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**National Senior Citizens Law Center**

Protecting the Rights of Low-Income Older Adults

September 25, 2014

# **Conflict-Free Case Management: Themes in States Working to Implement New Systems**

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*The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. Through advocacy, litigation, and the education and counseling of local advocates, we seek to ensure the health and economic security of those with limited income and resources, and access to the courts for all. For more information, visit our Web site at [www.NSCLC.org](http://www.NSCLC.org).*

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# Aging and Disability Partnership

for Managed Long-Term Services and Supports

The Aging and Disability Partnership was established by the National Association of Area Agencies on Aging (n4a) as part of Administration for Community Living (ACL) grant “Building the Business Capacity of Aging and Disability Community-Based Networks for Managed Long-Term Services and Supports.”

The goal of the project is to leverage the Aging and Disability Networks’ extensive infrastructure, service capacity and expertise, to ensure the delivery of efficient, high-quality MLTSS to older adults and people with disabilities.

[www.mltssnetwork.org](http://www.mltssnetwork.org)



# Aging and Disability Partnership

for Managed Long-Term Services and Supports

National Association of Area Agencies on Aging, [www.n4a.org](http://www.n4a.org)  
Health Management Associates, [www.healthmanagement.com](http://www.healthmanagement.com)  
National Disability Rights Network , [www.ndrn.org](http://www.ndrn.org)  
Disability Rights Education and Defense Fund, [www.dredf.org](http://www.dredf.org)  
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*This webinar is supported, in part, by funding from the U.S. Administration for Community Living under grant number 90BC0019. The views expressed in this material do not necessarily reflect the official policies of the U.S. Department of Health and Human Services or represent official U.S. Administration for Community Living policy.*

# Webinar Goal

- Better understanding of existing CFCM Guidance
- Elevate outstanding themes from states implementing CFCM systems
- Not a guide to best practices



# Overview of conflict-free case management and LTSS

Photo credit: <http://instagram.com/usinterior>

# CFCM: Highlights a core LTSS delivery tension

Consumer Choice



Consumer direction



Care coordination



No conflict of interest

Today's aging and disability network infrastructure

Evolving health and LTSS delivery landscape

## Background

# CFCM in three key policy initiatives

**Balancing Incentive Program States**

**Federal Home and Community Based Services Rule**

**Shift to Managed Long-Term Services and Supports (MLTSS)**

## Background

# Why is conflict free case management important to the consumer?

## Person Centered Care Planning

- Lead the process: Consumer's personally identified outcomes and preferred methods for achieving them.
- If the person-centered planning process is honored, the potential for case management conflict is mitigated.

## Background

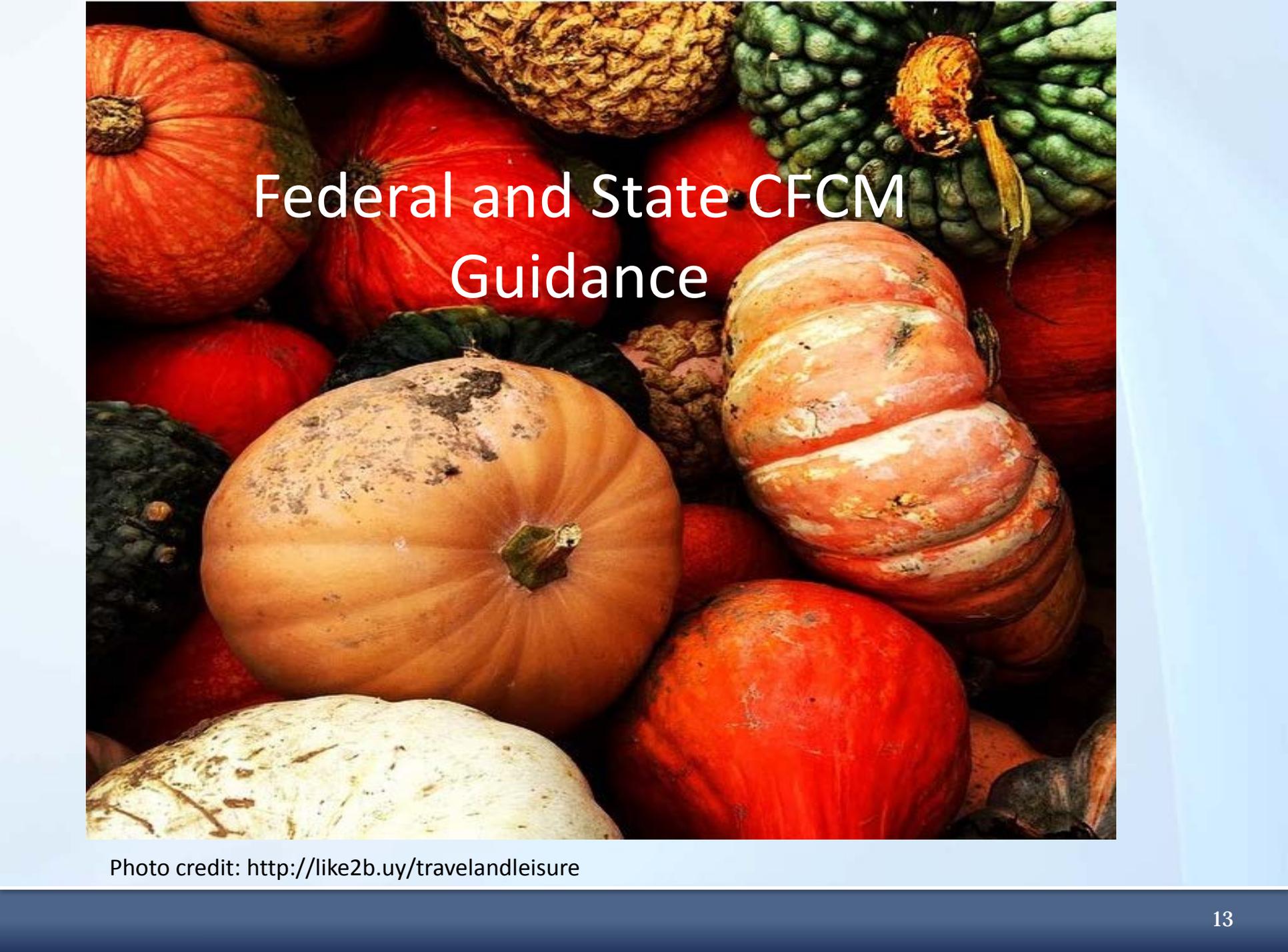
# When can conflict occur in case management?

**Assessment:** The agent may have an incentive during the assessment to assess for more or less services than the consumer needs.

**Financial interest:** The agent may be more interested in a care plan that retains the consumer as a client than one that assists with independence. The agent may not suggest outside providers due to concern over lost revenue.

**Convenience:** The agent or service provider may develop a care plan that is more convenient for the provider than a plan that is person-centered.

Adapted from Balancing Incentive Program Manual, available at:  
[www.balancingincentiveprogram.org/resources/example-conflict-free-case-management-policies](http://www.balancingincentiveprogram.org/resources/example-conflict-free-case-management-policies)



# Federal and State CFCM Guidance

Photo credit: <http://like2b.uy/travelandleisure>

**Guidance**

# Federal requirements for a CFCM system:

**Older Americans Act**

**Balancing Incentive Program**

**Federal HCBS Rule**

# Guidance

# Goal of all three: Care plan free from bias and influence

Conflict Free Case Management Guideline	Source of Guidance			
	OAA	BIP	HCBS	MCO Contracts
<b>Assessment:</b> The agent who assesses need for HCBS is not financially responsible for consumer, related to any paid service provider for the consumer, financially responsible for the consumer, empowered to make the consumer's financial or health related decisions, hold a financial interest in any paid entity to provide "care" for the consumer.		x	X	
<b>Duplication:</b> Case management services are coordinated and not duplicative of other services.	X			
<b>No promotion:</b> Prohibition on case management agency promoting agency providing services.	X			
<b>Statement of choice:</b> The case management agency must give individual a statement specifying individual has a right to make an independent choice of service providers.	X			
<b>Eligibility:</b> The entity determining clinical eligibility is separate from entity providing direct service.		X	X	
<b>Eligibility:</b> The evaluator of the beneficiary's need is not related to the beneficiary by blood or marriage. The entity determining eligibility for HCBS is not financially responsible for the consumer, related to any paid service provider for the consumer, empowered to make the consumer's financial or health related decisions, and does not hold a financial interest in any paid entity to provide "care" for the consumer.		X	X	
<b>Eligibility:</b> The MCO is separated from the initial eligibility determination and enrollment counseling.				X
<b>Eligibility:</b> The MCO does not contract with provider of case management services or eligibility assessments.				X
<b>Person-centered:</b> The consumer, or consumer representative, is at the center and drives the planning process.			X	X
<b>Provider developing plans:</b> In general, service planning cannot be performed by HCBS provider			X	
<b>Case manager separation:</b> The case manager/service plan developer is not related to the consumer by blood or marriage. The agent who develops the service plan is not financially responsible for consumer, related to any paid service provider for the consumer, financially responsible for the consumer, empowered to make the consumer's financial or health related decisions, and does not hold a financial interest in any paid entity to provide "care" for the consumer.		X	X	
<b>Provider attending service plan:</b> The consumer decides whether a service provider should or should not be present during service planning.			X	
<b>Firewalls and standards:</b> Appropriate firewalls and safeguards exist to mitigate risks of conflict.		X	X	
<b>State oversight:</b> The state conducts robust monitoring and oversight.		X		
<b>Quality management:</b> The state's quality management staff oversees clinical or non-financial program eligibility determinations and service provision practices.		X		
<b>Quality management:</b> The case management agency tracks and documents consumer experience with measures that capture quality of care coordination.		X		
<b>Stakeholder engagement:</b> The state implements meaningful stakeholder engagement strategies are implemented.		X		
<b>Grievance and appeals:</b> The state and MCO have established clear, well-known and accessible pathways for a beneficiary to submit grievances and/or appeals to the MCO or the State.		X		
<b>Grievance and appeals:</b> The consumer has the right to grieve or appeal a consumer-centered plan.				X
<b>Grievance and appeals:</b> The case manager must explain enrollee's rights including procedures for filing a grievance, appeal and fair hearing.				X
<b>Grievance and appeals:</b> If a consumer disagrees with an assessment or authorization of services, case manager must provide written notice of a right to file an appeal.				X
<b>Grievance and appeals:</b> The consumer has access to an alternative dispute resolution process.			X	

## Guidance

# Case management under the Older Americans Act

### Eliminate bias

- Managers cannot act as promoters for the agency
- Coordinates with case management with service delivery

### Ensure consumer choice

- Provide consumer with:
  - A list of agencies that provide similar services
  - A statement specifying the consumer has a right to make an independent choice of service providers

42 U.S.C. §3026(a)(8).

# Balancing Incentive Payment Program

Key elements to include in designing a conflict-free case management system:

- Eligibility Determination
- Agent Relationship with Consumer
- Oversight and Monitoring
- Grievances and Appeals
- Stakeholder Engagement

CMS Guidance: [www.balancingincentiveprogram.org/taxonomy/term/71](http://www.balancingincentiveprogram.org/taxonomy/term/71)

# Balancing Incentive Payment Program

Key elements to include in designing a conflict-free case management system:

- 1) Clinical or non-financial eligibility determination is separate from direct service provision.
- 2) Case managers and evaluators of beneficiary need for services are not related to the consumer.

CMS Guidance: [www.balancingincentiveprogram.org/taxonomy/term/71](http://www.balancingincentiveprogram.org/taxonomy/term/71)

## Guidance

# Home and Community-Based Services Final Rule

In general, an HCBS provider, its employees and related entities, cannot provide service planning or case management for the beneficiary.\*\*

HCBS state-plan services require conflict of interest standards. At a minimum, assessor, case manager, and agent determining eligibility cannot be:

- 1) related by blood or marriage to the consumer;
- 2) related to any paid service provider for the consumer;
- 3) financially responsible for the consumer;
- 4) empowered to make the consumer's financial or health related decisions; or
- 5) hold a financial interest in any entity paid to provide "care" for the consumer.

# State-MCO contracts for managed LTSS

Contracts include a range of CFCM provisions, but no clear template for eliminating conflict of interest in case management.

Examples from existing state-MCO contracts:

- 1) The MCO must make the consumer the center of the planning process.
- 2) The MCO must ensure the consumer, consumer's family, and consumer's physician are informed of all service options available to meet the consumers's needs in the community.
- 3) The MCO cannot contract with a provider for services if the provider also provides case management or functional eligibility assessments.

More info: [www.nsclc.org/index.php/ltss-contracts-index-appeals-notice](http://www.nsclc.org/index.php/ltss-contracts-index-appeals-notice)



# Themes in States Developing CFCM

Photo credit: <http://instagram.com/usinterior>

**Overall  
message**

## States developing CFCM systems

**No clear conflict-free case  
management template for states to  
insert into the design of their existing  
LTSS system**



**State  
perspectives**

# Developing Strategies for CFCM

**FIREWALLS**

**DOCUMENTATION AND WAIVERS**

**SEPARATING ORGANIZATION/CONTRACT OUT**

**INTEGRATING MANAGED CARE**

**COMMUNICATION AND IT SYSTEMS**

# HCBS and BIP compliance

HCBS compliance in the midst of BIP structural changes  
adds an additional challenge

- BIP mitigation strategies alone are not enough to comply with the HCBS rule's CFCM requirements.
- States are reassessing their processes to comply with both sets of requirements.

# Incorporating different case management models

States should be aware of the variety of working case management models in different Medicaid programs.

- CFCM policies should respect the needs and care models of all Medicaid populations.
- Some services have deliberately linked the assessment and care planning process as it is consistent with the preference of the consumer.

# Agencies are providing CFCM, per OAA

Older Americans Act places requirements on agencies aimed at mitigating conflict

- OAA: Role of agency is to serve as an advocate in developing a plan that works best for the consumer.
- Mitigation strategies envisioned in BIP are common practice

**State  
perspectives**

# Mitigation tactics may lead to fragmentation

Focus on eliminating conflict can come at a cost to care coordination.

At times, a connection between the assessor and care manager is needed for improved integration and to develop expertise.

**State  
perspectives**

# Need additional policies to avoid delays in access to services

New CFCM policies may result in confusion over validity of interim or preliminary care plans and/or retroactive authorization of services.

- States should continue to honor provider-created interim care plans to ensure continues access to care.

**State  
perspectives**

# CFCM highlights the importance of strong oversight and appeals

At its core, CFCM implementation is about discouraging the few agencies and providers who may be self-promoting the agency over the consumer's choices.

- More rigorous oversight may be more effective than firewalls.
- This requires a rigorous appeals process.

# Integrating managed care into CFCM

The integration of LTSS into managed care, coinciding with other significant delivery system changes, is an opportunity and a challenge.

- Caution against assuming that introducing managed care to LTSS eliminates conflict.
- States should contemplate incorporating MCOS as they build BIP and HCBS policy, rather than trying to make managed care fit later on.

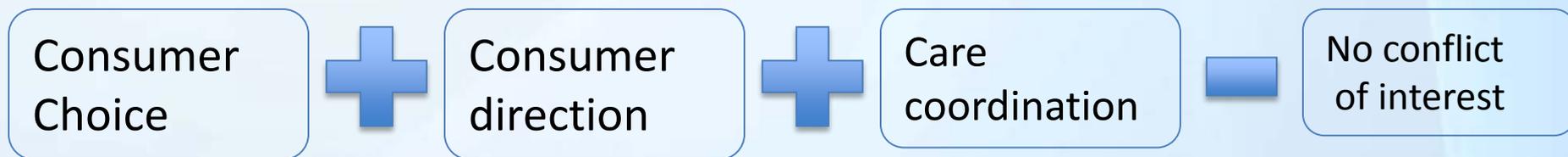
# Conflict-free requirements may strain existing resources

Implementing conflict-free case management principles into managed care integration creates an expertise challenge.

- Separating functions may result in dilution of individual and programmatic expertise, either in an organization or across a community.
- State should consider the need to increase overall program funding when implementing new CFCM policies to preserve stability.

# Conclusion: States move in earnest toward reaching CFCM goals

LTSS delivery system reform offers an important opportunity to rebalance the delivery of LTSS to the community:



# Questions?

More information:

More info on [www.nsclc.org](http://www.nsclc.org)

Fay Gordon: [Fgordon@nsclc.org](mailto:Fgordon@nsclc.org)

Questions?

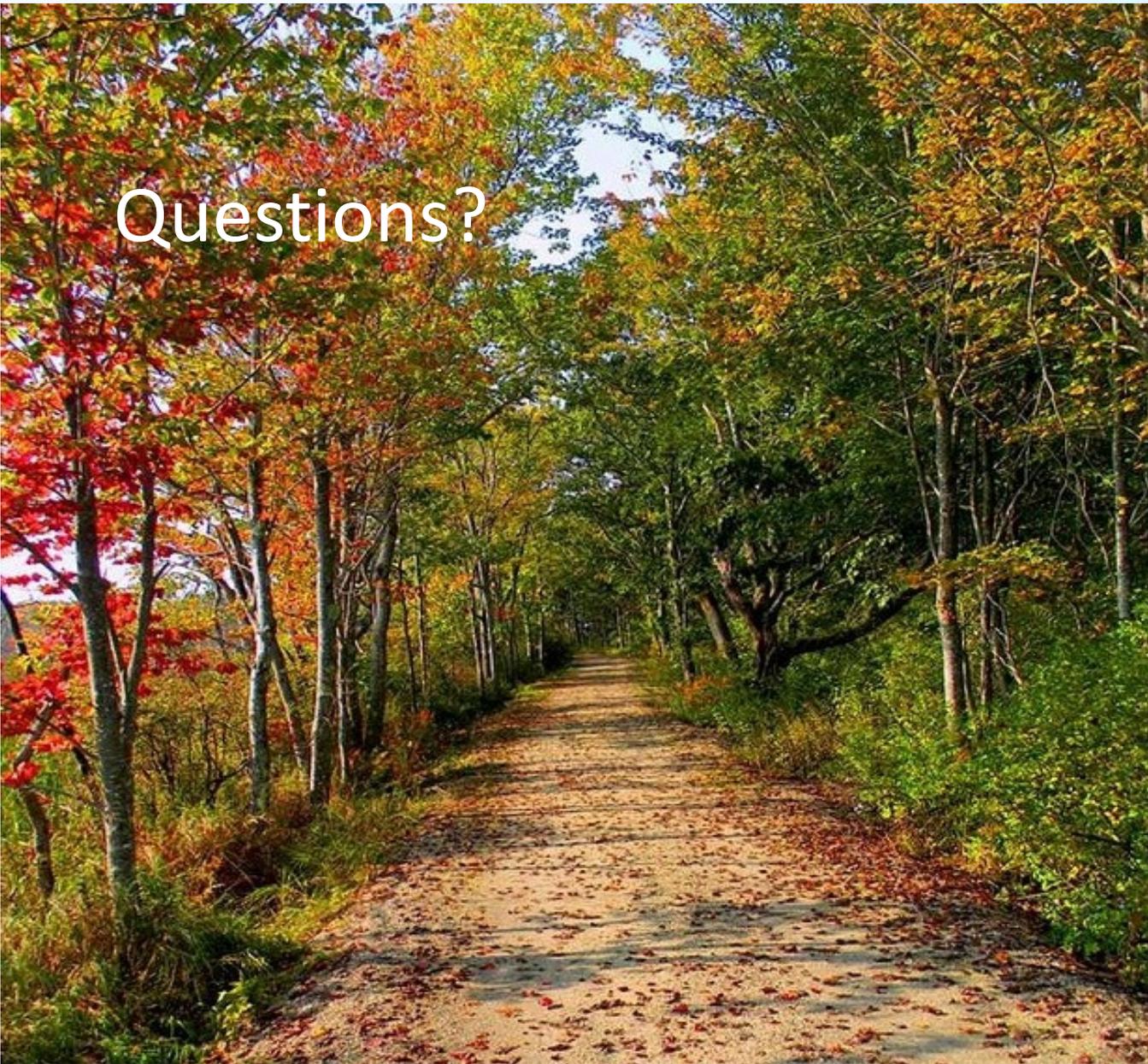


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