



OPWDD PROVIDER ASSOCIATION (PA) MONTHLY MEETING

Monday, May 23, 2016

10:00 a.m. – 2:30 p.m.

Conference Room 4B -- 4th floor

44 Holland Avenue, Albany, NY 12229

Meeting NOTES

OPWDD Attendees: Acting Commissioner Kerry Delaney; Helene DeSanto; Abiba Kindo; JoAnn Lamphere; Kevin Valenchis; Roger Bearden; Laura Rosenthal; Sally Berry; Megan O'Connor; Jill Pettinger; Tamika Black; Dixie Yonkers; Patricia Downes; Sue Milstein; Scott Sandwick; Donna Cater (DOH); and Maryann Riviello.

Provider Association (PA) Attendees: Phil Catchpole (Life Song, Inc.); Tina Chirico (Financial Managers Association); Susan Constantino (CP of NYS, Inc.); Ann Hardiman (NYSACRA); Rhonda Frederick (DDAWNY); John Kemmer (NYSARC); Ron Little (OPWDD Compass Agencies – by phone); Edie Mesick (UJA Federation); Michael Lawler (NYS Catholic Conference); Anne Ogden (Catholic Charities Disability Services); Peter Pierri (Interagency Council of MR & DD Agencies); Michael Seereiter (NYS Rehabilitation Association); Margaret Raustiala for Seth Stein (Alliance of Long Island Agencies for Persons with Developmental Disabilities); Steve Vernikoff (Advance of Greater NY); Barbara Wale (Executive Directors Association); and Yvette Watts (NYS Association of Emerging & Multicultural Providers, Inc. – by phone).

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 (TP) Update:* Further progress has been made on the development of the implementation plan following the mid-February release of the TP's recommendations. The group is working with KPMG on detailed work plans for each of the 61 recommendations. The recommendations have been divided into three different categories with different implementation strategies: (1) quickly develop work plan and move forward; (2) develop work plan and solicit additional feedback; and (3) difficult to truly implement in spirit of TP. An internal steering committee has reviewed categories 1 & 2 and is developing an interface for TP members to comment. The TP will meet again at the end of June.

We will begin to see progress on some recommendations as soon as today when the \$10 million in funding to revise residential priority categories will be addressed. Regional office staff will be in Albany tomorrow for a retreat to roll out the work plan. Stakeholder work groups will be established in each region. Another TP recommendation soon to be launched involves Phase II of OPWDD's website presentation and efforts to be more transparent about data. More information will be forthcoming in the next few weeks.

Rate rationalization initiatives generally fall into the second bucket. OPWDD is working with DOH on a detailed work plan, including acuity fixes.

The third bucket is more difficult – for example, creating a safety net to explore more integrated opportunities – OPWDD is exploring ways to provide more flexibility in the provision of day and residential services.

Open Discussion Items

PA Members

▪ Residential Registration List Update

PA Issue: How does this list remain current? How and when does this list get incorporated into the Priority List at DDROs for distribution to AROCs?

OPWDD Response: The current system relies heavily on the MSC to provide updates to the regional office about the changing needs of an individual related to residential supports. As a part of the transformation panel recommendation, we will examine how the survey results can be updated frequently to assist in long-term planning and gauging changing demand over time; we will also look at how we can better educate and communicate with MSCs to ensure that the regional office is informed regularly about the residential support needs of individuals.

Individuals on the RRL are incorporated into the priority list when a Residential Referral Packet is completed by the service coordinator and individual/family and submitted by the service coordinator to the Certified Residential Opportunities Team at the Regional Office; once the packet is reviewed and a priority designation is assigned then the individual is placed on the CRO tracking sheet. It should be noted that only those on the Priority 1 list are shared with providers at the AROC meetings.

OPWDD will send letters to those on the RRL to clarify their status as part of an educational component and meaningful outreach that is required by the NYS Legislature each year. It will also include a description of the process for MSCs. PA members stated that due to high turnover among MSCs, consistent training is needed for them and their supervisors.

▪ ISS Rental Subsidies

PA Issue: Unless rent subsidies are increased, very few people will be able to access uncertified housing. Has there been any movement on this issue?

OPWDD Response: The issue of leveraging additional resources is a critical one, particularly in downstate areas and within the context of TP activities. OPWDD is still in the process of analyzing market rental data, statewide. However, given the focus on housing in the TP, it is also exploring other possibilities that could offer higher rental payments within existing standards if individuals choose to room with another person. While OPWDD would not “double” the single bedroom rate, it may be able to provide some combined incentive that would be larger than what is offered today to incentivize cost sharing arrangements, while also opening access to a broader base of apartments. Nonetheless, this will present new costs that must be considered in the larger budget context to support transformation and other expenses.

▪ ICF Conversions

PA Issue: What is the status of ICF conversions and are we on track to meet the CMS targets and dates?

OPWDD Response:

- Tangential issues – such as the size of some ICFs and finding appropriate placements for individuals with significant medical and complex needs as well as rate transformation and changes in HCBS settings – make change more difficult. OPWDD is committed to developing strategies that address these issues.

- OPWDD must achieve 21 more transitions of individuals out of developmental centers (DCs) to meet the DC census goal for 2016. We currently have about 289 people living in DC campus settings.
- It is anticipated that OPWDD will achieve the 2016 goal. Census is done by calendar year.
- OPWDD has met the 2016 goal for SOICF census. We currently have 332 people in SOICFs.
- In calendar year 2016, OPWDD received 19 ICF conversion proposals, bringing the total number of conversion proposals received to 103. These 103 conversions will result in 912 people transitioning from ICF services to waiver services.
- To date, 79 ICFs have converted to IRAs, allowing 669 individuals to transition to waiver services.
- There are 26 proposals still under review, which would transition another 243 people to waiver services.
- As such, in addition to those proposals, if no ICF backfills were to occur, OPWDD would need to transition approximately another 1,000 people to waiver services by the close of the year.
- OPWDD remains committed to fulfilling its ICF Transition Plan; it remains a priority transformation initiative.
- Providers are expected to:
 - Convert ICFs to IRAs (by downsizing first as needed/appropriate)
 - Downsize and close their ICFs if facilities cannot be reused as waiver settings.
- There is plenty of opportunity for greater progress this year:
 - There are 385 voluntary-operated ICFs remaining which support 14 or fewer people. (more than 3,600 individuals)
 - 30 voluntary-operated ICFs support more than 14 people. (877 individuals)
- Some providers have contacted OPWDD to express their interest in reconfiguring large ICFs into smaller IRAs. Central Office will develop a process for responding to these requests and assisting them to move forward.
- OPWDD is working with DOH to develop possible funding solutions to the issues faced by large ICFs that will need to downsize and/or close completely and support individuals with high medical and behavioral needs in waiver settings.
- OPWDD will clarify provider perception that individuals who move from ICFs to IRAs cannot keep the same MSC due to conflict free case management requirements. PA members will send examples to Abiba Kindo.

▪ CSS Update

PA Issue: Is there a limit on the amount of CSS funding an individual can receive in a given day? We are being told by providers that DDROs tell them “Central Office” will not approve anything above the daily rate of an IRA. Is this OPWDD policy?

OPWDD Response: It was noted that “CSS” is no longer the correct title. There are several limitations that relate to Self-Direction (SD). 1) The annual value of the entire SD budget must be less than or equal to the individual’s PRA. 2) Certain categories within the budget have an annual total dollar limit. (For example, OTPS has a maximum annual value of \$3,000.) 3) There are limitations relating to both the live-in-caregiver and housing subsidies based on the ISS limitations. 4) For the self-hired staff components of a budget, there are edits in the billing system that limit the amount of billing to a “cap”. The cap ensures that when an FI bills for self-hired staff, the per-unit cost is less than or equal to the comparable rate or fee for the applicable program for non-self-directing individuals. For example, if an individual has self-hired staff that are performing community habilitation, when the FI bills for this self-directed service, the per-unit billing cannot be greater than the existing “traditional” community habilitation fee.

OPWDD will clarify limitations on CSS daily funding amounts with the Regional Offices and share findings with PA members. The draft TP work plan also seeks to simplify SD issues.

- Transportation Enrollment

JoAnn Lamphere reported, there is a verbal agreement with DOH on nearly all issues. Much progress has been made, yet several outstanding issues remain including: the proper enrollment form, impact on agency providers which supply their own transportation, OMIG audit protocol, and licensure. The discussion group is awaiting language from DOH before finalizing the agreement. OPWDD and DOH staff have spent the past several months negotiating the impact of documentation burdens, expenses and audit exposure associated with the issue. Once an agreement is finalized with DOH, all of the information will be rolled up into a single draft Administrative Memorandum (ADM) and shared with PA members.

Update on Day Hab Expectations for HCBS Settings & Heightened Scrutiny Evidence Package

- **Introduction and New Home and Community Living Team**

- JoAnn Lamphere introduced OPWDD's new Home and Community Living team: Patricia Downes; Kathy Holmes and Casey Downey.
- A Power Point presentation was used to highlight the following topics below. Maryann Riviello will email a file copy to PA members.

- **The Statewide Transition Plan**

- The Plan is the process of being compiled through DOH coordination efforts. The target date for resubmission to CMS is September 2016 after a statewide public input process.

- **Day Habilitation Information Letter Guidance**

- Drafted and reviewed by Day Habilitation stakeholder work group whose comments were integrated wherever possible
- The document should be issued during Summer 2016 so that OPWDD DQI can review these settings against the standards and complete the assessment process required for the Transition Plan and Heightened Scrutiny.
- A webinar will be scheduled with Day Habilitation providers.

- **Heightened Scrutiny Evidence Package and Timeline**

- Provider Self-Report of Heightened Scrutiny settings will need to be completed by Sept. 2016. We plan to issue the Evidence Questionnaire in July 2016.
- When the 9/1/16 date draws near, OPWDD will remind provider agencies of the deadline for submission of the Heightened Scrutiny Evidence Packages.

Revised Lien Agreement

- A brief update was provided on the impact of changes to the lien agreement. There have been 60-70 lien agreements developed in the past year. Modifications were made to the Capital Component Security and Lien Agreement based on the experience of the previous year. The changes made include a number of changes that benefit the providers. The amended document will be released in the coming months together with instructions on how to amend existing lien agreements.

Priority Categories Draft & Guidance

- A revised one-page proposal was circulated among PA members that included changes to the prioritization criteria. These changes included tweaks from TP members. Acting Commissioner Delaney stated that there had been much feedback from stakeholders. The new draft will be presented to regional office staff tomorrow. As the proposal is further revised, it will provide

additional clarity to specified areas as well as more guidance to enhance consistent applications across OPWDD regions.

- The names of the new categories are as follows:
 - Emergency Need (formerly Priority Category 1)
 - Substantial Need (formerly Priority Category 2)
 - Current Need (formerly Priority Category 3)
- Within the \$10 million allocation, OPWDD will help Regional Offices understand what the rolled up data means in terms of increasing the number of certified and non-certified residential opportunities by region.
- The revisions ensures that not every vacancy is reserved for emergency needs and more importantly, puts individuals who live with a family member who becomes incapacitated on a level playing field with those who are aging out of a residential school, CRP or developmental center or residing in a skilled nursing facility.
- OPWDD will send letters to those on the residential registration list to clarify their status as part of the educational component and meaningful outreach that is required by the NYS Legislature this year. A description of the process will also be included for Medicaid Service Coordinators (MSCs).

Legislative Update

Roger Bearden distributed a one-page summary to PA members highlighting the status of key issues currently before the NYS Legislature. These proposed measures include:

- Priority Placement List
- Provider/employee volunteer training
- Creates a family and guardian bill of rights
- Establishes Transformation Panel and reporting requirements
- Mandates 911 and District Attorney notification for suspected abuse and neglect
- Seeks to amend the Safe Patient Handling Act

Additionally, there are two departmental bills that have been introduced regarding: (1) gives OPWDD access to criminal records for risk planning purposes; and (2) ethics rules in which someone served by a state operations program moves to a voluntary-operated agency.

Acting Commissioner Delaney stated that Roger and Greg Roberts will have regular forums for PA legislative staff. PA members were encouraged to spread the word among appropriate staff.

Rate Transformation Update

- *General Rate Update*
A representative from the NYS Division of the Budget (DOB) will attend the June monthly PA meeting.
- *Day Habilitation Rates*
PA Issue: Providers are unclear as to whether they have to re-bill for recent errors in day hab rates generated by OH. They are concerns about being able to properly reconcile the corrections. For some providers, this has created a significant cash flow issue.

OPWDD Response: Cycle 2019 rates have been loaded. Cycle 2021 has been corrected. There should not be any cash flow problems for providers as OPWDD and DOH staff have worked through the billing process to satisfy the balance. On the provider side, it is a liability for two cycles, paid off by Cycle 2021. DOH has heard from eight providers and prepared a written response. Letters will be placed into OPA shortly.

- *ICF Deficits*

PA Issue: Has OPWDD located a funding source to provide relief to providers as a substitute for People First Waiver funds?

OPWDD Response: This really is the ICF VAP or People First Community Fund. OPWDD has identified funding and will begin the process of developing contracts to effectuate payment to eligible applicants. It will likely take several months to finalize the contract mechanism. It should be noted that OPWDD will also be working with DOH to perhaps secure FFP for these costs, but any effort would be prospective with a recoupment of the federal share to OPWDD. The contract mechanism with 100% State funds would enable agencies to be paid in the first instance more quickly. OPWDD will follow-up with providers via written communication so that providers will know when the funds will be forthcoming.

- *Pre-Voc Rates*

PA Issue: At the recent FMA meeting, it was stated that DOH is making an adjustment to prevocational rates that were in effect from 2013 CRS for 2015 rates. The adjustment pertains to inaccurately categorized costs filed on the CFR that were used in the calculation of the rate, but shouldn't have been. Can we have a clarification of this issue

OPWDD Response: For the CFR periods 7/1/12 - 6/30/13 through 1/1/15 -12/31/15, expenses reported in the Prevocational program on the lines indicated below will be revised – either through a resubmitted CFRs for the applicable periods to show those expenses as non-allowable on CFR-1, Line 66 – Adjustments/Non-Allowable Costs – OR – through modification of the methodology – this is still under discussion with DOH.

Line 29 – Sub-Contract Raw Materials
Line 30 – Participant Wages Non-Contract
Line 31 – Participant Wages Contract
Line 32 – Participant Fringe Benefits

- Should revised CFRs be the path selected – providers will not need to certify the CFRs as long as the reflection of the non-allowable costs is the only change to the latest accepted submission.
- Beginning with the July 1, 2015 - June 30, 2016 CFR submissions, these lines will not be available for the Prevocational programs. The CFR Manual and software will be updated accordingly.
- Corresponding rate changes will be made by DOH.
- Once the issue is finalized, DOH and OPWDD will develop a focused communication that outlines and updates issues for providers.

Wrap-up

The next meeting of the Provider Association will be held on Monday, June 20, 2016 @ 10am @ 44 Holland Avenue in Albany.