



National Conference *of* State Legislatures

Policy Brief

LONG-TERM CARE REFORM: LEGISLATIVE EFFORTS TO SHIFT CARE TO THE COMMUNITY

By Donna Folkemer, NCSL, and Barbara Coleman, Consultant

December 2006

“Having the right kind of governmental leadership can be a significant advantage...because government systems can exert substantial influence toward change.”¹

Legislators are key players in each state’s political system. They join with a state’s chief executive to develop the framework for public policy and for its implementation. In the course of a legislator’s career, he or she is faced with a myriad of critical issues from highway construction to educational issues to health and drug safety.

In recent years, one of the most significant of these issues – and one of the toughest challenges – for state legislators has been escalating Medicaid spending, which now outranks education as the largest slice of a state’s budget. Total Medicaid expenditures in FY 2005 were \$304.5 billion, of which about 31 percent or \$94.8 billion was allocated to long-term care.

For a legislator, however, fiscal concerns about ever-rising Medicaid spending must also be put in the context of society’s concern about offering its most vulnerable citizens – people with disabilities and the elderly – a chance for a meaningful life with dignity and safety. Medicaid is a major payer of services and supports for this population, the single largest source of financing for LTC services and supports.

As explicated in the U. S. Supreme Court’s 1999 *Olmstead* decision, a meaningful life for people with disabilities means greater independence and control by living in their own homes or in community residences, if they wish, rather than in institutions. States must afford them this opportunity, the court ruled. As a result of this decision and the growing influence of people with disabilities seeking more independence and choice about their publicly funded supports, states have been attempting to shift public resources away from institutional care toward home and community supports and toward consumer or self-directed long-term care services.

¹ http://www.hcbs.org/files/91/4537/Systems_Change_Key_Components_1.pdf

Changing a state's long-term care system can be a complex effort that calls on the involvement of many stakeholders. State legislators have been playing a major role in this rebalancing or reform of state long-term care systems. They have been active in designing programs that call for more alternatives to institutionalization, for more options for self direction in home and community programs, and for more opportunities for people living in institutions to move back to the community.

The work of legislators in exploring these issues through committee hearings and through the drafting and passage of legislation is critical not only to the process of implementation, but also in sustaining a commitment to LTC reform for years to come. Rebalancing a state's long-term care system, however, is never an easy task, often requires a balancing of competing stakeholder demands and attention to fiscal constraints.

Still, support for these legislative initiatives – and sometimes the impetus for the legislation -- has come from a new federal program of Systems Change grants begun in 2001. State projects funded by these grants have included providing transition supports for people who wish to leave institutions, developing consumer-directed options for personal care services, expanding the direct care workforce, and providing a flexible financing system for LTC services that enables public monies budgeted for institutional services to follow an individual who leaves an institution to be spent on community supports for that person.

Each state seeking grant money through the Systems Change program must demonstrate that political and state agency leadership are involved in its proposed projects, which includes support from key legislative officials. The Centers for Medicare & Medicaid Services (CMS) has highlighted this aspect of grant solicitation and implementation in its application guidelines to states.

Thus, state legislators have become key players in a new long-term care environment. Legislative initiatives have taken a number of different forms among the states. State legislative mandates often lay the foundation for comprehensive long-term reform that also involves seeking federal grant funds to help support components of the reform package. Other state legislation might authorize or enact a specific program or policies recommended or developed through a Systems Change grant program.

Although mindful of the myriad of events and players that are shaping long-term care reform in the states, this report focuses mainly on the relationship between state legislation and Systems Change grant programs – and the role of both in the overall landscape of long-term care reform in a state. Four states – Iowa, Wisconsin, Louisiana, and North Dakota help to illustrate the ongoing legislative role in state long-term care reforms, supported in part by the System Change grants.

Iowa and Wisconsin have been engaged for several years in comprehensive LTC reform, which has involved legislative reforms and state agency efforts, with Systems Change grants helping to continue and support these initiatives. Louisiana has developed a long-term care plan that is part of a larger comprehensive health care reform agenda. These efforts have also been supported with Systems Change grants. North Dakota is engaging the state legislative process at the

beginning of the state's planning for comprehensive LTC rebalancing reform. Systems Change grants have been playing a major role in that planning process.

This report also describes examples of more narrowly focused state legislation that is setting the policy and infrastructure for consumer direction, expanding the direct care workforce, and supporting persons who return to the community after living in institutions. Finally, an appendix includes the specific legislative language of selected bills covered in the report.

This paper does not cover every state legislative action related to long term care. In particular, it was beyond the scope of this paper to review state *budgetary* actions. Efforts to expand and/or sustain home and community services are ongoing through the state budgeting process. For example, the Connecticut legislature included state general revenues in the fiscal 2005 budget to fund five transition coordinators and a program coordinator for the state's nursing home transition program. The state had received a Nursing Home Transition grant in 2001 to identify and transition 150 residents from nursing homes to the community over the three years of the grant. By 2004, transitions had been accomplished for 40 nursing home residents. But the three-year grant period was coming to an end. The governor requested the additional money to continue the transition efforts. The budget also included funds to add slots to the state's assisted living pilot program to meet the service needs of people moving to the community.

FOUR STATE CASE STUDIES

Iowa - "IowaCare"

Iowa long-term care (LTC) reform efforts illustrate the process of weaving together executive initiatives, legislative measures, and federal support through Systems Change grants. In particular, Iowa's legislature has supported long-term care reform through its adoption of mandates to the executive branch for systems redesign. For example, the Legislature charged the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury (MH/MR/DD/BI) Commission in 2003 with redesign of the adult and children's disability services systems. The Commission's recommendations were submitted to the Legislature in December 2004. (In addition, Gov. Tom Vilsack issued Executive Order 27 in early 2003 mandating that all state agencies identify barriers to community living for people with disabilities and elderly Iowans, and develop plans to address the barriers.)

Another example of legislative involvement in LTC reform in Iowa is the Legislative Long Term Care Task Force, which has collaborated with the Senior Living Coordinating Union (SLCU) charged by the legislature with long-term care policy development (Iowa Administrative Code, Section 231.58). The Task Force works with the SLCU in identifying LTC redesign priorities. Four state agencies sit on the SLCU.²

Perhaps the most significant legislative contribution to the overall long-term care effort in Iowa, however, was passage in 2005 of the IowaCare Act (House File 841), also known as Iowa's

² The four state agencies that sit on the Senior Coordinating Unit are the Departments of Human Services, Elder Affairs, Inspections and Appeals, and Public Health.

Medicaid Reform Proposal. While the Act is best known for expanding Medicaid health care coverage, it also mandates fundamental LTC reform under a section of the law called “Rebalancing Long-Term Care.” The intent of the long-term care provisions of the legislation is to improve access, expand choices about where and how to get services, and build the capacity of Iowa communities to sustain independent living for people with disabilities.

The background for these legislative initiatives included a series of Systems Change grants, in particular a \$1 million Real Choice Systems Change grant in 2001. The state’s goals for the grants were to: (1) prevent institutionalization of elderly persons and people with developmental disabilities, mental illness, and other disabilities; (2) increase consumer choice; and (3) facilitate development of a broader range of individualized services for persons with disabilities.

The 2005 IowaCare Act establishes a higher eligibility standard for nursing home care than for HCBS, as follows:

- A person must require physical assistance of one or more persons on a daily basis for *three or more* activities of daily living (ADLs), or require a “safe, secure environment” because of chronic confusion or mental illness.
- Home and community-based services will be available for persons who require hands-on assistance on a daily basis with *one to three* ADLs or who suffer from chronic confusion or mental illness.

The new law also promotes and facilitates shifting the LTC system for persons with mental retardation or developmental disabilities away from institutional care by:

- Developing and implementing by January 1, 2007 a case-mixed adjusted reimbursement system for institutional and community-based services for the developmentally disabled, and
- Raising the level of care for admission to an Intermediate Care Facility for Mental Retardation (ICF/MR) to encourage home and community-based care unless an ICF/MR admission is determined to be medically necessary or appropriate HCBS waiver services are not available.

In 2005, the state received a \$2.3 million Systems Transformation grant to implement the IowaCare Act. The “heart” of the Systems Transformation efforts, the state said in its proposal for the funds, is the IowaCare legislation, which “sets the direction for redesign of Iowa’s system of long-term supports for people with disabilities and older Iowans.”

The Systems Transformation grant also assists the Department of Human Services with implementing new Iowa legislation that requires all the HCBS waiver programs to include options for persons with disabilities to direct their own care. Grant funds will support development of a plan for expanding home and community-based services in Iowa, which is due to the legislature in July 2007.

Wisconsin - “Family Care”

Wisconsin has been engaged in systematic revamping of its long-term care system since the Wisconsin Legislature enacted the Family Care initiative in 1999 as a pilot program in five counties. Family Care is a capitated managed care program of acute and long-term care services for older people, younger people with physical disabilities, and persons with developmental disabilities managed by the Department of Health and Family Services (DHFS). A key feature of the Family Care program is that home and community-based services are an entitlement in the pilot counties; thus there are no waiting lists for services in those counties and, in essence, “money follows the person” to whatever setting the person with disabilities needs and wants.

The original legislation authorizing Family Care limited program enrollment to only 29 percent of the state’s disabled Medicaid population. Although there have been proposals over the years to expand the program statewide, state fiscal problems slowed expansion of the demonstration beyond the initial pilot counties. However, as independent evaluations of the program consistently showed successful cost-savings as well as a high level of satisfaction among program participants, bi-partisan support in the legislature and the executive branch has increased.

In his 2006 State-of-the-State address, Wisconsin’s Governor proposed expanding Family Care statewide within five years and eliminating waiting lists for long-term care services. During the 2006 session, the Wisconsin legislature passed Senate Bill 653, which allows the program to expand to all 72 counties and raises the statutory cap on the percentage of the state’s eligible population that Family Care can serve to 50 percent.

Efforts have been made periodically in the legislature to reduce nursing home bed usage in the non-Family Care counties through the Community Integration Program (CIP) for persons with developmental disabilities (CIP I) and for persons age 65 and older (CIP II). Additional slots for this program have been funded through closure of a specified number of nursing home beds.

In 2003, the legislature passed the ICF Restructuring Initiative, authorizing the use of ICF-MR institutional funds for the CIP I program. The intent was to facilitate the closing of ICF-MR beds and increase funding for community services. The ICF-MR budget was frozen at its 2003 level of funding.

In the 2005-2007 biennial budget (Assembly Bill 100), enacted in August 2005, the legislature included the Community Relocations Initiative. This initiative provided that any nursing home resident could relocate to the community if he or she chose to do so, with funding for community placement to be provided through the CIP II program. Funding supporting the relocation would become permanent funding for the CIP II program.

Another piece of legislation, SB 312 (2005 Wisconsin Act 355) also expands CIP II to include individuals who are diverted from “imminent entry” into nursing homes. The legislation, which became effective in May 2006, provides that if more than 150 people qualify, DHFS must get approval from the legislature’s Joint Committee on Finance to proceed with services for these extra people.

As the Family Care program was establishing itself over the years, the state was also seeking federal assistance to help keep the momentum going for long-term care reform. Much of that assistance has come through Systems Change grants. The grants awarded to Wisconsin include two Nursing Facility Transition grants to help relocate more than 600 persons from institutions to the community and a Real Choice Systems Change grant to increase opportunities for consumer self-direction, address service barriers for people with mental illness, and develop a competent LTC workforce. The state also received a Money Follows the Person grant to prevent unnecessary admissions to nursing homes of persons with developmental disabilities.

The largest single grant to Wisconsin under the federal program came in 2004 when the state was awarded a \$5.5 million Comprehensive Systems Reform grant. State officials credit the Systems Change grants with helping to “create the momentum” to expand Family Care statewide and to keep the overall long-term reform effort going. The grants “focused our internal discussions and facilitated getting all our partners together,” an agency official said.

North Dakota – A Gradual Rebalancing Effort

North Dakota intends to move gradually to rebalance its LTC system to include more community-based care. One of the first steps was an assessment of the system. The report issued in 2002 concluded that “priority needs to be given to legislative efforts in the form of program incentives and tax incentives for home and community-based services.” Incentives “that create or enhance the care of elderly in the home through community-based efforts will reduce the demand for institutional care and, in turn, the financial burden on the state,” the report said.³

During the 2003 legislative session, lawmakers passed Senate Bill 2330, which required that elderly persons and persons with disabilities be offered choices of LTC services that best meet their needs, and that funding follow an individual for whatever service option the individual selects. The legislature failed to provide funding for these initiatives, however, so the state applied for a Systems Change rebalancing grant to further its planning for reallocating state resources between home and community-based services and nursing home services.

North Dakota had received a Real Choice Systems Change grant in 2002 and then the rebalancing grant in 2004. The state’s Department of Human Services has been using these grants to:

- develop a single-point-of-entry system;
- allow for the reallocation of funds to HCBS through new legislation and administrative rules; and
- increase the options for choice and self-direction for consumers.

³ Testimony of Linda Wright, Director of the Aging Services Division, before the Senate Finance and Taxation Committee on February 8, 2005. The report is *Needs Assessment of Long Term Care, North Dakota: 2002. Initial Report and Policy Recommendations*. (University of North Dakota and the North Dakota State University). November 2002.

To guide the Department of Human Services on the rebalancing grant, state officials created a steering committee, whose membership includes two legislators. A meeting of more than 100 stakeholders from around the state was held in March 2006 to gather and share information, and build consensus about ideas for change. The following month, the steering committee met to develop a plan that included action steps, recommendations, and potential legislation for the 2007 session.

In its 2005 budget bill (House Bill 1012) for the Department of Human Services, the legislature required a report in the 2005-2006 legislative interim on the Department's plan to transfer appropriate individuals with mental retardation or developmental disabilities from the Developmental Center to community placements. The legislature also appropriated \$50,000 for costs related to these potential transfers. The report, presented to the legislature's Interim Budget Committee on Human Services in May 2006, calls for specific planning, funding, and staffing steps to gradually reduce the population at the state's Developmental Center over four years.

Louisiana – A State Plan for Choice in Long-Term Care

Louisiana offers an example of a state moving on a number of different fronts to move away from an institutional framework for long-term care to an expanded system of home and community services and supports for persons with disabilities. These initiatives called for interaction between the legislative and executive branches in Louisiana, supported by funding from several Systems Change grants.

In 2002, Louisiana received a \$1.4 million Real Choice Systems Change grant for consumer direction in the state's Medicaid waiver programs, for workforce development, and for pilot housing projects. In 2003, the state received an Independence Plus grant to further strengthen the principles of self direction and to create an individualized backup system for people using self direction. In 2004, Louisiana received a Rebalancing Initiative grant to help the Office of Citizens with Developmental Disabilities to develop a transition plan to increase the number of persons with developmental disabilities who could be moved to the community.

The Governor of Louisiana had issued an executive order in October 2004, "Louisiana's Plan for Choice in Long Term Care," that called for the state to "provide a full array of quality long-term care services for the elderly and persons with disabilities," including expanded home and community-based services choices. The governor called for a two-stage process: a plan for immediate action to identify administrative and legislative actions that could be accomplished by early 2005, and a comprehensive plan that would address system reforms to be achieved by 2011.

Louisiana's Plan for Immediate Action in Long-Term Care was released in March 2005. A budget-neutral proposal, the plan called for eliminating fragmentation at state and local levels to offer consumers easier access to LTC services. Community capacity- building initiatives included conversion and diversion of Intermediate Care Facilities for the Mentally Retarded and nursing facilities in favor of community services, and development of a new waiver programs for adults with developmental disabilities.

In conjunction with the Systems Change grants and the Governor's executive order, the legislature enacted several major bills in 2005:

- The first major revision in 20 years of the law concerning persons with developmental disabilities (Act 128, Senate Bill 190) authorizing a single point of entry into the system of services and supports for this population, requiring a needs-based assessment for anyone entering the system, spelling out the rights and privileges of people with developmental disabilities, and creating an ombudsman program.
- Nurse delegation (Act 451, House Bill 697) that allows direct service workers to perform certain tasks in the home such as medication administration and provision of routine hydration and nutrition, and that calls for these workers to be employed by licensed agencies and receive specified training.
- A resolution directing the Department of Health and Hospitals to reorganize its programs and budgets for long-term care into a single office that reports to the Secretary. The Office will have administrative, programmatic, budgetary, and policy development authority over the complete array of Medicaid-funded long-term care services for older adults and adults with disabilities.

In 2005, the state received a \$2.3 million Systems Transformation grant to develop a comprehensive approach to quality management for its home and community-based services, and to expand resources that provide access to information about services and supports and accessible housing. Another focus of the grant is establishing the necessary infrastructure for affordable accessible housing and housing with supportive services.

In 2006, state officials said that despite the economic difficulties created by Hurricane Katrina in 2005, they were prepared to continue moving on the long-term care reforms outlined in legislative mandates and the executive order. They said that timelines should not be postponed, and some should be accelerated. They proposed moving ahead on implementation of a more objective pre-admission nursing home level-of-care determination and a needs-based assessment for people with developmental disabilities. A single-point-of-entry system for people with developmental disabilities was implemented in one region of the state in November 2005, and the state intended to expand consumer direction in HCBS programs.

Other Legislation Initiatives

Consumer Direction. A number of states are exploring ways to give persons with disabilities greater control over who will provide their care, and how and when that care will be delivered. These self-direction options have been added to publicly funded home and community programs through legislation in many states – and supported by Systems Change grants. Colorado, Indiana, New Mexico, and Oklahoma provide examples.

- **Colorado:** The Colorado legislature passed House Bill 02-1039, Chapter 219 in May 2002, to create a consumer-directed care pilot program for the elderly. In June 2002, the legislature passed a bill (Senate Bill 02-027, Chapter 259) authorizing the self-directed In-

Home Support program. That same year, the state received a Community Personal Assistance Services and Supports Systems Change (CPASS) grant to design and implement consumer-directed services, and to develop materials and training for the option. In 2005, the legislature enacted House Bill 05-1243, authorizing expansion of consumer direction to all the state's HCBS waiver programs.

- **Indiana:** The state received a CPASS grant in 2002 for developing a consumer-directed personal assistance services model and the infrastructure needed to support it. In 2003, the Indiana legislature enacted SB 493, which required the state to establish “a comprehensive program of home and community-based services to provide eligible individuals with care that is not more costly than services provided in institutions.” One of the law’s key provisions called for self-directed care options in the state-funded Community and Home Options to Institutional Care for the Elderly (CHOICE) program and the Medicaid HCBS waiver program.

The implementation of consumer-directed services, particularly for the CHOICE program, was also a major recommendation of the Governor’s Commission on Home and Community Based Services, which had been created in 2002.

- **New Mexico:** In 2003, the Legislature enacted Senate Bill 839, the Consumer Direction Act, requiring all departments and agencies providing personal assistance services to implement a consumer-directed program utilizing personal attendants and fiscal intermediaries.

In 2002, New Mexico had received a \$1.4 million Real Choice Systems Change grant, which proposed developing strategies to provide individuals with resources and information about how to access long-term care services and make choices about where they wanted to live and their provider of services. The project included training on consumer-directed selection and management of workers.

- **Oklahoma:** The state’s consumer advisory group under its 2001 CPASS project recommended modifications to the state’s Home Care Act and the Nurse Practices Act that were needed to ensure that consumers could legally assume employer responsibilities for their personal services workers and self direct their care. House Bill 2300, which passed in May 2004 (Chapter No. 285), the Consumer-Directed Personal Assistance and Support Services Act, requires the Aging Services Division of the Department of Human Services to create a consumer-directed personal services demonstration program.

Workforce Issues. Recruitment and retention of qualified direct care workers has been a major problem for many state publicly funded home and community programs. The paraprofessional industry has been marked by low wages and benefits, inadequate training, and difficult working conditions. State legislators have been exploring nurse delegation practices to broaden the number of persons who may perform certain tasks previously carried out by professional staff such as nurses. Other states have sought through legislation to improve wages and benefits for direct care workers.

These legislative initiatives are operating in tandem with Systems Change grants that include proposals to address workforce issues. Examples of these different approaches include Delaware, Illinois, Iowa, and North Carolina.

- **Delaware:** Senate Bill 261 was enacted in 2004, providing that “a competent individual who does not reside in a medical facility may delegate to unlicensed persons performance of health care acts unless of a nature excluded by the Board of Nursing.” The practices that are delegated must be acts that the individuals could perform themselves except for functional limitations, and the delegation decision must be “entirely voluntary.”

This legislation followed the award of a Nursing Facility Transition grant to the Delaware Department of Health and Social Services. One of the Department’s goals was to develop workforce recruitment and retention programs. Grant recommendations included the development of career ladders and improved benefit packages for direct care workers.

- **Illinois:** Public Law 93-0204 (House Bill 2221), the Disabled Persons Rehabilitative Act, provides personal assistants providing services under the Home Services Program of the Department of Human Services with collective bargaining representation. In 2004, a collective bargaining agreement was signed with the Service Employees International Union to increase the annual wages of personal assistants to \$9.35 an hour by August 2007.

The Illinois Department of Human Services had received a Real Choice Systems Change grant in 2001 with a goal of establishing “a framework of successful long-term community supports” for people making the transition from an institutional setting to the community or wanting to remain in the community.

- **Iowa:** In 2005, House File 781 directed the Department of Public Health to convene a direct care worker task force to review the education and training requirements for direct care workers. By December 2006, the task force is expected to recommend a process for streamlining the education and training system for these workers, and establish a direct care worker registry.

“**Money Follows the Person.**” CMS describes this category as “a system of flexible financing for long-term care services and supports that enables available funds to move with the individual to the most appropriate and preferred setting as the individual’s needs and preferences change.” States have both sought authorizing legislation as a foundation for this concept and Systems Change grants to help develop the projects.

- **Texas:** Although several states had been developing nursing home transition programs to move nursing home residents back into the community, Texas initiated a new approach to this goal in 2001 when the Texas legislature enacted Rider 37 as part of the 2001 Appropriations Act. Rider 37 stated that when persons were relocated to the community from a nursing home, funds were to be transferred from the nursing facility to community care services to cover the cost of the shift in services. (Texas recodified this language in Rider 28 in 2003.)

Texas received a Money Follows the Person grant in 2003 to help create a local system in each community that would allow the Department of Aging and Disability Services to more efficiently and effectively help clients transition from nursing homes to the community.

- **Maryland:** House Bill 752 was enacted during the 2002 legislative session, requiring social workers in nursing homes to present residents with information on home and community-based services that might help them live in the community. In the 2003 legislative session, lawmakers enacted House Bill 478, the Money Follows the Individual Act. The law prohibits the Department of Health and Mental Hygiene from denying an individual who has lived in a nursing facility at least 30 days access to HCBS waiver services due to a lack of funding for the program.

Maryland received a Nursing Facility Transition grant in 2001. The state also received a Real Choice Systems Change grant in 2001 and a supplemental grant the next year to maximize community integration for persons with disabilities. Significant goals for the grants included helping hospitalized individuals to learn about community care options before choosing institutional care, and moving some people out of nursing homes who could manage their lives in the community.

Nursing Facility Transition. In addition to expanding home and community services as a way to divert persons with disabilities from institutional care that they may not need, states have sought in recent years to move residents of nursing homes back to the community if they can be supported in less restrictive environments. In a number of states, the legislature has provided funds to aid those transitions, such as money that can be used for security deposits, utility hookups, and furniture.

- **Colorado:** Legislation in 2004 (House Bill 04-1219) added community transition services to the Home and Community-Based Services for the Elderly, Blind, and Disabled Medicaid waiver program, and provided that such services should not exceed \$2,000 per eligible person per year. Colorado had received a Nursing Facility Transition grant in 2001.
- **Illinois:** Public Law 093-0902 (House Bill 5057) enacted by the Illinois legislature in 2004 provided for a demonstration program of transition services in six areas of the state (“Community Reintegration Assistance”) administered by the Department of Aging. The department was to receive \$2 million a year from the Department of Human Services to help fund its “Home Again Enhanced Transition Program.” The state had received a Real Choice Systems Change grant in 2001 and a Rebalancing Initiative grant in 2004 to help persons with disabilities to remain in the community or to transition from an institution to the community.
- **Massachusetts:** The Legislature enacted House Bill 4922 (Chapter No. 261-2004) to expand income eligibility for the Medicaid waiver program up to 300 percent of the federal poverty level. The legislation also gives waiver recipients the choice of receiving benefits in their home, a community setting, or in a nursing home — whichever is the

least restrictive. The state had received a Nursing Facility Transition grant in 2001 as well as other Systems Change grants designed to increase the accessibility of the state's current array of HCBS supports.

Personal Assistance Services (PAS). In its Systems Change grant application guidelines, CMS described personal assistance as “the most frequently used service supporting individuals with a disability or long-term illness to live in the community.” Grants in this category are intended to help states improve PAS that are consumer-directed or offer maximum individual control.

- **Nevada:** The 2001 legislature mandated that all Nevadans requiring assistance with basic daily activities such as bathing, eating, and dressing must be identified and their needs addressed (Senate Bill 174). The law also established a consumer-directed Personal Assistance Council to guide the state's efforts in providing access, consumer choice and control, and systems change related to all personal assistance services.

Two other legislative measures related to PAS were enacted in the Nevada 2005 legislative session: 1) a requirement that PAS agencies be licensed, and 2) a provision allowing spouses, guardians, and parents of minor children to delegate PAS tasks to personal assistants.

The state had received a CPASS grant in 2001 to create a statewide network of personal care services that would ensure access to all Nevadans in need of such services, and to develop consumer-directed PAS strategies. The state reports that as a result of the 2001 legislative mandate, with the assistance of the Systems Change grant, the legislature approved funding to reduce the waiting list time for PAS and other waiver programs for persons with disabilities.

APPENDIX

KEY STATE LEGISLATION

Colorado: HB 05-1243 (2005) authorizing expansion of consumer direction to all the state's HCBS waiver programs.

[http://www.leg.state.co.us/clics2005a/csl.nsf/billcontainers/61498A3867C3175487256F710074C1CB/\\$FILE/1243_enr.pdf](http://www.leg.state.co.us/clics2005a/csl.nsf/billcontainers/61498A3867C3175487256F710074C1CB/$FILE/1243_enr.pdf)

Indiana: SB 493 (2003) provisions that call for self-directed care options in CHOICE and HCBS waiver programs.

<http://www.in.gov/legislative/bills/2003/PDF/SB/SB0493.2.pdf>

New Mexico: SB 839 (2003), the Consumer Direction Act, requiring all departments providing personal assistance service to implement a consumer-directed program.

<http://legis.state.nm.us/Sessions/03%20Regular/FinalVersions/senate/SB0839.pdf>

Oklahoma: HB 2300, Chapter No. 285 (2004), the Consumer-Directed Personal Assistance and Support Services Act.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=439015>

Delaware: SB 261 (2004), delegation of authority to unlicensed persons the performance of health care acts.

<http://www.legis.state.de.us/lis/lis142.nsf/vwLegislation/SB+261?Opendocument>

Illinois: HB 2221, PL 93-0204, provides personal assistants in the Home Services Program of Dept of Human Services with collective bargaining representation.

<http://ilga.gov/legislation/publicacts/93/PDF/093-0204.pdf>

Illinois: HB 5057, PL 093-0902 (2004), provides for a demonstration program in six areas of the state of "Community Reintegration Assistance.

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=093-0902&print=true>

Nevada: SB 174 (2001), mandating that all Nevadans requiring assistance with basic daily activities (such as bathing, eating, etc.) must be identified and their needs addressed.

http://www.leg.state.nv.us/71st/bills/SB/SB174_EN.pdf

North Dakota: SB 2330 (2003), provides that persons with disabilities be offered choices of LTC services that best meet their needs and that funding follow an individual for whatever service option the individual selects.

<http://www.state.nd.us/lr/assembly/59-2005/bill-text/FATI0100.pdf>

Iowa: House File 841 (2005), the IowaCare Act. <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&Service=Billbook&menu=text&hbill=HF841>

Louisiana: SB 190, Act 128 (2005), a major revision of the law concerning persons with developmental disabilities.

<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=05rs&billtype=SB&billno=190>

Louisiana: HB 697, Act 451 (2005), allows direct service workers to perform certain tasks in the home such as medication administration and routine hydration and nutrition.

<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=05rs&billtype=HB&billno=697>

ACKNOWLEDGMENTS

This Policy Brief was prepared for and in collaboration with Independent Living Research Utilization (A Program of Memorial Hermann|TIRR), Houston, Texas; under Grant No. 18-P-91554/6-01 from the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS). The contents do not necessarily represent the official position of CMS and no endorsement should be inferred.



The National Conference of State Legislatures is a bipartisan organization that serves the legislators and staffs of the states, commonwealths and territories. NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues and is an effective and respected advocate for the interests of the states in the American federal system.

Its objectives are:

- To improve the quality and effectiveness of state legislatures.
- To promote policy innovation and communication among state legislatures.
- To ensure state legislatures a strong, cohesive voice in the federal system.

The Forum for State Health Policy Leadership

National Conference of State Legislatures

William T. Pound, Executive Director

Denver

7700 East First Place

Denver, Colorado 80230

Phone: (303) 364-7700

Fax: (303) 364-7800

Washington, D.C.

444 North Capitol Street, N.W., Suite 515

Washington, D.C. 20001

Phone: (202) 624-5400

Fax: (202) 737-1069

www.ncsl.org

© 2006 by the National Conference of State Legislatures. All rights reserved.