

## MEETING NOTES

### OPWDD PROVIDER ASSOCIATION (PA) MEETING

Monday, February 22, 2016

10:00 a.m. – 2:30 p.m.

Conference Room 4B -- 4<sup>th</sup> floor

44 Holland Avenue, Albany, NY 12229

**OPWDD Attendees:** Acting Commissioner Kerry Delaney; Helene DeSanto; Abiba Kindo; JoAnn Lamphere; Kate Marlay; Martha Dalton; Laura Rosenthal; Jill Pettinger; Sally Berry; Megan O'Connor; Ceylane Meyers-Ruff; Christine Carey; Gregory Roberts; Eric Harris; Neil Mitchell; Liz Misa (DOH); Donna Cater (DOH); and Maryann Riviello.

**Provider Association (PA) Attendees:** Phil Catchpole (Lifesong, Inc.); Tina Chirico (Financial Managers Association); Suzette Smith (Financial Managers Association – by phone); Susan Constantino (CP of NYS, Inc.); Pat Dowse (NYSRA – by phone); Ann Hardiman (NYSACRA); Pat McGrath Rhonda Frederick (DDAWNY – via videoconference); John Kemmer (NYSARC); Ron Little (OPWDD Compass Agencies – by phone); Edie Mesick (UJA Federation – by phone); Gary Milford (Learning Disability Association of New York State); Michael Lawler (NYS Catholic Conference); Anne Ogden (Catholic Charities Disability Services); Peter Pierri (Interagency Council of MR & DD Agencies); Seth Stein (Alliance of Long Island Agencies for Persons with Developmental Disabilities – via videoconference); Steve Vernikoff (Advance of Greater NY); Barbara Wale (Executive Directors Association); and Yvette Watts (NYS Association of Emerging & Multicultural Providers, Inc.).

### Commissioner's Welcome and Update

Acting Commissioner Kerry Delaney welcomed PA members and OPWDD leadership staff to the monthly meeting and updated the group on several key issues.

- *Legislative Reports Released:* Acting Commissioner Delaney announced that four reports based on— involving Front Door implementation and improvements, sheltered workshop transformation and integrated employment, the residential request list and the recommendations of the Transformation Panel (TP) -- have recently been submitted to the Legislature. More detailed presentations outlining these reports will be covered later in the meeting.
- *Transformation Panel Update:* The recommendations of the Transformation Panel (TP) proposed significant changes based on a rigorous public input process. With regard to residential services, it is important to create a pathway for people living at home, particularly those who are on the Priority 2 and 3 list. \$10 million of the proposed \$120 million in new funding in the governor's budget will be targeted for access to residential services for individuals living at home with family caregivers. Areas of focus will include reviewing and maximizing existing housing capacity and planning for the future. With respect to rate transformation, an overall review will be conducted of where the system stands to determine its impact on future sustainability. An implementation plan for the TP recommendations will be developed in the coming months.

### Open Discussion Items

- *PROMOTE Update*
  - *PA Issue:* We understand that OPWDD still plans on eventually rolling out the PROMOTE curriculum to the voluntary agencies. Is there a schedule or time frame for such a development and has there been a comprehensive analysis completed of the increased costs for such a rollout?

- *OPWDD Response:*
  - At this time, OPWDD is actively rolling out the PROMOTE curriculum to state staff (clinicians, supervisors and DSPs). We are nearing the end of our second year of a four-year rollout plan. About 6,000 State employees have been trained thus far.
  - We plan to engage in more discussion with voluntary providers about longer term rollout strategy in approximately 18 months when we are nearing the close of the transition from SCIP-R to PROMOTE in State Operations. We will continue to monitor and review data from implementation to inform strategies and approaches to facilitate rollout in the voluntary provider agencies. There is no definitive timeline yet for implementation in the voluntary agencies; OPWDD staff will work in collaboration with providers to determine these details.
  - In the meantime, there is a crosswalk tool available so everyone can understand the plan while bridging the two curriculums. An update for SCIP-R will be available since it will take a while to fully transition to PROMOTE.
  - A PROMOTE refresher pilot course is in the works. It will be available once the state side is fully operational and the bridges are completed. Bridge implementation can occur over a staggered two-year roll out period (Year 1, Bridge Level 1; Year 2, Bridge Level 2; Year 3, PROMOTE refresher course; thereafter PROMOTE refresher every two years).
  - PA members inquired about the costs of a SCIP-R master trainer update in the voluntary sector, particularly in light of the impact of rate rationalization. Others wondered about the available pool of state staff to mentor nonprofit trainers moving forward. Jill Pettinger will facilitate gathering of information regarding training costs for PROMOTE implementation with state staff. Findings will be reported at a future PA meeting.

- *Safe Patient Handling Act Update*

Although there does not appear to be a legislative resolution to this issue, OPWDD is looking for a more flexible way to meet the spirit of the law (i.e., limit impact to certified ICFs with more than 24 beds). After consulting with DOH, a work group will be convened among large ICF providers to craft a limited liability action plan for these facilities.

- *Clinic Utilization Limits*

- *PA Issue:* Article 15 Clinics are being held to the MRT utilization limits, but IPSIDD services will not be held to those limits. What is the reason for this disparity?
- *OPWDD Response:*
  - “MRT utilization limits” references a SFY 2011-12 Executive Budget initiative (Medicaid Redesign Team Proposal #26) that imposed rate penalties (not service limits) on Article 16, 30 and 32 clinics (i.e., OPWDD, OMH and OASAS-certified clinics) with service utilization rates (annual visits per client per service category) that significantly exceed peer norms. Developmental disabilities providers, with United Cerebral Palsy in the lead, have advocated with the Legislature to lift these penalties. Last year, legislation was approved that lifted the MRT penalties retroactive to 2011. The Governor, however, vetoed this initiative in November. As a result, the penalties remain in place. It should be noted that only 12 of 56 Article 16 clinics are impacted. 44 clinics receive no reimbursement cuts whatsoever.
  - Both the budget legislation authorizing the MRT rate cuts and the State Plan Amendment implementing them are specific to services delivered by licensed clinic facilities and reimbursed under the clinic APG methodology.
  - IPSIDD is being created because CMS will no longer reimburse therapy (OT, PT, SLP) and psychotherapy (psychology and social work) as a “clinic” service when delivered outside of a

certified clinic facility. Services delivered through IPSIDD are authorized and reimbursed under the independent practitioner section of the Medicaid State Plan.

- IPSIDD services will be reimbursed at rates significantly lower than comparable services delivered in Article 16 clinic facilities. This reflects the reduced capital, administration, overhead, and oversight expenses for independent practitioner services.
  - Because IPSIDD services are delivered by independent practitioners and group practices, not free-standing clinics, the MRT rate penalties cannot be applied to IPSIDD services. Again, both the state statute authorizing the MRT rate cuts and the SPA implementing them are specific to services delivered in clinic facilities and cannot be applied to independent practitioner services such as IPSIDD.
  - There will, however, be utilization controls placed on IPSIDD services. OPWDD intends to introduce a prior authorization process within the next year that will trigger a formal clinical review and approval process by the State Medicaid fiscal agent when the number of annual visits for a service exceeds certain thresholds. This prior authorization process will be implemented after Xerox Corporation takes over Medicaid fiscal agent responsibilities from the current contractor (CSC).
  - The prior authorization process developed for IPSIDD services will not be apply to services delivered in Article 16 clinic facilities.
- *Funding of IRA Care for Individuals no longer attending Day Programs*
    - *PA Issue:* We seem to be experiencing an increase in the number of individuals who choose to retire or due to medical conditions (i.e., dementia) no longer leave IRAs for day programs five days per week. Currently, there is no mechanism to fund the additional staff required to support those individuals during the day in IRAs.
    - *OPWDD Response:*
      - There are several options for individuals who are not interested in receiving Day Habilitation five days per week if they are retired seniors or medically frail.
      - Once enrolled in the HCBS waiver, a person can opt to self-direct their services, allowing a very flexible package of services to be put together for him or her to enjoy retirement options outside of the certified setting.
      - In addition, the residential provider an offer opportunities in the home. It should be noted that while self-directed services offer flexibility, in accordance with the HCBS Settings Transition plan, the presentation of such options is all that is required and individual choice must be respected and honored.
      - Community Habilitation is also an option for these individuals to enjoy community integration opportunities outside of certified settings.
      - A plan will be developed for CMS approval to provide better flexibility via residential habilitation rates. PA members will clarify the parameters of the issue and target possible solutions as a next step.
  - *Reconciliation of Day Habilitation Units*
    - *PA Issue:* Providers are being contacted by DDROs to reconcile authorized day habilitation units with billed units as “Central Office wants units not being used to be deleted.” We are uncertain as to what standards are being used to determine how this is being uniformly applied and how this will change provider rate sheets.
    - *OPWDD Response:*
      - The Budget Office provides semi-annual updates of authorized day habilitation units to DOH on the first day of each January and July.
      - The starting point for each update is the previous authorized levels that were sent to DOH and is updated based on the following information:

- Requested unit add per the Development Plan
- Personal reinvestments
- Program conversions (example State Aid to Day Habilitation)
- Program certification change
- Mergers/Takeovers
- Update requests based on provider inquiries with DOH/OPWDD that were justified and approved within the 90-day window from the date the rate sheets were released
- A utilization review is completed as part of each update to provide the DDRO with information to determine if the unit levels are accurate based on billings. Information is gathered on actual billings from the day and respite database and is compared to the corresponding unit authorization levels. If a provider is billing above 90%, the OPWDD Budget Office considers this full utilization. The Budget Office gives the DDRO the opportunity to review and delete the requests on the Development Plan where applicable. It should be noted that overstated units will result in a provider not being fully reimbursed for property.
- At the request of DOH and the DDRO, the unit levels for the most recent update (01/01/16) were shared with providers prior to submission to DOH to ensure the information was as accurate as possible. It is anticipated that requested changes are supported by justification/explanation. The Budget Office does not make any discretionary changes to the unit levels, but relies on feedback from the DDRO in conjunction with discussions with the provider.
- 01/01/16 unit levels for day habilitation were shared with DOH on 2/11/16.
- PA members requested confirmation that day habilitation (including transportation information) rates sheets will be revised mid-year to verify authorized units.
- *Revised SEMP ADM Status Update*  
The revised ADM currently is under review by OPWDD leadership. It is anticipated it will be issued by 3/1/16.

### **Medicaid Transportation Vendor Enrollment**

Liz Misa, the Deputy Medicaid Director at DOH, was invited to speak about a draft guidance document issued by DOH in December 2015 over proposed policy changes in Medicaid Transportation Vendor Enrollment. A small work group of DOH and OPWDD staff and providers was formed to resolve issues and make recommendations about how to meet DOH standards in a way that accounts for how OPWDD providers have been operating programs for many years. PA members have been helpful in clarifying information. DOH and OPWDD will update PA members at the March monthly meeting on the group's progress toward this end.

### **Rate Transformation Update**

- *General Update:*
  - Ten providers were reissued ICF/IDD rates this week.
  - 7/1/15 property rates will be dealt with next. They will be posted on the DOH website later this week. Providers will receive notice.
  - Donna Cater explained the process for occupancy percentage in the 7/1/15 rates.
- *Respite Update:*
  - *PA Issue:* What is the status of the suggestion that respite transportation time be billable as respite service? Also, what is the status of the analysis of the proposed respite rates?
  - *OPWDD Response:*
    - To date, 30 providers have not responded to the survey. Once these responses are received, Donna Cater will revise the spreadsheet.

- PA members stated that, especially in light of the impact of rate rationalization, the respite rates need to be accurate once they're released.
  - Currently, unlike their day habilitation counterparts, respite providers do not report transportation in a separate CFR column. However, providers may be incorporating to/from transportation in their CFR reporting. Providers are concerned that, in a fee methodology, reported transportation costs get spread across all of the providers. This may create an inequity as not all respite providers transport people.
  - PA members suggested that rate setting resources should be conserved by not requiring rates to be updated on 4/1/16 based on the 0.02% COLA. They feel it is best to wait until 7/1/16. Donna Cater will follow-up with DOH and DOB.
- *Retainer Days Update:*
    - *PA Issue:* The provider associations recently completed an analysis of the extent of unreimbursed retainer days for 2014-15. They would like to discuss options to deal with this issue including any of the following possible options or others:
      - Now that actual data is available, increasing the number of allowable retainer days above the current limit of 14 (or aggregating them within a residence)
      - Creation of a mechanism for reimbursements for the excess retainer days
      - OPWDD allowing for quicker discharges from IRAs in these circumstances.
    - *OPWDD Response:* OPWDD follows the 14 day retainer day allowance that is utilized for nursing homes. CMS has not approved reimbursement for ICF/IDD retainer days in excess of the 14 days allowed for nursing homes. PA members felt that the issue is different for its member agencies since hospitals can't discharge someone who isn't able to return to an IRA while its easier for hospitals to discharge patients back to nursing homes. It was suggested that a work group be convened to explore options.

### **Incident Management and Justice Center Update**

- *New Justice Center Code of Conduct for Custodians:* OPWDD will release information shortly on this issue. The expectation is that all custodians will review and sign by 6/30/16 and then at least annually thereafter. Note: OPWDD extended the date to 8/31/16.
- *Corrective Action Plans (CAP)*
  - OPWDD issued a guidance memo on Corrective Action Plan (CAP) requirements 1/12/15.
  - Agencies must submit CAP records (including the OPWDD Form 161 and documentation of each corrective action).
  - OPWDD may request additional information upon review.
  - New training began in January.
  - OPWDD will begin enhancements to IRMA to further automate the process.
- *Ensuring Thorough Submission of Investigations (WSIR)*
  - The Justice Center and OPWDD sent a reminder memo with instructions/quick reference guide to agency designated mailboxes and to Executive Directors on 2/9/16.
  - It is critical that abuse/neglect investigations delegated to agencies are submitted with all required information including data fields entered.
  - Failure to submit thorough investigation records will result in investigation being returned to the agency which will further delay closure of a case.
  - Overall, agencies seems to be doing well once these issues were clarified by the recent guidance.
- *Closing Significant Incidents*
  - OPWDD is making progress on the closure of significant incidents.
  - When follow-up began, approximately 83% of cases were closed. The current total is up to almost 90%.

- IMU will continued to follow up on open significant incidents; they may also be reviewed by the Bureau of Program Certification (BPC) during the survey process.
- *Submission of Overdue Investigative Records*
  - OPWDD has seen progress in timeliness of investigations delegated to agencies.
  - Megan O'Connor thanked PA members for their assistance in the progress made.

In addition, Ms. O'Connor asked that 45 minutes be reserved at the March monthly PA meeting for an update by Jay Kiyonaga, Executive Director of the Justice Center. She asked PA members to submit any questions they may have in advance of the meeting.

### **Federation of Multicultural Programs (FMCP) Auspice Change**

A memorandum was issued on February 19 regarding auspice change for the agency's 26 certified programs, most of which are residential in nature. OPWDD is working with the financial receiver and Attorney General's Office toward the judicial dissolution of the corporation. The Executive Director, staff and Board of Directors have been removed. A memo has been sent to voluntary agency executive directors fully explaining the auspice change process. Agencies were asked to submit a letter of interest by close of business today with the expectation that selected agencies will assume operational responsibility by the end of July. OPWDD Regional Office staff will work with the agencies and the temporary operator to ensure an orderly transition. Maryann Riviello will share a copy of OPWDD's auspice change document with PA members.

### **Breakdown of New Residential Information by Region**

Christine Muller used a Power Point Presentation to provide updated data on individuals who are new to OPWDD residential services. Between 4/1/14 and 11/30/15, 2,600 "new" people moved into certified residences (IRAs, ICFs and family care homes). Of these, 1,525 came from a setting other than a certified residence. Maryann Riviello will share a copy of the Power Point with PA members. Ms. Muller will back out information from the aging out database regarding the number of individuals who moved from CRP and out-of-state residential schools into certified settings (from the total 720 number in 2015).

### **Update on OPWDD Reports to the Legislature**

Greg Roberts updated PA members on several reports that were recently submitted by OPWDD to the State Legislature covering topics such as the Front Door Process; Residential Request List; Transformation Panel, Integrated Work Settings and Direct Support Professional Credentialing. OPWDD staff thanked PA members for the stake holder involvement that greatly enhanced the reports' findings and recommendations. The reports can be found on OPWDD's [website](#).

### **Coordinated Assessment System (CAS) and Person Centered Planning (PCP) ADM Updates**

It is anticipated that CAS implementation will begin March 2016. Rollout of the CAS will occur statewide and include adults ages 18 and older who:

- Have moved from residential schools or developmental centers (template funded)
- Are self-directing with budget authority
- Are living in a residential setting beginning with those living in an IRA
- Are newly eligible for OPWDD services (first time)

Outreach to individuals, families and providers will occur during the month of March. A WebEx was recently conducted with MSCs specific to their role in the CAS administration process. At the request of PA members, OPWDD will share information concerning the SUNY analysis of the random sample of individuals assessed in the Validity Study.

The draft PCP ADM will provide guidance on PCP regulations that went into effect on 11/1/15. Major areas of clarification include:

- o Payment standards for MSC (2010-03) and habilitation plans (2012-01) remain in effect and are not superseded by the PCP regulations.
- o Reviews will still be conducted twice each year and not required to be done in exactly six months intervals.
- o Responsibilities of habilitation providers and MSC in PCP.
- o Documentation guidance on alternative residences and rights modifications and the expected role of the MSC in these settings.
- o Expectation that a functional assessment be used during the PCP process.
- o Signatures for providers (habilitation plans), individuals and the MSC's responsibility for obtaining them.

JoAnn Lamphere shared written handouts – an updated draft of the Person Centered Planning ADM. PA members were encouraged to review and provide feedback to her or Kate Bishop by the end of the week. It is anticipated that the ADM will be issued by March 4.

**Wrap-up**

The next meeting of the Provider Association will be held on Monday, March 21, 2016 @ 10am @ 44 Holland Avenue in Albany.