



March 2021

THE PROBLEM

Colorado's Department of Health Care Policy and Financing (HCPF) is currently working with Optumas Technologies to develop a Person-Centered Budget Algorithm (PCBA) for Health First Colorado Home and Community-Based Services (HCBS) waiver programs. The new tool will replace authorizations currently performed by humans to "identify the right amount of support for members based on assessed need."

An algorithm is a formula or set of steps used to carry out a task. Governments are increasingly turning to algorithms which limit or entirely replace human involvement in making important decisions about people's lives. This is known as algorithm-driven decision making.

The hope is that algorithms will make government work more efficiently. But these beliefs are often proven to be inaccurate at best. Rather than increasing ease, software algorithms can create delays, cause confusion, and leave people out of the loop in critical decisions about their lives, especially if implemented too quickly without proper safeguards. Proper safeguards include, but may not be limited to, full transparency about how the process works, a clear and easy-to-use exception process, ability to direct all services, and an efficient and robust appeals system.

In July 2021, HCPF plans to go live with a new Assessment and Person-Centered Support Plan and Customer Care Management (CCM) system as part of its multi-phase plan to implement its new algorithm. The new tool will be used to determine benefits for long term services and supports consumers.

Rolling this new system out statewide without piloting it on a smaller scale could have drastic consequences for people with disabilities in Colorado. Decisions impacting people's access to benefits have a dramatic impact on their quality of life and can upend critical living and care arrangements. If these new processes are not implemented appropriately, more than 50,000 people stand to have their healthcare benefits put at risk.

THE BACKGROUND

As governments increasingly turn to software solutions and third-party information technology (IT) vendors to automate processes previously performed by humans, people with disabilities can become victims of this race for progress if new processes are not implemented thoughtfully.

Health First Colorado (Colorado's Medicaid program) insures low-income residents. The

state-federal program is Colorado's largest insurance provider, covering nearly 1.5 million of the state's 5.8 million residents. Mistakes in assessing proper benefits can be deadly for the health care consumers involved and can be hugely expensive for the state, especially if courts find the state has violated due process rights.

Errors and delays in funding for agencies and consumers following software implementation have become commonplace in recent years. A couple of examples follow.

The statewide Colorado Benefits Management System (CBMS) processes Medicaid eligibility determinations. The state rolled six legacy systems into one software program under CBMS.

After a rollout that resulted in inaccurate benefits decisions for 596,000 Coloradans, a 2013 article in the International Journal of Public Information Systems (IJPIS) examined what went wrong. Gerlach, Kim, and Neumann of The University of Colorado Denver Business School found:

- Ineffective client service (delays in benefits processing).
- County staff and clients were frustrated and confused by difficult operation, slow response times, and incorrect benefits decisions.

In 2017, when Health First Colorado launched a new computer billing system with a vendor called DXC Technology, the rollout did not go as planned. Colorado Public Radio reported on the problems, which included coding errors and providers who struggled to successfully navigate the complex new system. These issues led to providers failing to get paid, which in turn led to decreased access to medical care for thousands of Coloradans.

As the IJPIS article points out, when a government entity outsources IT projects, setbacks happen almost inevitably because of competing benchmarks between state agencies, third-party IT companies, the courts, and the public. Delays in services have real consequences for people's lives.

The Center for Democracy & Technology's October 2020 report, "Challenging the

Use of Algorithm-driven Decision-making in Benefits Determinations Affecting People with Disabilities," found that "using algorithm-driven decision-making to cut public benefits can violate the constitution, and discriminate against people with disabilities."

State governments can violate state and federal laws and regulations and even constitutional protections when they use algorithm-driven decision-making tools

- That make determinations which violate due process.
- Without informing the public first, thereby violating statutory requirements.
- That violate the community integration mandate of the Americans with Disabilities Act by cutting people's benefits so much, they are at risk of going into an institution to receive necessary care.

These aren't just theoretical ideas that haven't been tried in U.S. courts. Organizations like Legal Aid of Arkansas have recently won successful litigation campaigns in federal and state courts challenging Arkansas' use of an algorithm to cut vital Medicaid home-care benefits.

States can be found to have violated the Supreme Court's Community Integration Mandate (*Olmstead v. L.C. by Zimring*) if benefits are so reduced that a person can no longer afford to receive necessary care while participating in their community. This forces a person to decide if they will live segregated from the community. Unnecessarily isolating people with disabilities from their community is discrimination on the basis of disability.

Whether it's providers or the patients themselves being denied funds for health care services, the consequences are the same: those who should be receiving services for serious medical conditions are left without care.

CALL TO ACTION

We recommend the development of robust, comprehensive case manager training to discover any problems with the new system. A budget increase is necessary to give case managers the time to learn and use this new process while completing their existing tasks. An increase in staffing will also be required.

Extensive training for case managers that includes consumer advocates is needed to ensure consumers aren't seeing inappropriate decreases in services. This is a process that cannot be easily automated. The pandemic has only complicated matters when it comes to training, requiring small groups and limited capabilities.

Julie Reiskin, the executive director for the Colorado Cross Disability Coalition (CCDC), has been heavily involved with HCPF policy-making around persons with disabilities for decades. She said, "This is not the kind of training you can do with a two-hour Zoom call. The training requires role playing. It requires bringing in clients to do actual assessments and evaluating how case managers perform. What do they forget? What doesn't get in there? Then we need to collect good feedback from those case managers. How was the presentation? What was missing? Was there enough time for questions? We can judge by their subjective feelings but also by mistakes they make in their assessments."

We recommend creating a pilot program to test the assessment tool on a smaller scale, resolve the issues, and roll it out more slowly.

The new assessment tool is more comprehensive, which is an acknowledged benefit, but it takes three times as long for case managers to administer it. As of now, agencies are not receiving more money for case manager pay and the program has not had enough

piloting to ensure case managers will not make mistakes with the new system.

Before rolling out the new assessment statewide, it should be piloted on a much smaller scale, ideally in a mid-size city and a smaller city or county to start. Appropriate mid-size cities would include a community like Grand Junction, where there is a history of piloting successful projects in Mesa County. El Paso County would also be appropriate. Pairing one of these locations with a smaller community like Montrose would be ideal, because case managers deal with unique circumstances in large and small communities.

Knowing what problems are likely to crop up in both urban and rural populations ahead of time will save many thousands of consumers the worry of having their benefits unfairly reduced due to software or human error when the program is rolled out statewide.

We also recommend delaying the implementation of the algorithm until there are at least 10,000 to 20,000 completed assessments and an analysis of how the algorithm affected consumers' budget and service plans. These results, followed by a robust stakeholder engagement process to review the results of the analysis, will ensure that Coloradans will not have their health benefits unfairly reduced or taken away due to errors that stem from the implementation of this new tool.

In conclusion, change in bureaucratic processes often starts with good intentions but can end up inflicting great harm on the people who rely on those services to live. Being slow and intentional about implementation, training case workers to learn the process correctly, and paying for the increased work that this assessment will bring are all important steps to ensure successful change.

WHO

DOES THE IC HELP?

For people with disabilities who want more independence, The Independence Center (The IC) can walk with them on their journey to achieve their goals.

We serve people with disabilities in El Paso, Cheyenne, Kit Carson, Lincoln, Park and Teller counties. Services vary from county to county.

WHAT TYPES OF DISABILITIES?



ABOUT THE IC

Started in 1987, The Independence Center is a local nonprofit organization that provides traditional and self-directed home health care, independent living, and veterans' and advocacy services for people with disabilities. These services range from providing peer support, skills classes, and employment assistance to individual and systems advocacy.

The IC has over 300 employees today, with over 51% of their Center for Independent Living staff and board having a disability.

HOME HEALTH CARE

The IC offers home health care that is skilled and unskilled, self-directed or physician-directed, for all ages, and with the caregiver of your choice or an employee of The IC.



People with disabilities
building community

THE INDEPENDENCE CENTER

729 S. Tejon St.
Colorado Springs, CO 80903
719-471-8181
Video Phone for
the Deaf 719-358-2513

A NONPROFIT ORGANIZATION
the-ic.org