

Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

Purpose

This document provides the North Carolina Department of Health and Human Services' (the Department's) guidance to Behavioral Health and Intellectual/Developmental Disability (I/DD) Tailored Plans, prospective Advanced Medical Home Plus (AMH+) practices, and prospective Care Management Agencies (CMAs) for ensuring conflict-free Tailored Care Management for Behavioral Health I/DD Tailored Plan members who also use qualifying Medicaid-funded home and community-based services (HCBS). See below for the definition for qualifying HCBS. This guidance does not apply to individuals using only State-funded HCBS.

In 2014, the Centers for Medicare and Medicaid Services (CMS) published the HCBS [final rule](#), which "supports enhanced [quality](#) in HCBS programs, adds protections for individuals receiving services...and reflects CMS' intent to ensure that individuals receiving services and supports through Medicaid's HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting."

As part of this rule, CMS established requirements for conflict-free case management for Medicaid beneficiaries obtaining HCBS, generally requiring that case management activities, including the assessment and coordination of services, be independent from the delivery of HCBS services. The intent of these requirements is ultimately to promote consumer choice and independence by limiting any conscious or unconscious bias by a case or care manager when assisting a consumer in identifying HCBS needs and developing plans to access services (i.e., preventing a care manager from steering consumers to the agency where they are employed).¹

In Behavioral Health I/DD Tailored Plans, federal conflict-free case management regulations apply to Medicaid members who are enrolled in the 1915(c) Innovations and Traumatic Brain Injury (TBI) waivers or who are obtaining HCBS currently authorized under the State's 1915(b)(3) waiver, which the Department intends to transition to 1915(i) authority for Behavioral Health I/DD Tailored Plan launch in July 2022. Collectively, the remainder of this document refers to 1915(c) Innovations and TBI waiver services and future 1915(i) services, delivered under Behavioral Health I/DD Tailored Plans, as "qualifying HCBS".

The Department will be releasing separate guidance shortly on the transition of 1915(b)(3) benefits to 1915(i) authority.

Background

Tailored Care Management is at the heart of Behavioral Health I/DD Tailored Plan design and will provide the "glue" for integrated care and fostering coordination and collaboration among care team members across disciplines and settings. Behavioral Health I/DD Tailored Plans will assign members to one of three approaches for obtaining Tailored Care Management: through a CMA, an AMH+ practice, or a care manager based at a Behavioral Health I/DD Tailored Plan (see Figure 1). At least 30 days prior to Behavioral Health I/DD Tailored Plan launch, the Behavioral Health I/DD Tailored Plan will send members a Tailored Care Management enrollment packet which will include the organization the

¹ Conflict-free case management regulations can be found at 42 CFR 441.301(c)(1)(vi) for 1915(c) waiver HCBS and 42 CFR 441.730(b) for 1915(i) State Plan HCBS.

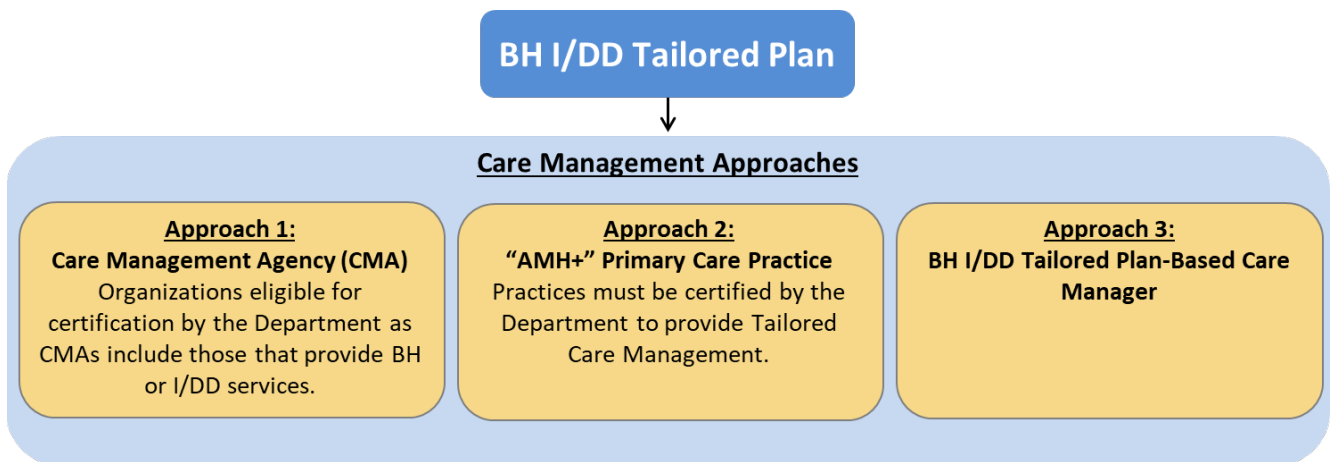
Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

member is assigned to for Tailored Care Management, the process and options for changing that assignment, and information on opting out of Tailored Care Management.² After the initial launch, on an ongoing basis, the Behavioral Health I/DD Tailored Plan will complete Tailored Care Management assignments and send Tailored Care Management enrollment packets to new members within 14 days of a member's enrollment in the Behavioral Health I/DD Tailored Plan. Members can change the organization they are assigned to for Tailored Care Management and/or change care managers twice per year without cause and anytime with cause.³

In designing Tailored Care Management, the Department has aimed to create a fully integrated care management program, which means to the maximum extent possible, Behavioral Health I/DD Tailored Plan members will have a single care manager who can help them navigate across all of their services and supports, including providing case management for qualifying HCBS. Today, beneficiaries enrolled in the Innovations and TBI waivers and those using 1915(b)(3) HCBS obtain HCBS case management through LME/MCO care coordinators. However, under the Behavioral Health I/DD Tailored Plans, members using qualifying HCBS will have the option to obtain care management from CMAs, AMH+ practices, or care managers based at a Behavioral Health I/DD Tailored Plans.

Figure 1. Tailored Care Management Approaches



For Tailored Care Management, federal conflict-free rules mean that a behavioral health or I/DD provider cannot deliver both Tailored Care Management (in their capacity as a CMA) and qualifying HCBS to the same individual. Since AMH+ practices and Behavioral Health I/DD Tailored Plans do not deliver HCBS, conflict-free case management rules are not applicable.

To comply with federal conflict-free case management rules when making Tailored Care Management assignments, Behavioral Health I/DD Tailored Plans will only be permitted to assign members using qualifying HCBS to:

(A) a CMA that is not the member's HCBS provider

² The organization assigned for providing Tailored Care Management (Behavioral Health I/DD Tailored Plan, AMH+, or CMA) will assign a care manager.

³ Full details of the circumstances that constitute "with cause" are included in the Behavioral Health I/DD Tailored Plan RFA: <https://medicaid.ncdhhs.gov/media/8017/download>.

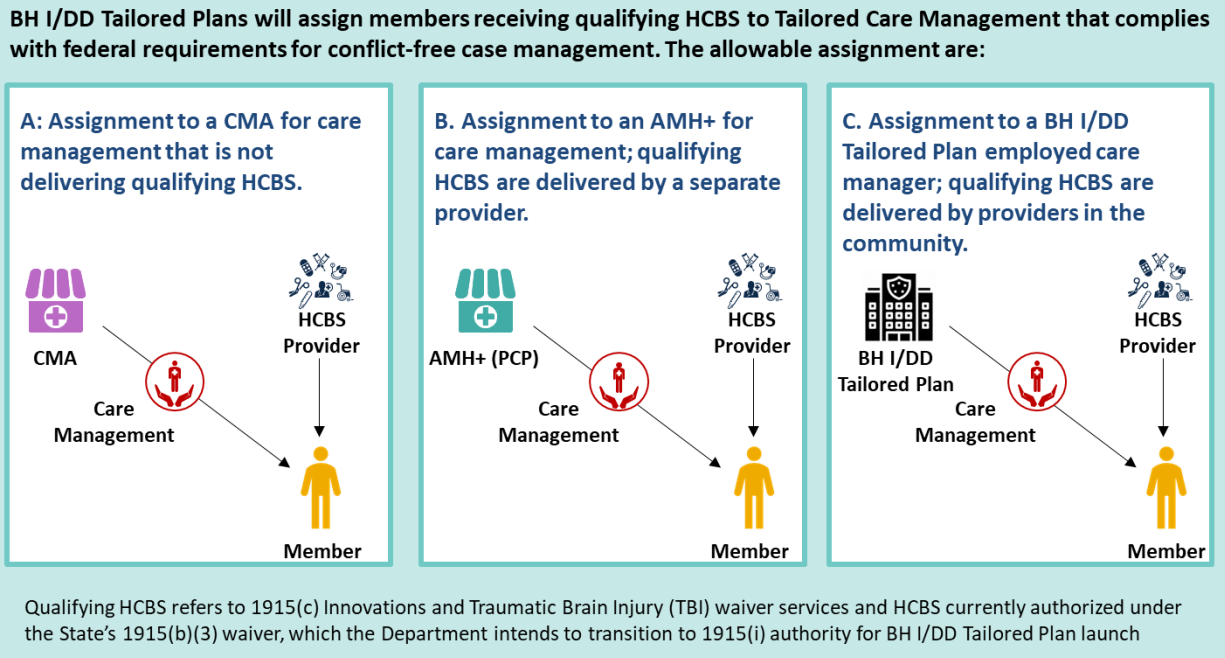
Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

(B) an AMH+, or

(C) a Behavioral Health I/DD Tailored Plan-based care manager (see Figure 2).

Figure 2. Tailored Care Management Assignment Approach for Individuals Obtaining Qualifying HCBS



In the event that a member is receiving care management from a CMA and then becomes eligible and enrolled in the Innovations or TBI waiver or 1915(i) HCBS, the Behavioral Health I/DD Tailored Plan will need to ensure the CMA is not also providing qualifying HCBS to that member. In this scenario, the Behavioral Health I/DD Tailored Plan will need to re-assign the member to a new organization for care management or a new HCBS provider to ensure compliance with federal requirements.

Frequently Asked Questions

1. Do conflict-free rules apply if a member using qualifying HCBS opts out of Tailored Care Management?

Members using qualifying HCBS who opt out of Tailored Care Management will obtain care coordination for HCBS through their Behavioral Health I/DD Tailored Plan; they will not have the option of obtaining care coordination for HCBS through a provider. While care coordination for the qualifying HCBS is still subject to federal conflict-free rules, care coordination provided by the Behavioral Health I/DD Tailored Plan is compliant with these rules.

2. Will Behavioral Health I/DD Tailored Plan members who use HCBS have choice in where they obtain Tailored Care Management?

To facilitate timely engagement in Tailored Care Management, Behavioral Health I/DD Tailored Plans will make the initial Tailored Care Management assignment, based on an analysis of available data that informs which organization is best suited to meet the member's needs;

Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

members will have the option to express preference and change that assignment. Behavioral Health I/DD Tailored Plan members who use qualifying HCBS will be able to choose between obtaining care management through their Behavioral Health I/DD Tailored Plan, a CMA that is not their HCBS provider, or an AMH+ practice. Prospective CMAs and AMH+ practices that are seeking to provide Tailored Care Management to the Innovations or TBI waiver populations will be required to demonstrate their capability to serve this population as part of the site review component of the AMH+/CMA certification process; as a result, the Department anticipates that only a subset of CMAs and AMH+ practices will be certified to serve the Innovations and TBI waiver populations.

3. How will Behavioral Health I/DD Tailored Plans account for conflict-free rules when making care management assignments?

Behavioral Health I/DD Tailored Plans will need to use their Innovations/TBI waiver enrollment lists and claims and encounter data to identify members obtaining qualifying HCBS and members' corresponding providers of these services. Behavioral Health I/DD Tailored Plans must use these data sources to ensure that these members are assigned to an organization providing Tailored Care Management other than the one(s) where they are obtaining HCBS. The Department will provide additional guidance on the care management assignment process, including how it will promote choice, in the coming months.

4. What happens if a member is obtaining Tailored Care Management from a CMA and then becomes eligible to obtain 1915(i) HCBS?

For individuals who are engaged in Tailored Care Management prior to being identified as needing 1915(i) HCBS, the Behavioral Health I/DD Tailored Plan will permit the member to continue obtaining care management through the CMA as long as the CMA is not the provider delivering HCBS. If the CMA is also the provider that will be delivering the 1915(i) HCBS, the member will have the option to switch HCBS providers or be reassigned to another CMA for Tailored Care Management, or an AMH+ or a care manager based at a Behavioral Health I/DD Tailored Plan. The member should notify the Behavioral Health I/DD Tailored Plan if they have a preference on where they would like to be reassigned. Members can change the organization they are assigned to for Tailored Care Management and/or change care managers twice per year without cause and anytime with cause.⁴

5. As an HCBS provider, what do I have to do to ensure I am compliant with conflict-free rules when delivering Tailored Care Management?

HCBS providers should notify the Behavioral Health I/DD Tailored Plan if they are assigned a member for Tailored Care Management for whom they also provide HCBS. The Behavioral Health I/DD Tailored Plan will make a new care management assignment that complies with conflict-free rules.

⁴ Full details of the circumstances that constitute "with cause" are included in the BH I/DD Tailored Plan RFA: <https://medicaid.ncdhhs.gov/media/8017/download>.

Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

6. How do conflict-free rules impact existing relationships between HCBS providers and future Behavioral Health I/DD Tailored Plan members?

There is no impact to existing relationships. Members will be able to continue obtaining HCBS from their existing providers. In making Tailored Care Management assignments, the Behavioral Health I/DD Tailored Plan will ensure members are not assigned to CMAs that are delivering qualifying HCBS.

7. Can a HCBS provider, or group of providers, create a new entity to deliver Tailored Care Management for their members?

HCBS providers can individually apply to become a CMA if they are interested in offering Tailored Care Management.⁵ A CMA must have experience delivering behavioral health, I/DD, and/or TBI services to the Behavioral Health I/DD Tailored Plan eligible population. Additionally, the organization's primary purpose at the time of certification must be the delivery of NC Medicaid, NC Health Choice, State-funded services, other than care management, to the Behavioral Health I/DD Tailored Plan eligible population in North Carolina. See the [Tailored Care Management Provider Manual](#).

The Department welcomes providers to reach out with innovative ideas of how to provide conflict-free care management to populations using HCBS.

8. Can a HCBS provider refer a member to another agency for Tailored Care Management?

Providers will not be able to request or otherwise steer Tailored Care Management assignment for the individuals for whom they provide qualifying HCBS. Behavioral Health I/DD Tailored Plans will determine Tailored Care Management assignments, in line with the requirements and guidance provided by the Department (e.g., conflict-free rules, taking into account members' physical and behavioral health complexity, pre-existing relationships with AMH+s/CMAs, member language/cultural preference). Providers can educate members on Tailored Care Management, including sharing a list of all CMAs who are qualified to serve the member.

9. Has the Department considered allowing HCBS providers/CMAs to develop "firewalls" that separate HCBS delivery and Tailored Care Management (e.g., ensuring that care managers are not the same individuals delivering HCBS, having separate reporting structures for Tailored Care Management and service delivery, separating the care plan development function from the direct service provider function)?

The Department explored allowing HCBS providers/CMAs to develop firewalls between Tailored Care Management and service delivery; however, CMS informed the State that such an approach is not compliant with federal conflict-free rules.

⁵ The Department will certify CMAs at the level of the entire organization. However, if a potential CMA spans multiple BH I/DD Tailored Plan regions, the Department will certify the organization at the level of each Region.

Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

10. Where can future Behavioral Health I/DD Tailored Plan members, families, stakeholders, and/or agencies express questions or concerns related to conflict free case management?

Please send an email to Medicaid.TailoredCareMgmt@dhhs.nc.gov.

Guidance on Conflict-Free Care Management for Tailored Plan Members

August 25, 2021

Additional Resources

The Centers for Medicare & Medicaid Services (CMS) provides guidance on mitigating conflict of interest in case management, available at:

[https://www.medicaid.gov/medicaid/hcbs/training/index.html#conflict.](https://www.medicaid.gov/medicaid/hcbs/training/index.html#conflict)