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MEDICAID INFORMATION RELEASE MA24-28

To: Personal Assistance Agencies

From: Juliet Charron, Deputy Director

Subject: Changes To The Family Personal Care Services (FPCS) Program

Due to concerning trends of suspected and confirmed fraud and abuse; significant program growth beyond budget projections; and insufficient staff resources to conduct appropriate oversight, DHW will be terminating the Family Personal Care Services effective January 31, 2025.

The Personal Care Services (PCS) benefit will continue to be available for both children and adults. Qualifying providers will revert to requirements in place prior to the pandemic and legally responsible individuals (parents and spouses) will no longer be able to provide PCS for their family members.

Background

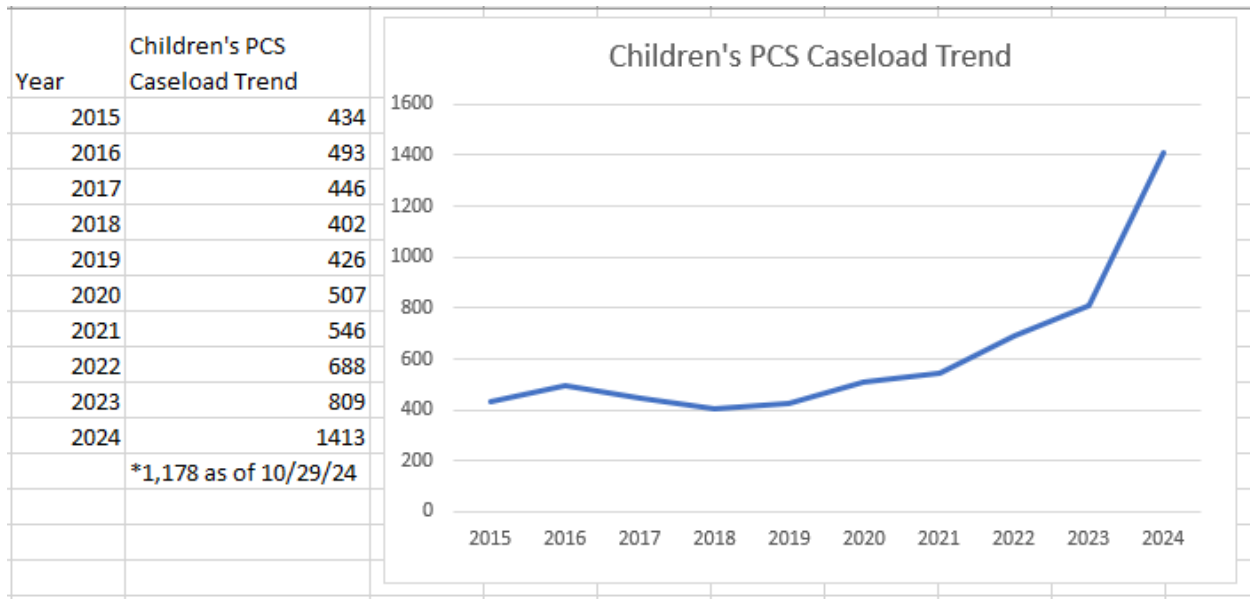
During the public health emergency, CMS allowed a temporary flexibility to decrease the need for direct care workers in people's homes and therefore prevent the spread of COVID-19. The department implemented a temporary flexibility to allow legally responsible parents and spouses to be paid caregivers to their own loved ones who are Medicaid participants with disabilities. This is known as Family Personal Care Services (FPCS). Prior to this flexibility, legally responsible individuals were expressly prohibited in federal and state regulation from being paid personal care aides. Thus, this temporary allowance permitted parents and spouses to be employed by direct care staffing agencies and be paid to work in their homes caring for their loved ones.

The department extended this flexibility through March 21, 2025, with limited parameters given current staff capacity to oversee the program.

Status

The department has insufficient staff and funding to support this program and its exponential growth and ensure the program's operational integrity.

For many years, there were roughly 500 participants in in children’s personal care and private duty nursing services. Enrollment jumped to 546 in 2021, and significantly increased in each subsequent year. We had 1,178 participants in the program in October 2024 and project enrollment at 1,413 by the end of this calendar year, a 75% increase in enrollment since 2023 when the public health emergency ended.



This ongoing enrollment surge is due in part to program abuse. We have observed that some parents, spouses, and provider agencies are trading tips on how to seemingly exploit this program, such as:

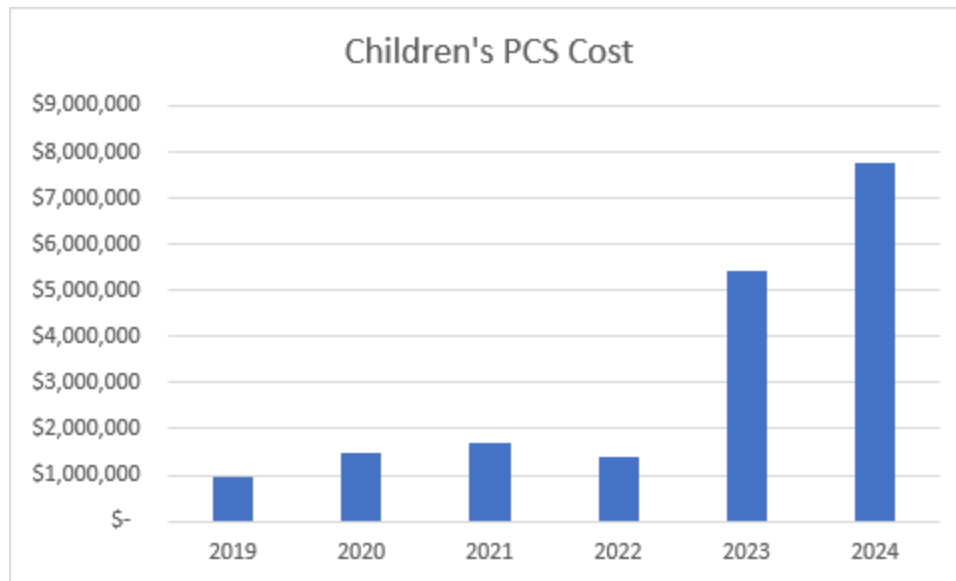
- Sharing information on how to manipulate and respond to the medical assessment in order to maximize authorized hours of service paid by Medicaid.
- Photocopying and sharing eligibility paperwork rather than obtaining independent confirmation from two direct care staffing agencies that they have insufficient staff to serve the child/spouse (as required by the program).
- Recruiting families outside Idaho to move to Idaho to be paid for these services.
- Advertising to employ parents to care for their child(ren) with special needs, saying there is, “No need to work away from home.” This incentivizes parents who never previously had a need or interest in these services to apply.
- Communicating the starting pay rates for area provider agencies, resulting in participants switching agencies *not* due to a quality-of-care concern, but exclusively to maximize the household’s income.

Other fraudulent and problematic activities include:

- Claiming to care for children but performing other activities at the same time (i.e., driving for Uber).
- Inappropriately double- and triple-billing by caring and billing for multiple children simultaneously (the program only allows a provider to care for one individual at a time). This also presents serious questions of quality and adequacy of care when the child has been identified to need a specific number of hours of care, but it is physically impossible for the parent to serve multiple children for those hours. This includes some parents logging more than 24 hours of care rendered in a day, as confirmed by electronic visit verification (EVV) data.
- Using Medicaid as supplemental household income by determining the needs of the child(ren) on the income received. To quote one mother, “I want PCS for four of my kids. When I find out what my income will be, I might get PCS for [the others].”
- Repeatedly calling department staff to inquire about the status of assessments and actively encouraging others to do the same, taking time away from employees actually completing those assessments and other work for the other Medicaid participants.
- Households that have had continuous Medicaid coverage in the past, but never requested or identified a need for a child (or children) in the household to receive PCS until this flexibility was implemented, with no discernible change in the child’s condition that would warrant such a request.
- Instances in which one individual is clocking in and out of services for multiple participants in multiple households that appear to be efforts to avoid detection by quality assurance monitoring of EVV data. In the last calendar quarter, one individual clocked in and out with overlapping visit segments (which is prohibited) for 21 FPCS participants.
- Households selectively providing service hours to attempt to control income that would affect eligibility for other public benefits, which suggests that the child did not medically require the total number of hours authorized.

Not only has enrollment increased, costs have nearly quadrupled since 2022 and are not sustainable within the current appropriation if the program growth continues.¹ We are nearing \$8,000,000 spent so far in 2024, with one full quarter remaining in the calendar year. By comparison, the FY 2025 budget authorized by the legislature included just \$4,200,000 in anticipated expenditures for FPCS, a difference of 90%.

¹ Medicaid rates changed in summer 2024. The historical costs have been adjusted to account for the change in reimbursement rates.



While expenditures are based on authorized hours of services that are approved by clinical staff, we are aware of many inappropriate attempts to increase the number of authorized hours by families. Further, as described above, the department is aware of significant fraud, waste, and abuse and identified health and safety concerns for participants identified with this program since the benefit was made permanent in late 2023. As stewards of taxpayer dollars and in our role in overseeing this entitlement program serving vulnerable children and adults, we cannot continue to operate a program with such high rates of suspected and known fraud, waste, and abuse potential health and safety issues for participants.

Many of these cases have come to our attention through complaints or observed and experienced interactions with families, content posted on social media, referrals from other state agencies that serve the same population, and referrals by word of mouth from community partners and individual community members. While several of these examples and cases have been referred to the Medicaid Program Integrity Unit, we do not have the infrastructure to administratively identify all cases warranting additional inquiry and pursuit of recovery. Moreover, if fraud is being perpetrated by the household/family, any recovery of funds would be from the agency that the parent/spouse is technically employed by, therein weakening Idaho's already tenuous network of direct care agencies.

The Department recognizes that there are still many families who use this benefit and program appropriately, legitimately need support, and cannot find direct care workers to provide services to their children. The Department has actively engaged in marketing and outreach activities to bolster the direct care workforce in Idaho over the last two years and has observed an approximately 10% growth in the number of unduplicated direct care workers, not including parents and spouses, as identified in the state's Electronic Visit Verification data. The Department will share options through external communications to agencies and families during this transition. Department staff are always available to families and provider agencies to discuss options.

The Bureau of Long Term Care team responsible for administration and oversight of the FPCS program will be implementing additional safeguards and operational processes to provide as much oversight as we are able to during the remaining months of the FPCS flexibility. These activities will include:

- Quarterly supervisory oversight forms submitted by provider agencies will require a narrative to validate that each visit did, in fact, occur and is reflective of adequate clinical oversight.
- Functional assessments for whom the primary respondent is also the direct care worker (including parents and spouses) will be subject to post-processing internal review by the Medical Director to validate that PCS are medically necessary. Additional medical documentation to substantiate the participant's ongoing need for services may be requested.

Processing timeframes for new requests will be moved to 30 days. The team is unable to maintain the current 14-day timeline without detrimental impact to other programs and services administered by these staff. In addition, the Medicaid Program Integrity Unit is actively pursuing recoupments and assessing penalties as appropriate and will refer all credible allegations of fraud to the Medicaid Fraud and Control Unit in the Office of the Attorney General.

Next Steps

CMS has advised the Department that an amendment to the authority currently invoked for this flexibility is necessary to carry out early termination of the program. Early termination will allow the Department to pause enrolling new applicants, and therefore ensure the Legislature has maximum flexibility to determine the appropriate path forward.

The Department will post the draft amendment on Townhall Idaho and send a letter to Idaho Tribes as required. The Department will accept comments for thirty (30) calendar days and send the submission to CMS in early December with a requested effective date of January 31, 2025.

It is our hope that program advocates and participants can work with the Legislature to determine which safeguards are appropriate to resolve the troubling issues we are seeing on the ground, recognizing the need for additional staff capacity if labor-intensive safeguards are selected.

We look forward to working collaboratively with provider agencies, parents and spouses of participants needing personal care services, and other stakeholders to design and implement a sustainable program with integrity deserving of Idahoans' support.

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