InCK,
  - Partnership Council steers program throughout its duration

## Strategies

- Partner with Lead Organization: InCK grants require a Lead Organization to partner with Medicaid
- Join Partnership Council: MLPs could potentially join as a community stakeholder

## Implications



- InCK funding poses similar sustainability challenges to philanthropy and other grant funding
- MLPs will want to stay current on CMMI activities to identify other potential opportunities

# Medicaid Special Funds: 1115 Waivers

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MLPs may receive Medicaid funding if the type of services they provide is included in their state's 1115 waiver.

## Funding Opportunities

- “**Section 1115** of the Social Security Act allows for experimental, pilot, or demonstration projects that are found by the Secretary to be likely to assist in promoting the objectives of the Medicaid program.” – CMS

## Strategy & Key Consideration

MLPs should determine if their state has or is pursuing an 1115 waiver for the purposes of addressing enrollees' SDOH needs. If so, they may have an opportunity to advocate for inclusion of legal services.

## LA County

**Legal Partners:** Neighborhood Legal Services of Los Angeles County (lead agency), Legal Aid Foundation of Los Angeles, Mental Health Advocacy Services, Bet Tzedek Legal Services

**Funding source:** \$500,000 from Medi-Cal through the Whole Person Care (WPC) pilot

**MLP Services Provided:** Training curriculum, onsite clinic, and virtual platform for outreach

**Pricing Model:** “Deliverables” were created based on the \$500,000 budget



(1) <https://www.medicaid.gov/medicaid/section-1115-demo/about-1115/index.html>

## Takeaways

- **The time is ripe for MLPs to pursue Medicaid financing streams**, as there is much momentum for using Medicaid dollars to support SDOH-related services
  - MLPs have a solid track record that demonstrates they achieve results for people facing food insecurity, housing insecurity, and other SDOH-related challenges
- **Accessing these funds will require resourcefulness**
  - Framing the MLP's services in the context of Medicaid's/MCOs' responsibilities, funding purview, and objectives with respect to SDOH and other priorities is critical
  - The extent to which MLP services are eligible for reimbursement varies by funding program. Some MLPs have experienced that certain funds cannot be used to support direct legal representation
  - MLPs should consider potential pricing models for their services
- **Sustaining funding from these sources may present similar challenges** as with current MLP funding streams
  - While MLPs pursue these funding streams, they should also seek to optimize funding opportunities with health partners, including HRSA enabling funds

# Questions



Stay tuned for upcoming office hours sessions in June and July, featuring NCMLP and field leaders.



Sign up for NCMLP's bi-monthly e-update to find out when office hours sessions are happening and how to register at <https://medical-legalpartnership.org/>.



Look for a follow-up email from NCMLP in your inbox with links to resources and a quick survey asking for feedback on this webinar and the types of assistance you need to make this information actionable.



Questions? Contact Ellen Lawton at [ellawton@gwu.edu](mailto:ellawton@gwu.edu).

# Appendix

- **State Plan Amendments (SPAs) – Case Management**

- <https://www.medicaid.gov/state-resource-center/medicaid-state-plan-amendments/index.html>

- Enter “case management” in the search bar and filter by approval date, effective date, state, and topic

- **1115 Waivers**

- <https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html>

- Filter by state, waiver authority (1115), and status (approved or pending)