

## MEETING NOTES

### OPWDD PROVIDER ASSOCIATION (PA) MEETING

Monday, March 16, 2015

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; Deputy Commissioner Helene DeSanto; Roger Bearden; Abiba Kindo; Kate Marlay; Laura Rosenthal; Kevin Valenchis; Sally Berry; Megan O'Connor; Neil Mitchell; Cathy Varano; Maryann Riviello; and topic-specific staff (Maryellen Moeser, Leslie Fuld, Tammy Devine, Donna Mackey, Scott Sandwick, Susan Milstein, Christine Muller).

**Provider Association (PA) Attendees:** Nick Cappoletti (OPWDD Advisory Council – via videoconference); Phil Catchpole (Lifesong, Inc.); Susan Constantino (CP of NYS, Inc.); Mark Foley (DDAWNY – via videoconference); Ann Hardiman (NYSACRA); John Kemmer (NYSARC); Ron Little (OPWDD Compass Agencies); Edie Mesick (UJA Federation); Gary Milford (Learning Disability Association of NYS); Anne Ogden (NYS Catholic Conference); Peter Pierri (Interagency Council of MR & DD Agencies); Michael Seereiter (NYSRA); Seth Stein (Alliance of Long Island Agencies for Persons with Developmental Disabilities – via phone); Karen Thayer (Southern Adirondack Independent Living); 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.

- *Transformation Panel:* As mentioned at last month's meeting, the Transformation Panel, consisting of a panel of experts, has been created to examine the challenges OPWDD faces as it implements the Transformation Agenda, offering managed care and ensuring long-term fiscal and programmatic sustainability for people currently receiving services as well as those who will need access to services in the coming years. Two meetings have been held to date – an organizational meeting and another that focused on self direction. Next week's featured topic will be employment followed by housing and community integration and a series on managed care. In order to be a true working group, the panel has purposefully been kept small. Information related to the Transformation Panel has been posted on the OPWDD website so that stakeholders and others in the field can be kept updated on the panel's work. In addition, there will be a public input process following the Panel's release of initial recommendations. These comments will be incorporated into the final recommendations/implementation plan that are forwarded to Courtney Burke for approval.
- *"Creating New Models for Integrated Employment."* Kerry announced that a conference will be held at the Empire State Plaza in Albany on May 8 to explore new employment and other service options to assist in the transition of sheltered workshop services to integrated models. The main focus will be to offer guidance on models for moving forward. All sheltered workshops have been invited to participate. OPWDD has received about 80 responses thus far. PA members were asked to encourage their provider agencies to attend; each program may send a staff member, a workshop participant and parent to the

conference. The gathering will feature active work groups, exchange of ideas, and sharing of best practices. Helene DeSanto stated that a portion of the conference will be devoted to discussion about individuals for whom new employment options may be more challenging as evidenced by case studies involving providers that have closed sheltered workshops

- *Template Funding:* OPWDD is exploring the possibility of extending template funding until the Coordinated Assessment System would be in place and OPWDD will have developed an appropriate reimbursement methodology to accompany this new tool. OPWDD will keep PA members posted on this issue.
- *Rate Transformation Methodology:* PA members requested information on costs associated with room and board adjustments as soon as it's available. PA members also asked that OPTUMUS provide a listing of acuity algorithms so they can gain a better understanding of how mechanisms work and start developing proposals. OPWDD will follow-up with DOH and craft a way for providers to participate in ongoing discussions.

## Open Discussion

### Follow-up on SEMP Audit Protocol

- OPWDD staff met with staff from the Office of the Medicaid Inspector General (OMIG) regarding the SEMP protocol. The OMIG has adjusted the protocol to modify the elements related to the "SEMP Plan" that's referred to in the 2007 Administrative Memorandum (ADM). The protocol continues to identify the issue that enrollees are paid at least minimum wage (per federal guidance). A meeting is being scheduled with the OMIG to discuss how this item will be implemented since it is not clearly stated in the ADM. The discussion will also clarify information that is currently on the website.

### Enhanced Supportive IRAs

- Per Laura Rosenthal, OPWDD will work with DOH to brainstorm this issue.

### OPWDD Community Pool

- A webinar was held on March 11 to walk through the application and answer questions from providers. About 400 providers participated. OPWDD will draft responses to questions asked during the discussion and share them with PA members shortly. Laura also requested that PA members email her specific questions that were not asked during the webinar. PA members asked if it was possible for a short extension on the application deadline. Kerry said that OPWDD would review the overall timeline.

### Nurse Practice Act Update

- Roger Bearden stated that OPWDD is hopeful that the outstanding issues involving a memorandum of understanding (MOU) with the State Education Department (SED) to extend the Nurse Practice Act exemptions to non-certified settings are resolvable in the current 2015-16 State Budget negotiations. Outstanding issues include a reduction in mandatory facility inspections from two to one, oversight activities mandates and an affirmation in the MOU.

## FECS Update

FECS auspice change activities continue to move forward.

- OPWDD's remains primarily focused on assuring positive outcomes and continuity of care for affected individuals and families.

- FEGS termination certificate of needs (CONs) and new agency CON applications have been submitted to the OPWDD regional offices as well as the respective counties for Long Island and the New York City Health Department. OPWDD stated that all CONs will most likely be processed by close of business on Tuesday, March 17.
- FEGS/provider agencies/OPWDD continue to work through assorted property issues.
- All leases for ISS apartments were received by the Regional Office, which is currently reviewing and updating price sheets and preparing for the transfer to new agencies.
- Advance and repayment applications were distributed and a conference call was held with all providers to discuss noteworthy issues. The application deadline is close of business on Wednesday, March 18.
- OPWDD will participate in transition meetings with FEGS and the new providers on Thursday and Friday, March 19 and 20. OPWDD will review a punch list of key areas that must be accomplished for each program prior to transfer so there will be a detailed accounting of outstanding issues.
- The implications for looming bankruptcy filings are uncertain.

### **Incident Management/Justice Center Update**

Megan O'Connor and Leslie Fuld introduced Tammy Devine as the new Assistant Director of the Incident Management unit.

Group discussion centered around the following issues:

- Many abuse/neglect investigations that were delegated to provider agencies have not been submitted within the required fifty day timeframe. PA members were encouraged to follow-up with provider agencies to stress the importance of timely completion and submission of investigations. As a reminder, abuse and neglect cases cannot be closed in IRMA until a notice of determination is received from the Justice Center.
- On January 12, a memo was sent to PA members regarding the corrective action plan process. Providers now have the ability to upload full electronic records in IRMA.
- There is a small workgroup working on the implementation of Chapter 394 of the Laws of 2014 and the corresponding development of a streamlined process. PA members will be kept updated on new developments at future monthly meetings.
- Nick Cappoletti asked for a status update on guidance being developed for incident reporting in non-certified settings. This is an area under review by a DQI subcommittee.

### **Real Property Assurance Agreement**

Roger Bearden and Counsel's Office staff updated PA members on the Real Property Assurance Agreement. Basically, the agreement consists of a regulatory compliance contract, capital component security and lien agreement and a subordination agreement. This new policy will apply to PPAs for newly acquired properties moving forward in order to secure interest in the property consistent with what OPWDD is making as an investment in the continuity of care.

- The Contract
  - In exchange for funding the capital component of program that contains real estate, the provider agrees to a lien that binds the property to OPWDD use for a period of 40 years.
  - During the term of the lien, the provider will comply with all program obligations outlined in the lien and all NYS laws and regulations.
  - OPWDD agrees to make approved capital component reimbursements to the owner for as long as the contract and lien are in place.

- Provider agrees that all capital component payments received from OPWDD shall be used for the program at the facility as defined in the program obligation.
- The Lien
  - Signed by OPWDD and provider and recorded in county clerks' real property records. In exchange for receiving reimbursement from OPWDD for acquiring, renovating and constructing a facility to delivery DD services, provider agrees to accept a lien against the property for 40 years.
  - The lien is being made to secure an obligation to provide services at the facility from the provider. It is also designed to establish a security interest in the property for OPWDD. It is further made to secure an obligation from the provider in an amount to satisfy or discharge any unapproved mortgages or liens and maintain or make capital improvements necessary to protect the residents.

Additionally, the agreement spells out the responsibilities of the provider, particularly with regard to site ownership. It also includes events of default and remedies by OPWDD in the event of a default. OPWDD will subordinate its secured position to approved mortgages. The group discussed ways to reach out to finance and real estate professionals in explaining the new process. OPWDD's Regional Offices should also be kept in the loop so business practices can be refined. The dissolution of FECS has posed sustainability issues for OPWDD with the State Division of the Budget (DOB). OPWDD will focus on being as expeditious as possible while mitigating delays.

OPWDD will follow-up with the Dormitory Authority of the State of New York (DASNY) on the impact of the new agreement in cases involving major renovations on an existing property moving forward, particularly the wording used in PPA documents that been vetted in crafting the agreement. Peter Pierri asked for clarity on an issue involving a replacement process for the removal of "Triple Rs" from ICFs; Roger Bearden will follow-up. OPWDD will send final document drafts to PA members and new PPA providers.

### **Provider Association Subgroup Update**

Sally Berry highlighted the results of a recent meeting with a PA subgroup focused on Front Door/Regional Office matters.

- Sally provided feedback on recent Front Door changes, specifically the development of a preliminary individualized service plan (PISP) by Front Door staff and the implementation of the new Service Amendment process which is applied when someone already receiving services seeks a change in services. There have been reports of PISP delays in some regions. The new Service Amendment process has elicited positive feedback.
- Upcoming changes include:
  - An adaptive assessment by Front Door staff – if no community resources are available in a timely way, Front Door staff will be able to do this assessment. Providers want to be sure that there is appropriate clinical to implement the initiative. Staff performing the assessment will have appropriate licenses/credentials and oversight by clinical psychologists.
  - DDPI Supplement – a new form that providers will now complete. PA members suggest that the document be reviewed at an upcoming PA meeting.
  - Ongoing Front Door Feedback – creation of a new group consisting of representatives of some provider organizations (associations will identify agency representatives to be invited to participate as well as PA members. The group will meet quarterly and offer ongoing feedback about the Front Door process.

## HCBS Settings Update/OPWDD Transition Plan

Maryellen Moeser updated PA members on the HCBS Settings/Transition Plan.

- The public comment period runs through 4/1/15.
- Three webinars were held.
- The Heightened Scrutiny subgroup met on 3/12/15. The current focus is the development of parameters for residential services while the non-residential Day services subgroup meets. The group is on a tight timeline to issue recommendations that will be forwarded to the larger stakeholder group and so reviews can begin October 1, 2015. The Day Services subgroup is scheduled to meet at the end of March.

## Rate Transformation Discussion

Donna Cater (DOH), Laura Rosenthal and Kate Marlay updated PA members on rate transformation issues.

### Timing of ICF Rate Approval

- DOH returned the RAI to CMS; three questions are outstanding. DOH is working on the upper payment limit. The issues should be resolved after the next call with CMS. The 2% compensation increase will be retroactive to 1/1/15 so ICF providers will not be negatively impacted by delays from CMS approvals.

### 2% DSP Compensation Increase Update

- DOH is working on the 2% increase for all rate-based and rate transaction-based matters.
  - Conceptually, agencies should receive the equivalent of a 2% increase for compensation of direct support professionals and other support staff, net of the impacts associated with either lost hours, or reduced salaries (due to the application of the regional average).
  - DOH will rework the 2% regulations at the behest of DOB.
  - Additionally, by the end of the week, DOH will put together a file on where the numbers for the 2% compensation increase were pulled from and develop a sheet showing each individual provider.
  - A follow-up meeting will be scheduled once providers review the sheets.

### Four Services Update: (1) SEMP; (2) Family Care; (3) Prevocational Services; and (4) Respite.

- Regulations are in the pipeline. CMS has had very few questions about the language that was submitted. These will be incorporated into the 07 amendments and filed by 4/1/15 for public comment.
- There have been additional discussions on the SEMP rates. DOH/OPWDD is looking into the possibility of using an interim rate for the first year to help through the transition from monthly to hourly billing.
- Family Care fees and difficulty of care payments were increased on 1/1/15 and will rise again on 4/1/15. They will be available on the system shortly.
- Laura Rosenthal will share fee charts for community pre-voc with PA members.
- Two meetings will be scheduled – SEMP and community pre-voc fees (early next week) and ICFs and supporting documentation (following week or later).

### *Other*

- Donna reiterated support for the decision to seek an extension for template funding through 2017 from CMS. Some type of mechanism/formula must be developed to provide cost data

to make a case for the extension. A follow-up call on this topic will be scheduled with PA members.

### **New Individuals in Certified Residences**

Christine Muller used a Power Point presentation to update PA members on statistics on individuals who have recently newly moved into certified residences.

- The first slide depicted a breakdown by DDSO of people new to residential services in 2014 (with a comparison column for people in residential services in each DDSO so it was clear whether growth was typical for the DDSO).
- Another slide offered an age breakdown of people new to residential services.
- Another provided information on schools that youngsters are coming from before they move into an OPWDD residence.
- Another showed information on which types of residences adults are moving into – broken out by adults age 35+ (potential for aging caregivers) and adults between the ages of 23-34.

### **Wrap-up**

The next meeting of the Provider Association will be held on Monday, April 20, 2015 @ 10am @ 44 Holland Avenue in Albany.