Massachusetts On-site Review Summary Report

I. Executive Summary

The Health and Welfare Special Review Team (H&W SRT) conducted a five-day on-site focused review of Massachusetts' Medicaid Home and Community-Based Services (HCBS) waiver programs from July 22 through July 26, 2019. This on-site review was conducted to follow-up on the Corrective Action Plan (CAP) resulting from an Office of the Inspector General (OIG) Health and Welfare audit, and to assist the state to prepare for an upcoming renewal of the Children's Autism Waiver.

Massachusetts operates ten HCBS waivers. Each waiver is operated with its own administrative hierarchy within the umbrella of the Executive Office of Health and Human Services (EOHHS). EOHHS includes the Office of Medicaid, known as MassHealth. The Executive Office of Elderly Affairs (EOEA) operates the Frail Elder (FE) Waiver. The Department of Developmental Services (DDS) operates both the Children's Autism Spectrum Disorder (Autism) Waiver and the Intensive Supports Waiver. Finally, the Massachusetts Rehabilitation Commission (MRC) operates the Traumatic Brain Injury (TBI) Waiver. Each division has its own process for reporting and investigating incidents of abuse, neglect and exploitation and its own investigative body. Additional information is provided in the background section of this report.

The on-site review included multiple meetings with state directors and staff responsible for the administration and operation of Massachusetts' ten 1915(c) waiver programs. The H&W SRT also held a joint meeting with representatives from Massachusetts' licensing entity, protective services entities, protection and advocacy entity, and HCBS ombudsman.

The H&W SRT met with case managers, service coordinators, investigators, providers, and participants to gain a better understanding of the state's process for reporting, investigating, and resolving critical incidents and how health and welfare is ensured for HCBS waiver participants through the lens of these stakeholders. The H&W SRT divided into two groups: one team focused on the Intensive Supports and Autism Waivers, and the second team focused on the Traumatic Brain Injury and Frail Elder Waivers.

During the on-site review, the H&W SRT identified a number of strengths and promising practices along with a few challenges, which are listed here and described more fully later in the summary report.

<u>Strengths and Promising Practices for Ensuring Health and Welfare</u>

A. Data management system and data utilization by means of a web-based individual information system and partnership with Center for Developmental Disabilities Evaluation and Research (CDDER)
B. Executed data exchange agreement between DDS and EOHHS (for comparing emergency department claims data with incident reports)
C. Extensive training at the state and provider levels with efficient access to online training
D. Proactive state approach to health and welfare challenges, such as developing an electronic reporting system for MCR and updating definitions for critical incidents
E. Openness to innovation by listening to suggestions from local providers and others
F. Mortality review process for the Intensive Supports, Community Living, and Adult Supports waivers

G. Capitalizing on partnerships via the Building Partnership Initiative

Challenges

A. Communication challenges with elder and child protective services entities
B. MRC use of a paper-based incident management process.

Recommendations

A. The state should consider a single incident management system.
B. The state should consider codifying a formal reporting mechanism between protective services entities and the Medicaid and the Operating agencies Overall, Massachusetts demonstrated that it has a robust system for addressing, tracking, trending, and analyzing critical incidents. In all waivers, stakeholders were aware of how to respond to a critical incident.

II. Background

Prior to the on-site review, Massachusetts provided the H&W SRT an array of documents that further elaborate on specific elements of the Massachusetts delivery systems and critical incident processes. Included in the documents are details about the mortality review processes as well as data on critical incidents across all waivers and data specific to each managed care organization. Information about training, use of social media, and alerts also was shared.

Additionally, the H&W SRT conducted a review of waiver program documents and other material from the public domain related to the health and welfare assurance of individuals receiving HCBS in Massachusetts. Table 1 lists the ten Massachusetts waiver programs that were reviewed prior to the visit, along with the waiver's expiration date, operating agency, and target population.

Table 1. Waiver Programs Reviewed

Waiver Name and Number	Expiration Date	Operating Agency	Target Population
Frail Elder Waiver (0059)	December 2023	Executive Office of Elder Affairs (EOEA)	Participants who are age 60 and older
Community Living Waiver (0826)	June 2023	Division of Developmental Services (DDS)	Participants, aged 22 years and older, with an intellectual disability
Intensive Supports Waiver (0827)	June 2023	Division of Developmental Services (DDS)	Participants, aged 22 years and older, with an intellectual disability
Adult Supports Waiver (0828)	June 2023	Division of Developmental Services (DDS)	Participants, aged 22 years and older, with an intellectual disability
Moving Forward Plan Residential Supports (1028)	March 2023	Division of Developmental Services (DDS)	Participants, aged 18 years and older, with physical disabilities or mental illness

Waiver Name and Number	Expiration Date	Operating Agency	Target Population
Children's Autism Spectrum Disorder Waiver (40207)	September 2025	Division of Developmental Services (DDS)	Children, from birth through age 8, who have autism spectrum disorder
Acquired Brain Injury with Residential Habilitation (40701)	April 2023	Division of Developmental Services (DDS)	Participants, aged 22 years and older, who sustained a brain injury after the age of 22 years
Traumatic Brain Injury Waiver (0359)	June 2024	Massachusetts Rehabilitation Commission (MRC)	Participants, aged 18 years and older, with traumatic brain injury
Moving Forward Plan Community Living (1027)	March 2023	Massachusetts Rehabilitation Commission (MRC)	Participants, aged 18 years and older, with physical disabilities or mental illness
Acquired Brain Injury Non-Residential Habilitation (40702)	April 2023	Massachusetts Rehabilitation Commission (MRC)	Participants, aged 22 years and older, who sustained a brain injury after the age of 22 years

Based on a review of preliminary information, the H&W SRT decided to focus on the TBI Waiver and the Autism Waiver because of their renewal dates. The Frail Elder and Intensive Supports Waivers were also selected to provide more comprehensive knowledge of health and welfare practices across operating agencies. Although the Autism and Intensive Supports Waivers are both operated by DDS, these waivers have different operating structures and health and welfare oversight. The H&W SRT concentrated on the reported improvements made in response to the OIG audit to ensure appropriate reporting and management of critical incidents. Those reported improvements were in Massachusetts' mandated reporter training, data sharing agreements, and data analysis procedures. Descriptions of these four waivers are as follows:

The **Frail Elder Waiver** supports approximately 13,810 participants and is operated by the EOEA, which contracts with 26 Aging Services Access Points (ASAPs). All ASAPs are responsible for contracting with service providers in their catchment area. When a critical incident is reported, the report is made to the case manager (an employee of the ASAP) and the case manager reports the incident to the contract manager at the ASAP. Concurrently, the direct care worker involved in the incident is proactively removed from providing services while the ASAP completes its internal investigation. Incidents involving abuse, neglect, or exploitation allegations also are reported to Elder Affairs and Elder Protective Services; other incidents may be reported to the Department of Public Health (DPH). Once the investigation is completed, action steps are taken. If the allegation is found to be substantiated, a determination is made regarding whether the direct service worker will remain employed with the ASAP with retraining or other intervention, or whether the worker will be terminated from employment.

A participant who is over the age of 65 years may choose to voluntarily enroll in a managed care program for Medicaid and Medicare eligible beneficiaries called Senior Care Options

(SCO). SCO managed care plans are required to contract with ASAPs to provide services within the plan's catchment area and coordinate care for dual eligible beneficiaries. A participant who chooses to enroll in this program is assigned a Geriatric Services and Supports Coordinator, who is employed by the plan and takes on the role of managing the case that includes identifying and reporting abuse, neglect, and exploitation.

The **Traumatic Brain Injury (TBI) Waiver** supports approximately 98 participants and is operated by the MRC, which provides administrative case management services. For this waiver, only two residential sites are licensed by DDS. A paper-based system is used to report incidents. An incident that involves abuse, neglect, or exploitation allegations is reported to the Disabled Persons Protection Committee (DPPC) for investigation if the participant is between the ages of 18 and 59 years. Incidents reported for participants who are aged 60 years and over are passed from DPPC to Elder Protective Services for screening and/or investigation. The MRC team works with the service coordinators who are responsible for the residential site to investigate; the service coordinator manages discussions with the provider agency, the direct care worker, and the participant. When DPPC completes the investigation, the investigator also submits a report with any needed recommendations to address the incident and to prevent similar incidents from occurring in the future. Recommendations can include an increase in service hours, a change in staff, or a protective order, depending on the nature of the incident.

The **Intensive Support Waiver** supports approximately 9,473 participants and is managed by DDS. DDS operates as an organized health care delivery system and offers some residential, day, employment, respite, and community habilitation services. Providers for those services are state employees for state-run services, as well as private agencies that are certified as providers by DDS. The DDS Risk Management System operates at both the local level and the state level. At the local level, the area offices include key state staff that offer their expertise and experience in managing unsafe situations, which is incorporated into a participant's person-centered service plan. At the state level, the Director of Risk Management facilitates a committee to review service plans of individuals who present compelling legal, medical, human rights and self-determination challenges. The state-level committee makes recommendations and offers resources and solutions to mitigate and monitor the risk.

Providers enter all incidents into the Home and Community Services Information System (HCSIS) and report allegations of abuse, neglect, or exploitation to DPPC. DPPC investigates critical incidents of abuse, neglect, or exploitation and oversees investigations that other state agencies conduct on DPPC's behalf, including those conducted by the local area offices' 22 DDS Senior Investigators. Mandated reporters are required to report to the DPPC all cases in which an individual with a disability has died. DPPC will determine whether the case will be investigated, put through an administrative review at the DDS area office, or dismissed. Once a case is investigated by a DDS area office, there is a second level of review by DPPC.

The **Children's Autism Spectrum Disorder Waiver** is overseen by the Autism Division at DDS. Autism Clinical Managers provide oversight, technical assistance, and monitoring for approximately 308 participants. DDS has no investigative capacity for the Children's Autism Spectrum Disorder Waiver. All reports of abuse, neglect, and exploitation are made to the Department of Children and Families (DCF). All participants on this waiver are self-directing

waiver services and live at home. Mandatory annual training regarding abuse and neglect is provided online to parents and families with a certificate provided to verify completion. The waiver only provides Behavioral Health Professional consultation to the families, who in turn provide the child's supports. Families receive fact sheets on basic home safety. DDS is not the assigned investigative body for this waiver, and as a result, it is not informed of the results of any investigation of abuse, neglect, or exploitation. Families may or may not share information with DDS that a report has been made or that an investigation is ongoing.

III. Massachusetts On-site Review

The H&W SRT conducted the on-site visit over a five-day period and met with various state staff, stakeholders, advocates, providers and participants. The following topics were covered in addition to reviewing a sample of critical incident reports.

- State's handling of allegations of abuse, neglect, exploitation, and unexplained death
- State's mortality review process
- Licensure/contract oversight process and how it intersects with incident reporting and investigations
- Critical incident reporting process (from both the provider and participant perspectives)
- DDS data use agreement that provides emergency department data to DDS to review and determine if all incidents were reported accurately

During the on-site review, the state provided additional documents, such as graphs showing the increased reporting of abuse, neglect, and exploitation following implementation of the new Mandated Reporter Training module and a flow chart describing the communication among EOEA, the ASAPs, the provider agency, and the direct care workers. The Mortality Review teams also shared examples of their report forms and an annual report. The H&W SRT asked the state to provide follow-up documentation of processes or policies they referenced during discussions that had not been provided in advance of the visit, which included the core licensing requirements specific to health and welfare. Additionally, providers shared training materials and reporting forms, among other items. Massachusetts also noted that claims payments are made only if a service was provided. Other mechanisms are in place to address poor performance including possible termination of a provider agreement.

IV. State Strengths and Promising Practices for Ensuring Health and Welfare

The following is an overview of the state's strengths and promising practices identified by the H&W SRT both through the preliminary review and on-site review regarding the design or practice of ensuring the health and welfare of HCBS waiver participants in Massachusetts.

A. **Data management system and data utilization**

Noted as a promising practice by the H&W SRT, HCSIS is an electronic record keeper of an individual's whole experience. HCSIS is a web-based individual information system used by both DDS and its providers. It is geared to capture important events and health care information for individuals served by DDS. The H&W SRT heard numerous ways in which the HCSIS data informs and strengthens Massachusetts's health and welfare safeguards, including the capacity to review incident reports and medication errors. The state places a strong emphasis on using data to inform policy decision-making, training, and quality oversight.

The state's partnership with Center for Developmental Disabilities Evaluation and Research (CDDER) at the University of Massachusetts Medical School has helped it aggregate and analyze the data collected in HCSIS and use it in a meaningful way. As the number of critical incident reports revealed an increase in the frequency of a particular issue (i.e., falls), DDS was able to intervene with additional resources for training. The data then was reviewed again to ensure that the training was effective and that the incident reports for falls were in fact decreasing.

B. **Executed data exchange agreement between DDS and EOHHS (for comparing emergency department claims data with incident reports)**

A data use agreement was recommended as a model practice in the Joint Report[1] from the Administration for Community Living, CMS, and the Office of Civil Rights, following a series of Office of the Inspector General audits, including one in Massachusetts that focused on incident reporting. Noted as a promising practice by the H&W SRT, the data exchange agreement has been in existence in Massachusetts for a couple of years. It was developed to allow for DDS to retrospectively review Medicaid Management Information System (MMIS) claims data and to ensure that incidents that result in emergency department visits are recognized and reported, and that follow-up activities are conducted. Although the process is manual in many respects with regard to data cleaning, the data analysis indicates that the number of emergency department claims that do not have a corresponding incident report in HCSIS has been decreasing steadily. The data exchange process has been very effective, and reviewing the available data enables DDS to discover pockets of underreporting, such as unreported emergency department visits, and address them through additional training.

C. **Quality of training at the state and provider levels**

Every person the H&W SRT spoke with knew what to do in a critical incident, pointing to the quality of training at the state, beneficiary and provider levels. Training resources are updated regularly, often based on data-driven indicators, and material is readily available online for review by all stakeholders. The mandated reporter training module, noted as a promising practice ahead of the on-site review, has standardized information sharing and has led to higher rates of reporting from the field. During the on-site review, numerous providers and staff mentioned the robust training options easily accessible

[1] https://oig.hhs.gov/reports-and-publications/featured-topics/group-homes/

through the two online sources:www.ddslearning.com and https://shriver.umassmed.edu/programs/cdder/dds-webinars. Licensing reviews ensure that providers have completed mandated reporter training regarding suspected abuse, neglect, or exploitation for staff; these reviews are completed every two years, or more often if there are citations requiring correction.

Further, Massachusetts developed and implemented training materials and resources for DDS staff and providers of group home services to address and prevent similar incidents, including a series of briefs titled *Quality is No Accident.* These materials focus on items such as choking prevention, pressure ulcer prevention, and characteristics of appropriate friendship for individuals with intellectual disabilities to prevent exploitation. Topics of these briefs are prompted by data trends showing patterns of similar incidents.

Based on the data, for example, Massachusetts developed a fall prevention training program, and data from the pilot indicated a 33 percent reduction in the monthly rate of falls from the pre-training to post-training period of 6 months. The falls prevention program continues to be used and taught throughout the state's provider network.

D. **Proactive state approach to health and welfare challenges**

In the exit conference, as the H&W SRT shared initial observations and discussed their view of the state's challenges, it was noted by state staff that they already were aware of and taking steps toward resolving the challenges. One example is MRC's lack of an electronic reporting system. Plans were underway for calendar year 2020 to develop and pilot an electronic system, using lessons learned from HCSIS. Finally, Massachusetts also revised and updated its definitions of reportable incidents and the "reasonable cause to believe" (preponderance of evidence) standard to prevent underreporting due to unclear expectations.

As an update, MRC implemented an electronic reporting system for incident management effective July 1, 2021. Using Qualtrics, provider agencies can complete real time reporting of incidents that may occur in residential or other types of settings. The system allows tracking of trends within a provider agency, within provider type, within incident type and at specific addresses. MRC integrated the Medication Administration Program Medication Occurrences into the Qualtrics system so there is one system of reporting incidents of all kinds.

E. **Openness to innovation**

During meetings with state representatives and local providers, there was evidence of an openness to new ideas and innovation. One example at the state level was the interest in using smart phone technology to empower individuals in areas of health and welfare reporting. Local providers also discussed their efforts to tailor health and welfare information to individuals in a manner that maximized their understanding of their rights and reporting options. For example, in a TBI residential site serving participants who were medically complex and had communication challenges, weekly house meetings reminded them of one of their human rights each week and the artwork in the home depicted each right graphically and with narrative text underneath to make it easier to understand by a broad range of individuals. In several examples for participants with difficulties with memory, phone numbers for emergencies or incidents were posted next to the phones in the home.

F. **Mortality review process**

A mortality review process is in place for two of the waivers reviewed during the on-site visit. DDS has a mortality review process in place for the Intensive Supports Waiver, as well as the "sister-waivers" Community Living and Adult Supports Waivers. The mortality review process has operated since 1999 with a high degree of stability among the state team members. The model offers opportunities for replication in other waivers, and DDS is looking for ways to enhance the mortality review process. For example, reporting about deaths is within HCSIS, but the mortality review process has not been included in the system yet. The state is currently modifying the method to capture the review process in HCSIS.

The TBI Waiver also has a mortality review process in place, and steps were added to improve the process in 2012. Deaths had always been reported to DPPC and the legal department. Additional forms were sent to the providers to collect information about the death and understand what had happened prior to the event. This notification process eventually led to the formation of a mortality review committee. The committee meets quarterly or more often, if needed, and is made up of the managers of each State Health Insurance Assistance Program (SHIP) Community Living Program, the supervisors of each program, and the nurses and the neuropsychologist from SHIP. Before the meetings, committee members review appropriate documentation including the DPPC report, death report, mortality review report, autopsy report, and death certificate. During the meetings, they review the details surrounding all the deaths that occurred during that quarter. The meetings are used to identify possible trends or patterns. As trends are identified, such as increased substance use disorders resulting in overdoses, the team uses the meetings to plan or provide training. Service coordinators also indicated that they find that the mortality review process gives them the space and time to discuss the participant's case and gain closure following the death of the participant.

G. **Capitalizing on partnerships**

Noted as a promising practice by the H&W SRT, the statewide Building Partnership Initiative links law enforcement, adult protection, human services, and others to address abuse and crimes committed against persons with disabilities using a coordinated, multidisciplinary approach. The Building Partnership Initiative provides a variety of trainings focused on primary and secondary abuse prevention for mandated reporters, individuals with disabilities, law enforcement, state and private service providers, municipal groups, hospitals, schools and colleges, and others interested in protecting individuals with disabilities from abuse and neglect. All these trainings are free.

In addition to the Building Partnership Initiative, DDS has also partnered with self-advocacy groups such as Massachusetts Advocates Standing Strong to Support Awareness and Action, a training program taught by and for self-advocates regarding how to prevent and report abuse.

V. State Challenges in Ensuring the Health and Welfare of HCBS Waiver Participants

The following is an overview of the challenges identified by the H&W SRT regarding the design or practice related to ensuring the health and welfare of HCBS waiver participants in Massachusetts.

A. **Communication challenges with protective services entities**

Two distinct communication challenges were identified that affect the capacity of key stakeholders to know the outcome of health and welfare investigations.

- Investigations into alleged abuse, neglect, and exploitation are completed by protective services agencies, with separate agencies investigating depending on the age of a participant. For those under the age of 18 years, DCF completes investigations; Elder Protective Services (EPS) completes the investigations for individuals over age 60. For participants with disabilities between the ages of 18 and 59 years, DPPC is the investigative body. This investigative body was added via state regulation sometime after the policies, confidentiality rules, and communication lines pertaining to DCF and EPS had been established. Particularly in the TBI Waiver, some service coordinators noted that once they reported an alleged incident requiring investigation to DPPC for a participant over the age of 60 years, the investigation was transferred to EPS. Once the investigation was completed, EPS did not report back to the service coordinator regarding the results and recommendations. Further, state staff advised that EPS did not complete any investigations for those over the age of 60 years who were residing in group homes licensed by DDS, one of the service settings provided in the TBI Waiver and other waivers serving participants with brain injuries.

  State staff noted that this has been a longstanding problem; the different definitions of critical incidents uniquely used by one investigative agency or another appears to contribute to these gaps in communication. Although the state has vigorous processes surrounding cross-agency collaboration, the state has been unable to reach resolution on standardizing the definition and communication of critical incidents. The potential exists that individuals who abuse and/or neglect individuals may continue to be employed, in part because of the necessity for changes to statute or regulation for a full remediation of these challenges.

- Investigations within the Autism Waiver are handled by DCF, and the results of those investigations are not shared with DDS. This lack of information sharing appears to be due to statutes regarding family confidentiality at the state level that prohibit sharing information with the waiver program. The state recognizes the state restrictions as a barrier to quality oversight.

B. **MRC's paper-based incident management process**

Although the EOEA and DDS have the ability to complete incident reporting and be notified of pending investigations electronically, MRC is currently working toward an electronic integrated health record and incident management system. To capitalize on lessons learned and challenges encountered, the state routinely shares information among the three divisions. Thus, MRC will have a head start on developing the electronic system following EOEA's and DDS' successes and struggles.

VI. H&W SRT Recommendations and Next Steps for Massachusetts, including Potential Technical Assistance

CMS appreciates the state's participation in the H&W SRT and would like to provide recommendations that would enhance the state's ability to safeguard health and welfare.

A. **The state should consider a single incident management system**

This would allow for a uniform approach to reporting incidents, because all allegations of abuse, neglect, and exploitation would be collected in one place, but could then be assigned to the appropriate investigative body. This would also capitalize on the state's lessons learned from developing and implementing HCSIS and would allow for an MMIS data use agreement to further enhance the state's ability to compare claims from emergency room visits with incidents that have been reported. The additional data collected in such a system would pose an opportunity for the state to offer trainings on topics that would benefit providers across waiver programs.

B. The state should create a formal reporting mechanism between protective services and Medicaid.

Similar to the data use agreement, Massachusetts should finalize a formal reporting mechanism between protective services entities and the Medicaid and the Operating agencies. This effort could ensure that the agencies can share information and know when an allegation has been substantiated so appropriate actions can be taken.