# 1915(k) | Community First Choice Option

## FREQUENTLY ASKED QUESTIONS… ANSWERED!

**December 2011**

### What is the Community First Choice Option and what does it do?

The Community First Choice (CFC) Option is based on the Community Choice Act. The Community Choice Act included two major changes to eliminate the institutional bias. First, the Community Choice Act established the framework for a community-based system to provide services and supports for people with disabilities based on their functional needs, not their diagnosis or age. Secondly, the Community Choice Act mandated that states implement such a system, providing them with additional federal funds if they did so before the deadline, assuring that people across the country would be able to live independently in the community. While the Community Choice Act was not passed, section 2401 of the Affordable Care Act, Congress created the Community First Choice Option which established a system like the one described in the Community Choice Act, and provides an additional 6% of federal Medicaid matching funds to states that select the CFC Option.

The CFC Option is a State Plan service, also referred to as a 1915(k) State Plan Amendment, that provides assistance with "activities of daily living" (ADL), "instrumental activities of daily living" (IADL), and "health-related functions" through hands-on assistance, safety monitoring or supervision, and cueing. CFC is written to assure that services and supports are provided in a manner that allows people to lead an independent life with a strong focus on consumer direction. CFC supports choice, independence, and integration in accordance with the Supreme Court *Olmstead* decision.

### Is CFC really such a big deal?

YES! ADAPT and the disability rights community have been advocating to eliminate Medicaid's institutional bias for more than twenty years. Although states are not mandated to select the CFC Option, it is the first program to provide services based on *functional need*. CFC is the only cross-disability, cross-generational program that supports independence and integration. Although not an entitlement, once selected by a state, CFC functions as a mandated service. So yes, it is a really, really big deal.

### Because CFC isn't mandated, doesn't that mean a lot of folks still won't benefit from CFC?

Securing the CFC Option in the Affordable Care Act was a major victory, but we still have work to do to assure that *every* American has the opportunity to live in the community. Still, implementing CFC moves us closer to getting the mandate. States that implement CFC will demonstrate how the system should work, creating models and "best practices" that make changing policy easier, and producing real-world data we can use in our advocacy which addresses the potential cost of unmet need (the infamous "woodwork effect") that is a consistent, although totally undocumented, argument against the mandate.

### My state already has personal assistance services. What makes CFC different?

Many states provide personal assistance services through a Medicaid waiver. These services are often capped with a specific number of "waiver slots". If those slots are full, then people end up

on waiting lists. CFC is different. Once selected by your state, it functions as a mandated service, so anyone who is eligible for the service gets it. No waiting lists.

In addition, some states provide assistance under their Medicaid State Plan, but they may limit the scope of services the state offers, or they may limit the population of folks who are eligible for services. CFC is different. States must provide assistance with ADLs, IADLs, and health related functions, which are all defined in the Medicaid regulations.

**If my state selects the CFC Option, can it continue serving people under the 1915(c) waivers?**
There may be some 1915(c) waiver services that can easily be incorporated into the CFC Option, such as personal assistance with ADLs, IADLs, and health related functions. Other services, such as assistance with "acquiring, maintaining, or enhancing skills necessary for individuals to accomplish ADLs, IADLs, and health related tasks," is also a mandated service that would likely be incorporated into CFC, but that doesn't mean the state would eliminate their existing Medicaid waivers.

The CFC Option was designed to create a basic level of services so that anyone who is eligible for an institutional level of care could receive services and supports to remain in the community. 1915(c) waivers could still be used by states to provide additional services and supports, but could cap the availability of those. In fact, because the CFC option is in the State Plan, people can receive CFC Option services, and still be enrolled in the 1915(c) waiver. Finally, the CFC Option includes a maintenance-of-effort requirement to assure that states don't use the CFC option to reduce their commitment to providing home and community based services.

**Do we have to wait for final rules from CMS to start working on the CFC option in our state?**
No. Although CMS hasn't released the final rules as of December 2011, CMS has told states that they can move forward now with developing their CFC proposals. California has already submitted their State Plan Amendment to CMS, and Maryland is currently scheduling their first meeting of the CFC Development and Implementation Council for January. In fact, if states want to draw down the federal funds, they should get started as quickly as possible. If states have questions about implementing the CFC option, CMS can answer those questions.

**How do I get my state to select the Community First Choice Option?**
Meet with your state's Medicaid director. (A list of the state Medicaid directors can be found at: http://medicaiddirectors.org/about/state-directors.) Do not worry about being able to answer technical questions about CFC because your Medicaid director can contact CMS with questions. CMS's job is to answer any questions that states may have. Our job as advocates is to push the state forward. If your Medicaid director does not support selecting CFC, then move up the chain of command. Go right to your Governor. Some folks may want to go right to the top and START with the Governor. That's fine too. Just do it!

**How do I get a meeting with my state's Medicaid director?**
Start by calling the Medicaid director's office and asking for the meeting. Send a follow up letter. There's a sample on the ADAPT website: www.adapt.org/cfcletter. Be sure to send copies of your letter to ADAPT and disability rights advocates in your state. You can also send copies to your

state's Independent Living Council, the Developmental Disability Planning Council, aging advocacy groups, and legislative folks who are supportive of our community.

**My state has a budget crisis. Why should I ask about CFC, if I already know the answer is "no".**
The CFC Option, with its 6% enhanced federal match, can help your state handle its budget crisis. By selecting the CFC Option your state will be able to draw down additional federal funds the state wouldn't have been getting otherwise. Even if your state says "no" the first time you ask, that shouldn't be the end of the discussion. State officials should have done a fiscal analysis to compare the cost of expanding services using the CFC Option against the increased federal funding. Your state bureaucrats may off-handedly say "it's too expensive," but they should be able to *show* you their fiscal analysis for CFC. If they say "no" to selecting the CFC Option, they should be able to show you that the additional cost of implementing CFC isn't covered by the enhanced 6% federal Medicaid match. More importantly, they should also be able to tell you what level of federal match they would need to break even. That information will be very helpful for future advocacy efforts at the federal level.

**My state is moving to managed care. Can it still select the CFC Option?**
Yes. There are mechanisms for implementing managed care that are consistent with CFC, such as including it in any 1115 Medicaid waiver being considered. States need to plan for CFC as they develop their model for implementing managed care.

**There isn't enough housing, so why should we push the state to select CFC?**
People told us that we shouldn't put lifts on buses because curb cuts were a problem. But if we waited to put lifts on buses until all of the curb cuts were fixed, we'd *still* be waiting. Yes, housing is a critical component for community living and continues to be an advocacy priority for ADAPT: www.adapt.org/housing/platform. But we can't let the problems with housing hold us back from taking advantage of this opportunity to get the services and supports in place. Let's take advantage of that opportunity and advocate for affordable, accessible and integrated housing.

States that implement the CFC option might find that some of the additional federal funds are a windfall to the state. Rather than just have those dollars go into the state's general fund, advocates can urge the state to use them to address the need for housing.

**What do advocates for seniors need to know about CFC?**
CFC helps seniors age-in-place! According to research from AARP, nearly 90% of people over the age of 50 prefer to remain in their own homes to receive long term care services. CFC is centered on providing the necessary supports for individuals of all ages to remain independent in their homes, and out of nursing homes.

**What do advocates for people with physical disabilities need to know about CFC?**
CFC means freedom! For too long, "home care" has been too "medical model" a service, and even where states provide good community-based services, most have lagged behind in their efforts to provide assistance to people with physical disabilities in the most integrated setting. CFC fundamentally reforms the current system to provide services and supports in the most integrated setting.

### What do advocates for people with developmental disabilities need to know about CFC?

CFC eliminates waiting lists! As required by law, once selected by a state CFC functions as a mandated service, and not a Medicaid waiver with a limited number of slots. Therefore, all individuals who meet the eligibility criteria for CFC must receive the services. CFC also provides the necessary individualized supports for fully integrated living so people with developmental disabilities will not be forced to live and work in segregated congregate settings.

### What do advocates for people with psychiatric disabilities need to know about CFC?

CFC puts the power in the hands of consumers! CFC services are selected and controlled by the individual. Furthermore, in a lot of states, community-based services and supports for people with psychiatric disabilities are extremely limited. CFC establishes a system that addresses the need for more comprehensive services.

### I'm not a protester. Can I help?

Yes. You just need to write a letter, send an email or make a call urging your state to select the CFC Option. And you are doing your state a favor by telling them they can get more federal funding if they choose CFC, plus CFC helps the state comply with the Olmstead decision.

### I'm not a policy wonk. Can I really make a difference?

Absolutely, YES!!! In reading this, you have *all* the information you need to ask your state. Just ask. You can also work with other advocates. Reach out to your local ADAPT chapter to get involved. (http://www.adapt.org/join/groups) The National Council on Independent Living (NCIL) has worked with ADAPT at the federal level to get the option for states, but the work to get states to select the CFC option must be done at the state and local level.

Contact your local independent living center. If you don't know where it is, there's a directory available online. (http://www.ilru.org/html/publications/directory/index.html) If they aren't already working on this issue, ask for their help in contacting the Medicaid director or Governor. They aren't just helping you. You're helping the Center. That advocacy will look great on the reports that the Center regularly files with federal government.

Other disability groups should be interested too. Self advocates, parents of children with disabilities, mental health consumer groups and aging advocates are all some of folks that you could contact. This paper has a lot of information they need to better understand CFC.

Finally, Justin Dart's message to "Lead On" was not just meant for a few elite folks in the disability rights community. It was a message to all of us… and that includes you.

### If I need more information, what should I do?

ADAPT is developing informational materials for folks on CFC and our network is happy to assist local advocates working on CFC at the state level. Just contact us. Our website is www.adapt.org