



National Policy Trends Impacting Providers and Services for People with I/DD

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*Greetings from
Our Nation's Capital*



Hello!



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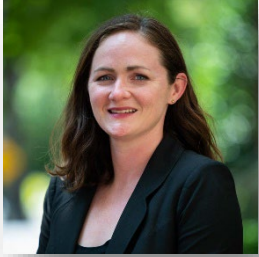
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Our Team



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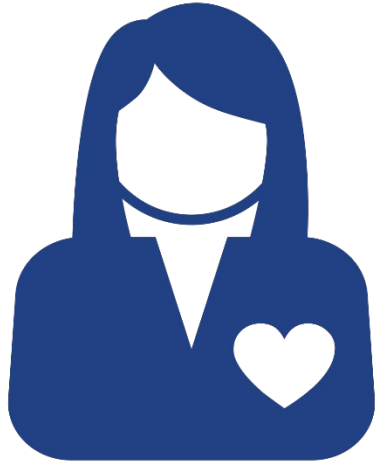
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Our Purpose

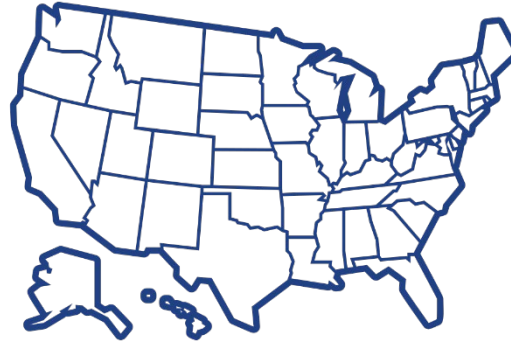
Advancing the future of supports and services for people with intellectual and developmental disabilities

ANCOR by the Numbers



2,500

private providers
of I/DD services



61

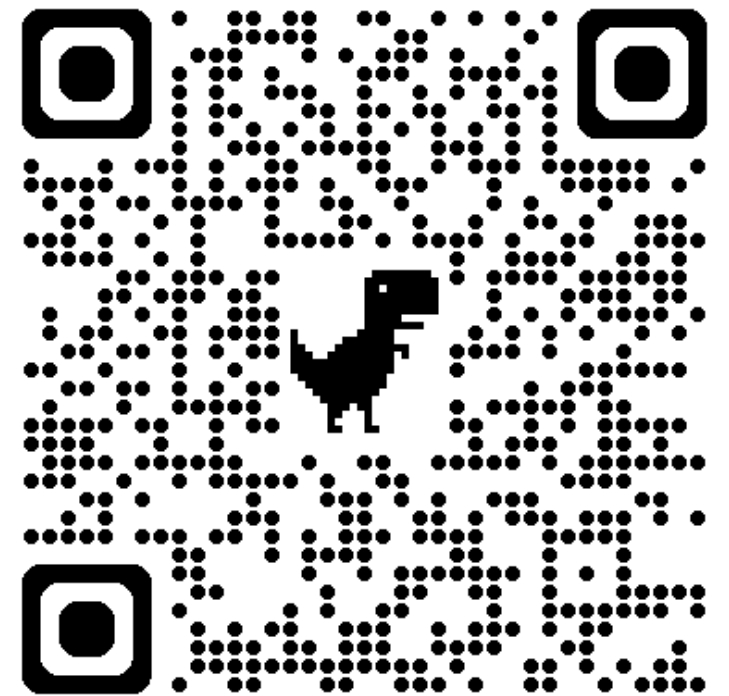
state provider
associations



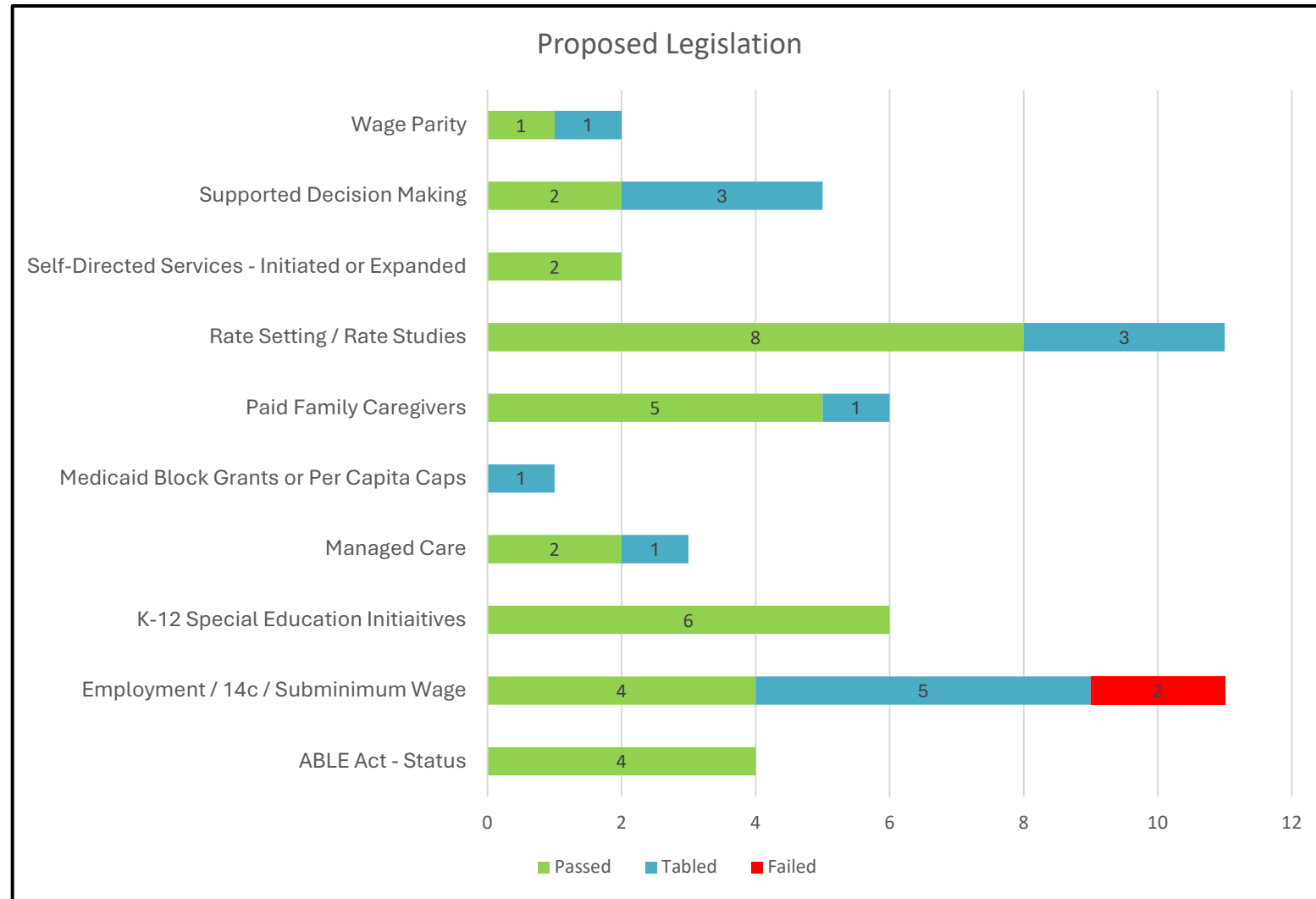
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100% state
associations

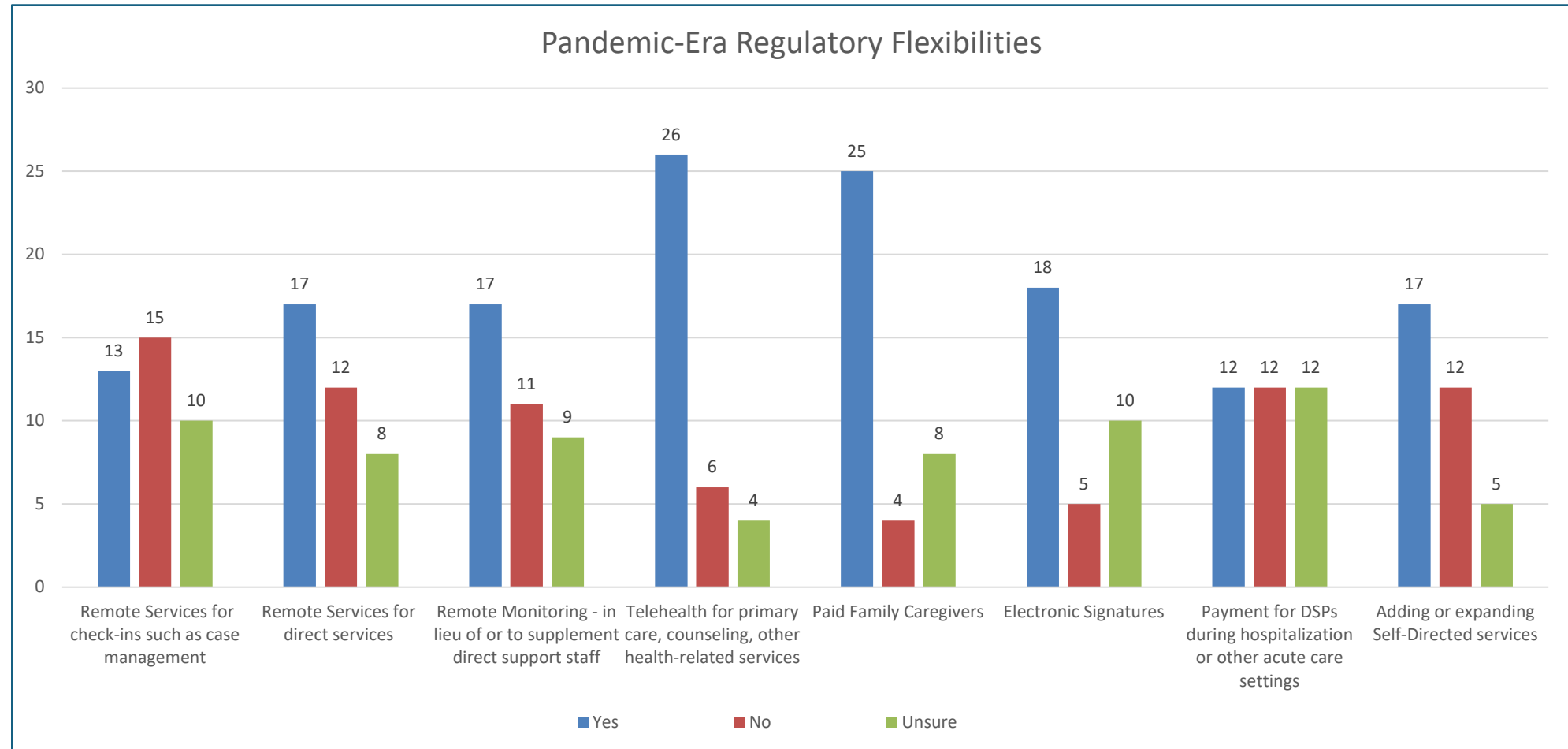
Key Trends from Around the States



Legislation



Pandemic-Era Flexibilities



New Initiatives





Federal Policy Trends

Federal Policy Trends

- Strengthening **community integration** and home and community-based services
- Supporting the **direct care workforce**
- Ensuring greater **Medicaid eligibility** and beneficiary protections

Strengthening HCBS

Introduction of several pieces of legislation seeking to strengthen HCBS:

- Better Care Better Jobs Act
- HCBS Access Act
- HCBS Relief Act
- Disability Community Act



Strengthening HCBS

Renewed administrative focus on HCBS:

- \$150B for HCBS in President's budget blueprint
- New regulations focused on access, eligibility, and streamlining authorizations



Supporting the Direct Care Workforce

Biden Administration Recognition:

- Executive Order on Caregiving
- State of the Union address
- Care Workers Recognition Month
- Recognition of workforce crisis in rulemaking



Supporting the Direct Care Workforce

Federal Legislation:

- Standard Occupational Classification
- Funding to support retention, recruitment, training

ARPA

- \$37B+/ 50 states and DC
- All states proposed activities to support workforce stability



Beneficiary Protections

Administrative action:

- Final rule **streamlining Medicaid enrollment**/renewals
- Final rule strengthening **504 of the Rehabilitation Act** to prohibit discrimination and further meaningful community integration
- **Adult Protective Services** final rule, first-ever issued and aims to improve the quality of services for victims of abuse, neglect, or exploitation, and to prevent such abuse whenever possible.
- Proposed rule to **ban electrical stimulation devices** as behavioral intervention
- Encouraging addressing **health related social needs** through section 1115 waiver authorities and 43 states using ARPA \$

Beneficiary Protections

Legislative action:

- **SSI Savings Penalty Elimination Act** – Bipartisan legislation that would raise the SSI asset limitation from \$2,000 to \$10,000/person
 - Seeks to address **health related social needs** and underlying barriers to access.
- **Ensuring Access to Medicaid Buy-in Programs Act of 2024** – Bipartisan legislation that seeks to lift the age limit on Medicaid buy-in and enable people with disabilities to continue to work and receive Medicaid supports that increase their independence.



Regulatory Activity

- Access Rules (Final)
- Overtime Rule (Final)
- 504 Regulations (Final)
- Adult Protective Services Regulations (Final)
- Streamlining Eligibility and Renewal Rule (Final)
- Prior Authorization Rule (Final)
- Nursing Home Staffing Regulations (Final)
- FDA Shock Ban (Proposed)
- FEMA Public Assistance Regulations (Proposed)
- And many, many others!



With federal policymaking focused on ways to strengthen access to services, what is the impact of the resulting policies?



2024 Final Overtime Rule

Increases the Standard Salary Threshold

Current Threshold	Beginning July 1, 2024	Beginning January 1, 2025
\$684 per week (\$35,568 annually)	\$844 per week (\$43,888 annually)	\$1,128 per week (\$58,656 annually)

Automatic Updating

The Department also finalized a mechanism to **update the standard salary** threshold every three years beginning July 1, 2027

- and every 3 years thereafter with not fewer than 150 days notice of the updated amounts.
- Provision allowing the DOL to temporarily delay (120 days) a scheduled automatic update where unforeseen economic or other conditions warrant.
- EAP to remain at the 35th percentile of weekly earnings of full-time non-hourly workers in the lowest-wage Census Region;
- Highly Compensated Employee (HCE) to remain at the 85th percentile of full-time non-hourly workers nationally.

Impact to Providers and Services Based on Proposed Rule

Table 1. Estimated Cost Impact to Community Providers Serving Individuals with I/DD due to the DOL Proposal

	First-Year Cost Impact, in Millions
Cost Impact Under Current Policy Proposal	\$1,051
Cost Impact Under Different Provider Mitigation Strategies	\$411 - \$1,012
Cost Impact to Medicaid Spending	\$1,100
Cost Impact Under Alternative Exemption Thresholds	\$378 - \$780

Source: Avalere analysis of Notice of Proposed Rulemaking (NPRM), Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees, as of September 8, 2023.



2024 Final Access Rule



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Access Rule Toplines

- Medicaid Advisory Committee and Beneficiary Advisory Council
- Person Centered-Planning and Grievances
- Incident Management System
- HCBS Payment Adequacy
- HCBS Quality Measure Set
- Access, Rates, and Waiting Lists
- Reporting and Website



Proposed: HCBS Payment Adequacy (80/20)

For personal care, homemaker, and home health aide services, the state must demonstrate that at least 80% of all payments is spent on compensation for the direct care workforce.

Proposed: HCBS Payment Adequacy (80/20)

*CMS asked:
should we include habilitation?*

ANCOR Members Were LOUD!!

996

Individual Comments from ANCOR
Supporters **Representing**
44.56% of all total
comments. This does not
include comments from ANCOR
provider agencies and non-ANCOR
members

Final: HCBS Payment Adequacy (80/20)

- For personal care, homemaker, and home health aide services, the state must demonstrate that at least 80% of all payments is spent on compensation for the direct care workforce.
- **Habilitation was excluded**

HCBS Access Provisions: Applicability Dates



Reporting Reqs – Direct Care (eff. 4 years)

The State must report to CMS annually on the **percentage of total payments** (not including excluded costs) for furnishing homemaker services, home health aide services, personal care, and habilitation services that is **spent on compensation** for direct care workers.

The State must report separately for:

- Each service and
- Within each service must report separately:
 - Services that are self-directed and
 - Services delivered in a provider-operated physical location for which facility-related costs are included in the payment rate.

Direct Care Worker Definition

- Nurses
- Certified Nursing Assistant
- Direct Support Professional
- Personal care attendant
- Home Health Aide
- Other individuals who are paid to provide services to address activities of daily living [], including nurses and other staff providing clinical supervision.

Compensation Definition

- Salary, wages, and other remuneration as defined by the Fair Labor Standards Act and implementing regulations;
- Benefits (such as health and dental benefits, life and disability insurance, paid leave, retirement, and tuition reimbursement); and
- The employer share of payroll taxes for direct care workers delivering services authorized under section 1915(c) of the Act.

Excluded costs

- Costs of required trainings for direct care workers (such as costs for qualified trainers and training materials)
- Travel costs for direct care workers (such as mileage reimbursement or public transportation subsidies); and
- Costs of personal protective equipment for direct care workers

Reporting Reqs – Rates (eff. July 1, 2026)

Requires that **states publish all fee-for-service rates** on a website accessible to the public, including notation of the dates the payment rates were last updated. (Within 30 days of a payment rate change.)

Rates must be organized by category of service, disclosed as an average hourly payment, identify the number of Medicaid-paid claims and enrolled beneficiaries who received the service within a calendar year alongside a comparative payment rate analysis (including habilitation).

Reporting Reqs – Rates (Effective date)

Any state **proposing to reduce payment rates or restructure** provider payments when the change could impact access, the State must provide written assurance and support that:

- Aggregate payment rates for each category would be at or above 80% of the Medicare equivalent*
- The proposed reduction or restructuring would result in **no more than** 4% reduction in aggregate for each category
- Public engagement processes does not yield concerns

Reporting Reqs – Access (eff. 3 years)

For homemaker, home health aide, personal care, and habilitation services, the **State must report**:

- Average amount of time from when [those services] are initially approved to when services began for individuals newly receiving services (last 12 months).
- Percent of authorized hours for [those services] that are provided within the past 12 months.

PCP and Grievances (3 years/ 2 years)

- Creates **standards for a person-centered service plan** that must be reassessed for functional need at least every twelve months, when the individual's circumstances or needs change significantly, or at the request of the individual.
- Creates **standards for a grievance system** for beneficiaries and their representatives to file an expression of dissatisfaction or complaint with providers and/or the State with timeframes for State response, including the option to expedite.

Incident Management System (eff. 3 years)

- Creates **standards for incident management systems** to identify, report, triage, investigate, resolve, track, and trend critical incidents. (5 years for electronic system)
- **Defines critical incidents** to include all forms of abuse, neglect, exploitation, misuse or unauthorized use of restrictive interventions/seclusion, medication errors that result in a telephone call to or consultation with a poison control center, an emergency department visit, an urgent care visit, a hospitalization, or death, and unexplained/unanticipated death.

HCBS Quality Measure Set (eff. 12/31/26)

- Establishes the **HCBS Quality Measure Set** in regulation and requires States to **report every other year** according to the format and schedule prescribed by CMS.
 - The set itself must be reviewed and updated no more frequently than every other year – eff. 2028
- States are required to **stratify data for certain measures** by race, ethnicity, Tribal status, sex, age, rural/urban status, disability, language, and other factors.

HCBS Quality Measure Set and Reporting Requirements – Anticipated Guidance and Technical Assistance Materials

- Public call for nominations (issued by CMS's contractor)
 - Key Areas of Focus: Soliciting nominations for the HCBS Quality Measure Set Workgroup, defining roles and responsibilities
 - Tentative Timeframe for Release: Summer 2024
- Public call for measures (issued by CMS's contractor)
 - Key Areas of Focus: Recommendations for measures to add or remove from the measure set, recommendations for mandatory and voluntary measures, measures that CMS will publicly report on states' behalf, stratification expectations
 - Tentative Timeframe for Release: Summer 2024
- HCBS Quality Measure Set toolkit
 - Key Areas of Focus: Practical considerations, best practices, and useful tools for reporting on the HCBS Quality Measure Set and using data for quality improvement
 - Tentative Timeframe for Release: Spring 2025

Predecisional Draft for Discussion and Feedback

HCBS Quality Measure Set and Reporting Requirements – Anticipated Guidance and Technical Assistance Materials (cont.)

- Draft measure set for public comment (issued through the Federal Register)
 - Key Areas of Focus: Draft set of mandatory and voluntary measures, measures that CMS will publicly report on states' behalf, and stratification expectations for public comment
 - Tentative Timeframe for Release: Late 2025/early 2026
- Final measure set (issued through the Federal Register)
 - Key Areas of Focus: Final set of mandatory and voluntary measures, measures that CMS will publicly report on states' behalf, and stratification expectations
 - Tentative Timeframe for Release: Late 2026
- Reporting forms for measure set reporting
 - Tentative Timeframe for Release: Draft for comment under Paperwork Reduction Act – Late 2025/early 2026

Predecisional Draft for Discussion and Feedback

Waiting Lists (eff. 3 years)

- Requires **states to describe** how they maintain **waiting lists** for 1915(c) programs on an annual basis.
- Description **must include**:
 - eligibility for the waiting list,
 - number of people on the waiting list,
 - average amount of time that individuals remain on the waiting lists.

Ongoing Beneficiary/Provider Input

- States must have mechanisms for beneficiary and provider input on access to care.
- When access deficiencies are identified, the State must, within 90 days after discovery, submit a **corrective action plan** with steps and timelines to address those issues.
- Corrective actions **may include** increasing rates, improving outreach to providers, reducing barriers to enrollment, additional transportation service, etc.

Prepping for Subregulatory Guidance

- CMS Training Series
- Timeline for Implementation
- Proposed Timeline for Subregulatory Guidance
- Quality Measure Set
- HCBS Payment Adequacy Toolkit



Fact Sheet: Habilitation Services and the Access Rule

Introduction

On May 10, 2024, the Centers for Medicare and Medicaid Services (CMS) published the final rule, [Ensuring Access to Medicaid Services](#) (Access Rule), which seeks to improve access to care and address health equity issues in the Medicaid program.

When the rule was initially proposed, ANCOR closely tracked the home and community-based services (HCBS) payment adequacy provision, which presented risks of constraining access to home- and community-based services for people with intellectual and developmental disabilities (I/DD). The proposed payment adequacy provision included a requirement that 80% of Medicaid payments for homemaker, home health aide, and personal care services be spent on compensation for direct care workers. CMS requested comment on whether it should be expanded to residential habilitation services, day habilitation services, and home-based habilitation services for people with I/DD. Without commensurate funding to meet the mandate, community-based providers would have been forced to cut funding from other areas which also ensure access and health equity, such as training, supervision, quality oversight, and transportation.

In the final rule, CMS did not expand the 80% threshold requirement to habilitation services for people with I/DD. CMS did, however, apply the 80% threshold to homemaker, home health aide, and personal care services with an effective date of 6 years from publication. Other modifications made to the proposed rule expanded reporting requirements beyond homemaker, home health aide, and personal care services to also include *habilitation services*. As a result, states must now clearly identify categories of these services and begin reporting the percentage spent on direct care worker compensation within 4 years of publication.

CMS Comprehensive Training Series

- **September 16, 2024:** Incident Management Systems and Critical Incident Reporting
- **October 9, 2024:** HCBS Measure Set
- **December 11, 2024:** Grievance Systems
- **February 12, 2025:** Timely Access, Waiting Lists, and Person-Centered Planning
- **March 12, 2025:** Website Requirements
- **April 9, 2025:** HCBS Rate Transparency
- **May 14, 2025:** Medicaid Advisory Committee (MAC) and Beneficiary Advisory Council (BAC)
- **June 11, 2025:** Institutional Rule Provisions

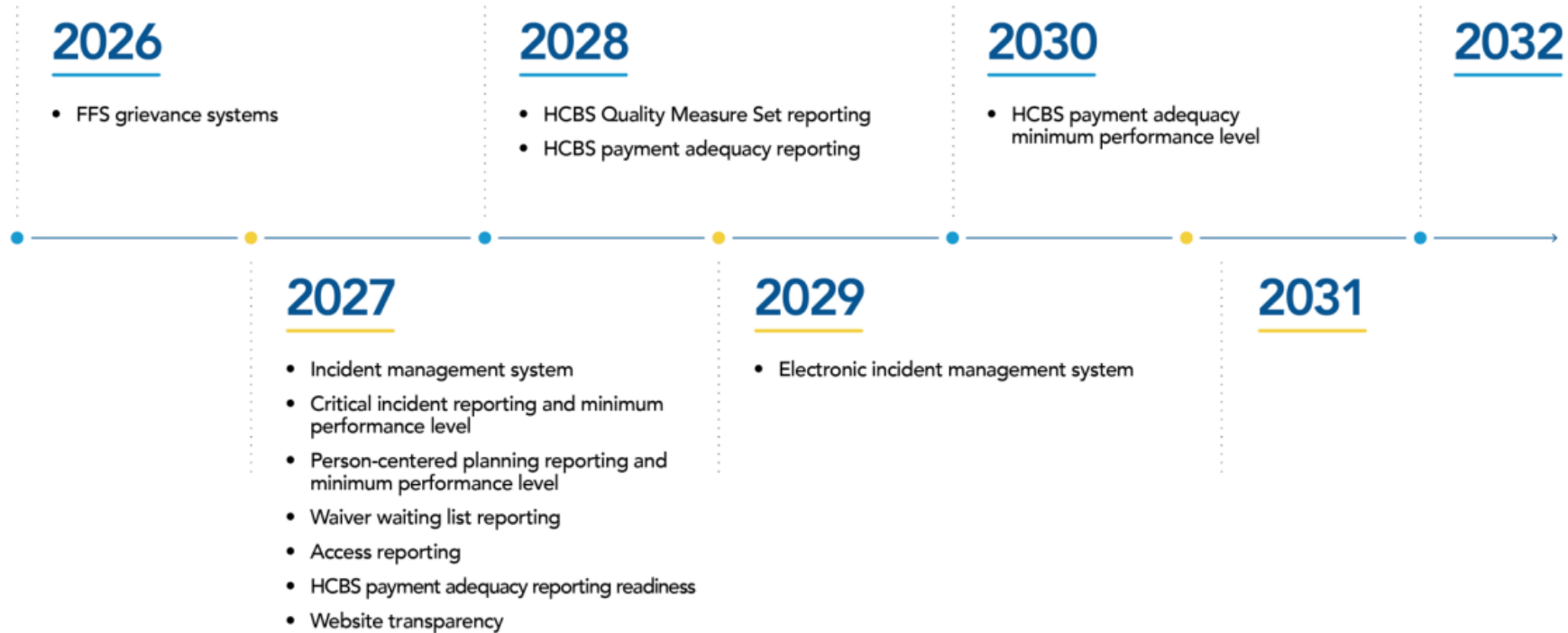
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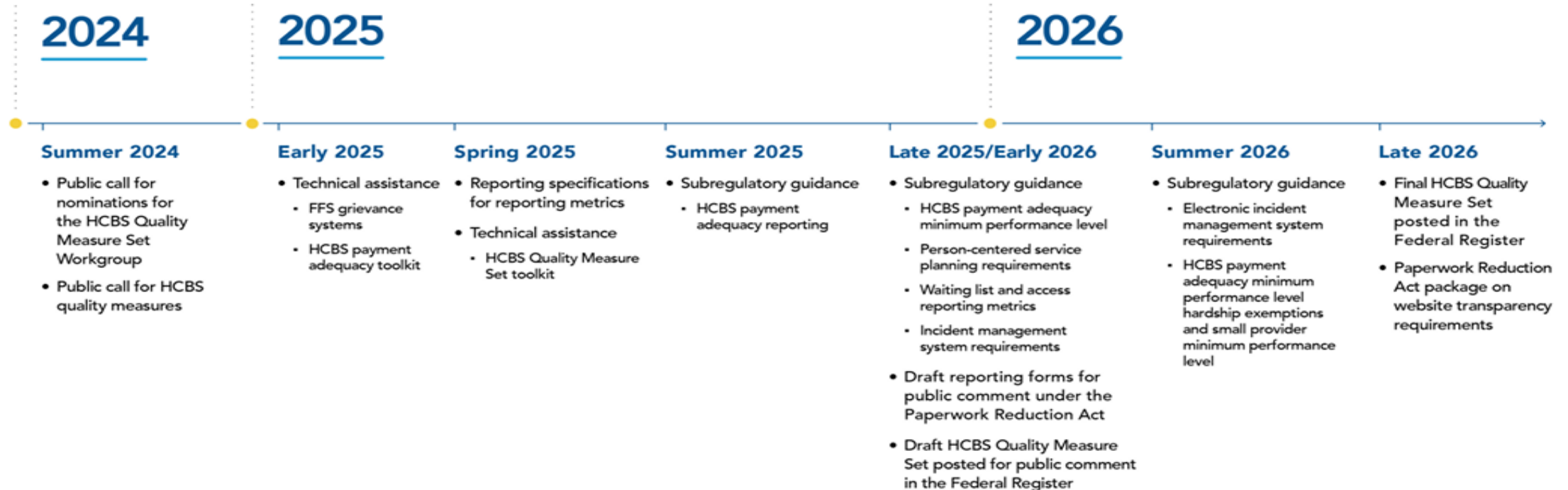
HCBS Access Provisions: Applicability Dates



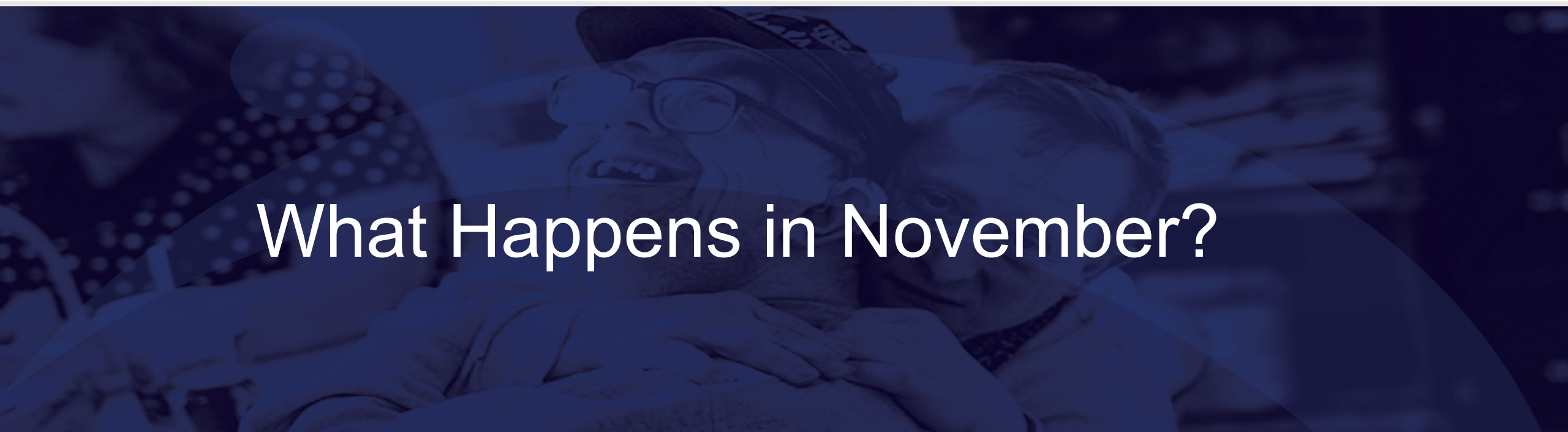
Predecisional Draft for Discussion and Feedback

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HCBS Access Provisions: Key Implementation Dates



Predecisional Draft for Discussion and Feedback



What Happens in November?

Biden Administration Commitment to HCBS

- Budget Blueprint request for \$150 billion over 10 years to improve and expand home and community-based services.
- Proclamation on Care Workers Recognition Month
- HCBS in the State of the Union and Health Care Priorities



- Commitment to HCBS?
 - Overtime Rule enforcement?
 - Affordable Care Act?
 - Access Rule timelines?
-
- What is NOT being discussed?



Strengthening Advocacy:

[ancor.org/advocacy/toolkit](https://www.ancor.org/advocacy/toolkit): Highlight how the workforce crisis is impacting services in your state

Explore the Advocacy Toolkit

- Connect with your elected officials in your district
- Write persuasive op-eds and letters to the editor
- Effectively communicate advocacy priorities and issues with helpful fact sheets and analyses
- Engage with your elected officials via social media
- Connect with the ANCOR Amplifier to advocate for specific legislation and federal policy to support access to supports and services
- And more!



Expanding your organization's national footprint



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2025 DSP of the Year Awards

- Each year, ANCOR honors nearly five dozen outstanding direct support professionals at our Annual Conference through our **DSP of the Year Awards**.
- See eligibility criteria, learn how to write a strong nomination, and review answers to FAQs at **[ancor.org/dsp](https://www.ancor.org/dsp)**.
- Nomination window open **September 11-November 1, 2024**.
- Honorees to be recognized in San Diego on **April 9, 2025**.



ANCOR Foundation Leadership Academy Class of 2027



- Leadership Academy participants build their expertise to enhance their influence in the field of disability services and supports.
- Applications for the Academy's Class of 2027 will be accepted **September 3-October 31, 2024.**
- Learn more by visiting **ancorfoundation.org/leadership-academy.**



Become a proud ANCOR member
today at [ancor.org/join](https://www.ancor.org/join).





Resources




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Explore the Members Only Access Rule Resource Center

Newsroom Careers Podcast About Connected Community ANCOR Foundation Welcome, Noah Block | Logout


ANCOR Advocacy Resources Training & Events 

Take Action Join

CAPACITY-BUILDING TOOLS

Access Rule Member's Resource Center

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CMS recently published the Ensuring Access to Medicaid Services final rule that aims to strengthen access to the Medicaid Home and Community Based Services program.



<https://www.ancor.org/resources/access-rule/>

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Explore the Members Only Overtime Rule Action Center

Final Rule Resources & Analysis

- Final Overtime Rule State Advocacy Template (June 2024)
- Members-Only Briefing on How to Pay Exempt Employees-A Federal Wage & Hour Compliance Review (May 2024)
- Analysis: Final Rule on Overtime Exemptions (May 2024)
- Members-Only Briefing on the Department of Labor's Final Overtime Rule Recording (May 2024)
- Overtime Rule Members-Only Briefing Slidedeck (May 2024)
- Members-Only Briefing: Upping Your Advocacy on the Overtime Rule (February 2024)

<https://www.ancor.org/campaigns/overtime-rule/>



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save the date

ANCOR CONNECT '25

APRIL 7-9, 2025
SAN DIEGO, CA