



November 4, 2022

Subject: Deliverable 4.1.2. Examine Rate Methodology/Service Structure Flexibility to Deal with Individuals of Varying Acuity

For this deliverable, the Optumas team reviewed North Dakota’s policies, procedures, and practices to examine whether they accommodate and protect individuals who receive services in the context of current rate methodology and service structure flexibility. Two questions were asked while reviewing state documentation.

1. Is there flexibility within the current rate methodology to quickly adapt rates should an individual receiving services assistance needs increase, or their condition worsen?
2. Is there enough flexibility within the state’s current rate structure to accommodate varying levels of acuity as reflected by increased payments for higher need individuals receiving services to Qualified Service Providers (QSPs)?

Optumas found that a couple of state programs have flexibility and tiered rates based on acuity. Those programs and other findings are presented in this brief as examples of how the state can improve flexibility to support individuals who receive services as their needs increase or conditions worsen.

Current Rate Methodology

In order to achieve this deliverable, Optumas reviewed all of North Dakota’s waivers and legislation related to rate setting. Rates for the HCBS, autism, children’s hospice, and medically fragile waivers were created by benchmarking an existing service to a similar one either within Medicaid or another State program. Where benchmarks were not available, an estimate of costs from prior years was used. Those rates were then increased over time through the legislative process.

In comparison, DD waiver rates were developed by a vendor who looked at cost reports and provider ledgers to develop rates factoring in wages and administrative expenses. Rates can be further modified for acuity or vacancy rates. Other waiver programs can look to the DD waiver rate setting as an example.

Some North Dakota waivers provide the option for self-direction. In those waivers, the rate paid to the service provider is established by the individuals who receive services within specific parameters (i.e., minimum wage and individual budget maximum). The rate paid by Medicaid for the service does not exceed the State maximum allowable. If individuals who receive services choose to pay a rate higher than the established rate for the service, the additional cost must be paid by the individual, their family, or other source, but not by Medicaid.

Serving Individuals with Varying Acuity

One of North Dakota’s HCBS programs, Medicaid State Plan – Personal Care (MSP-PC), includes rates related to acuity of needs for individuals who receive services. The MSP-PC serves those eligible for Medicaid benefits. There are also three levels of acuity as indicated in the table below. All levels are determined by assessing the ability of the individual who receives services to perform Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs). Additionally, providers for individuals who receive services on this waiver can receive the rural differential payment for serving people in frontier or rural areas of the state.

Level	Criteria
Level A	Impairment in one ADL and three IADLs
Level B	Level A criteria, plus meets nursing facility level of care
Level C	Meets the nursing facility level of care in addition to having impairment in five ADLs.

Deliverable 4.1.3 also cites North Dakota’s rates for youth in foster care based on acuity. In summary, there are three rates for that service based on acuity. An additional rate is also set for emergency placements. Please see that deliverable for more information.

Flexibility to Deal with Individuals of Varying Acuity

Within the MSP-PC program, there is flexibility to set rates depending on acuity. The waiver application states, “The daily rate is an average per day rate that is provider specific and may not exceed the maximum per day rate established by the department.” The need for care is not determined by diagnosis since individuals with the same or similar diagnoses can have varying levels of ability to perform ADLs and IADLs.

Optumas recommends building in flexibility for acuity in all state waivers and other HCBS programs. Future deliverables will examine how CMS recommends states establish rates based on acuity to ensure flexibility for individuals who receive services.