



INARF Public Policy Review – April 2024

INARF has developed this document, updated monthly, which summarizes key industry trends, issues and developments that occurred in the previous month and is presented in executive summary format. If you have questions or comments, please contact any of the INARF Public Policy Team including Katy Stafford-Cunningham at katy@inarf.org, Brandi Foreman at brandi@inarf.org, or Courtney Scott at courtney@inarf.org.

CMS Final Rule:

CMS published the Ensuring Access to Medicaid Services final rule, effective July 9, 2024. This rule has many components, including requiring states to meet national incident management system standards for monitoring HCBS programs, requiring the establishment of a grievance system for HCBS delivered services through fee-for-service, strengthening oversight of person-centered planning in HCBS, and requiring States to report on waiting lists, service delivery timeliness, and standardized HCBS quality measures. In Year 6 of the Final Rule (2030), at least 80% of Medicaid payments for specific services must go to direct care worker compensation; those include personal care services, home health aides, and homemaker. DSPs providing attendant care services would be included under this definition.

[View the CMS Ensuring Access to Medicaid Services Final Rule](#)

Department of Labor Overtime Final Rule:

The Department of Labor published the Overtime Final Rule with an effective date of July 1, 2024. By July 1, 2024, employers should prepare for the initial update of the standard salary level and the Highly Compensate Employee (HCE) total annual compensation threshold. The threshold will increase from \$35,568 to \$43,888 (\$844 per week) per year. A second increase will take place on January 1, 2025, up to \$58,656 (\$1,128 per week). An updating mechanism was established to adjust the salary levels every three years, with the first adjustment expected July 1, 2027.

[View the INARF DOL Overtime Rule Resources](#)

DDRS Advisory Council

On April 17th, the DDRS Advisory Council met. They discussed the end of retroactive Medicaid eligibility and clarified that it only applies to initial eligibility determinations and does not apply to individuals currently enrolled in Medicaid. There are some A&D plans that are receiving additional review; those include plans with more than 240 hours of ATTN per month for a person under 22 years old, more than 80 hours of ATTN per month for a person under 22, and any plans with an LRI providing services. Lastly, VR is set to get out of order of selection by January 1, 2025.

[View the April DDRS Advisory Council Recording](#)

[View the April DDRS Advisory Council Materials](#)

VR Proposed State Plan:

The proposed Vocational Rehabilitation State Plan Amendment was posted for a 30-day public comment period, with comments due April 21st. Provisions require service providers to notify the VR program in writing within ten business days of any changes to their license, certification, accreditation, or permit statuses. Providers must notify the VR program in writing within five business days of receiving a participant's referral if they decline to provide VR services to a participant. If a service provider cannot accept new participants due to insufficient staff resources, the service provider must notify the VR program in writing within 2 business days of receiving the participant's referral. Once the VR program receives the written notice, the service provider shall not be available to be selected by the participants as a service provider until the service provider notifies the VR program in writing of its ability to accept new participants.

[View the VR Proposed State Plan Amendment](#)

[View the INARF VR Public Comment](#)

Medicaid Unwinding Update:

FSSA provided an update on where Indiana is in the Medicaid Unwinding process. This webinar focused on the return of copays and premiums for Medicaid recipients starting July 1st. Applicants with incomes at or below 150% of the Federal Poverty Line (FPL), who qualify for MEDWorks will receive conditional approval. A conditionally approved applicant is someone who has been determined eligible for coverage, but their coverage will not be activated until they make their first payment. For conditionally approved applicants who pay their first premium, their coverage will begin up to three months prior to application month if they were eligible in all three retroactive months. MEDWorks members who are disenrolled for nonpayment and reapply must catch up on all their missed payments or service a 2-year lockout period. It was also announced that copays will no longer apply to MEDWorks.

[View the Medicaid Unwinding April Webinar](#)

Minimum Staffing Standards for LTC Facilities and Medicaid Institutional Payment Transparency Reporting:

This final rule, effective June 21, 2024, mandates that facilities provide a minimum of 2.48 nursing care hours per resident day (HPRD). Within that requirement, facilities must provide .55 RN HPRD and 2.45 NA HPRD. All long-term care facilities must have an RN onsite 24 hours a day/7 days a week. States must report annually, by facility, on the percent of payments for Medicaid-covered services delivered by ICFs that are spent on compensation for direct care workers and support staff. ICFs would need to build, design, and operationalize an internal system for developing that report to the State. Rural facilities have 5 years to comply, non-rural facilities have 3 years to comply, and States have four years to comply.

[View the Minimum Staffing to LTC Facilities and Medicaid Institutional Payment Transparency Reporting Final Rule](#)

Pathways for Aging and A&D Waitlist:

FSSA stated that auto-enrollments started on May 1, 2024, for those who have not selected a plan. Members may change their Pathways enrollment within 90 days of the start of coverage and once per calendar year for any reason. Provider directories are being updated as providers and plans are still in the contracting process. All managed care entities will maintain an open network until network adequacy is achieved. FSSA announced a claims submission testing period for the PathWays program to help prepare providers. The go-live is still planned for July 1, 2024. The A&D Waitlist went into effect on April 24th. There are 50,000 slots on A&D Waiver. Any new applicants will be placed on the waiting list until additional slots become available after July 1.

[View the PathWays for Aging Stakeholder Update](#)

[FSSA announces claims submission testing period for PathWays program](#)

[View the A&D Waitlist FAQ Document](#)

Federal Trade Commission Non-Compete Rule:

The Federal Trade Commission (FTC) issued a final rule that would ban non-competes. The final rule allows existing non-competes with senior executives to remain in force, but any non-competes after the effective date would be null. For non-senior executives, any existing non-competes are not enforceable after the effective date. The U.S. Chamber of Commerce stated that they would sue to block this measure, potentially pushing back the effective date.

[View the FTC Announces Rule Banning Noncompetes](#)