

MEETING NOTES

OPWDD PROVIDER ASSOCIATION (PA) MEETING

Monday, August 17, 2015

10:00 a.m. – 2:30 p.m.

Conference Room 4B -- 4th floor

44 Holland Avenue, Albany, NY 12229

OPWDD Attendees: Acting Commissioner Kerry Delaney; Deputy Commissioner Helene DeSanto; Roger Bearden; Abiba Kindo; Kate Marlay; Kevin Valenchis; Sally Berry; Joanne Lamphere; Megan O'Connor; Leslie Fuld; Maryellen Moeser; Jill Pettinger; Cathy Varano; Joanne Howard; Carlene Coons; Jim Nellegar; Jessica Lynch; Neil Mitchell; and Maryann Riviello.

Provider Association (PA) Attendees: Tina Chirico (Financial Managers Association); Susan Constantino (CP of NYS, Inc.); Michael Seereiter (NYSRA); Ann Hardiman (NYSACRA); Tana Seaburg (for John Kemmer, NYSARC); Ron Little (OPWDD Compass Agencies – via teleconference); Edie Mesick (UJA Federation); Mark Keegan (for Anne Ogden, NYS Catholic Conference); 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.

- *Transformation Panel Update:* A communication will be released later today about a series of seven public forums in mid- to late-September to solicit stakeholder input on OPWDD's Transformation Agenda. Information can be found on the OPWDD website at:

http://www.opwdd.ny.gov/opwdd_about/commissioners_page/transformation-panel/save-the-date-public-forums

The Transformation Panel will next meet as a group in early September. In the meantime, various subcommittees have met, focused on increasing the availability and affordability of housing options and how care coordination will be structured under managed care.

- *Managed Care Update:* Efforts continue to leverage work already done on the development of DISCOs and integrating it into the managed care model.
- *HCBS Waiver 07 Amendments:* Negotiations continue with the federal Centers for Medicare and Medicaid Services (CMS). The text is being finalized and will be submitted shortly for CMS approval.
- *Strategies for the Future: Supporting People with Complex Needs --* A one-day symposium will be held on November 5 at the Empire State Plaza in Albany to address the challenges of providing supports to individuals with complex medical and behavioral needs. Presentations, panels and discussion will focus on areas in OPWDD's system transformation, such as self-direction, community housing, employment and meaningful community activities, technology and the workforce. OPWDD's goal is to ensure that the personal outcomes to be achieved by the transformation agenda can be realized by everyone, including those with complex support needs. The conference is open to families, individuals, service providers and policymakers. More details will be forthcoming as the symposium plans are finalized.

Open Discussion

The group discussed several items on the Open Discussion agenda.

- **BIP Contracts Update**

PA Issue: *When will the BIP contracts be signed and funds released?*

OPWDD Update: Kate Marlay announced that recipients should be hearing back soon from OPWDD as contracts wind their way through the process. The Office of the State Comptroller (OSC) is evaluating vendor responsibility questionnaires. PA members requested a list of contracts that have been approved to date.

- **Clinical Services Update**

PA Issue: *What are the rate implications for day hab and IRAs? We need clarification of what can, must and cannot be paid for by residential and day habilitation. How are the costs of non-direct clinical training and consultation services going to be retained in both res hab and day hab?*

OPWDD Update: Kate Marlay explained that there are three phases of issues surrounding clinical services. (1) changes retroactive to July 2014; (2) first series of changes effective 10/1/15; and (3) changes effective 1/1/16. Under (1), providers will be held harmless for the provision of off-site services through January 2016. The first series of changes (2) will become effective on October 1 when providers assume responsibility for nutrition and psychotherapy services under residential habilitation. Nursing services will not be impacted by the 10/1/15 changes. A conference call will be held later today to further discuss the roster of services that fall under this category. Under (3), beginning 1/1/16, Medicaid billing for off-site services will end and HCBS waiver services will no longer include funding for direct therapies. OPWDD is working to “move” these direct therapies into main or clinic satellite locations or into a new State Plan option involving occupational therapy, physical therapy, speech pathology and psychotherapy. Supervised IRA/CR Residential Habilitation and Day habilitation services will be impacted under (3).

The Acting Commissioner asked PA members for ideas on how OPWDD can assist in explaining and simplifying the flow of information to provider agencies on this topic. PA members stated that to date, the information has been released on a piecemeal basis. Article 16 clinics have received more information than day habilitation programs. It was agreed that all information should be presented in one place at one time to improve overall context.

Various issues were raised regarding dedicated space in day habilitation sites. Clarification is needed from CMS on whether space needs to be dedicated 24/7/365. PA members also would like a definitive response on whether different clinics can share space within the same day habilitation site.

- **PHP Outreach to Families**

PA Issue: *We understand that OPWDD will be contacting 20,000 individuals regarding enrolling in PHP. Who will be receiving that letter and what will OPWDD’s message be regarding PHP? What is the rationale for sending this out to such a wide audience and what is OPWDD’s anticipation about the impact this will have on other groups forming managed care entities? What is the rationale for appearing to solicit enrollment in this managed care plan when the state is pursuing development of multiple managed care plans for OPWDD service recipients? Typically, Medicaid managed care plans are prohibited from soliciting enrollees directly and this mailing could amount to just such a solicitation.*

OPWDD Update: Kate Marlay updated the group on how potentially eligible individuals could learn about the Fully Integrated Duals Advantage (FIDA) option through Partner’s

Health Plan (PHP). Enrollment is projected to begin on 1/1/16. PHP will not and cannot directly market the plan. The State (DOH / OPWDD) is required by CMS to let people know of the program's availability. OPWDD will not be direct marketing on behalf of PHP. The plan is that MAXIMUS will be the enrollment broker for PHP in the FIDA rollout. Approximately 20,000 letters will be sent by MAXIMUM to potential enrollees. Enrollment in FIDA is voluntary and can be cancelled at any time. PHP is the first entity that has come online for managed care – OPWDD is not trying to create preferential treatment. All providers who choose to be part of the PHP network will sign basically the same provider agreement with PHP, the content of which mirrors the agreements used in other states as well as with DOH for the current dual demonstrations. Individuals can determine whether to enroll in PHP, as well as their choice of providers – depending on their personal experience and known quality and accessibility attributes. PA members inquired as to whether MAXIMUS will inform OPWDD individuals and families of other managed care options in the future? Can the letter that will be sent out regarding the availability of PHP mention something to this effect? PA members believe that clarification is needed from CMS on this issue.

▪ Coordinated Assessment System (CAS) Status Update

PA Issue: *What is the status of the CAS validation study and its anticipated timeframe for completion? We would like a precise description of the methodology that is being utilized to validate its accuracy. What are the statistical analyses and parameters that have been given to SUNY for this validation?*

OPWDD Update: JoAnn Lamphere, Kate Bishop and Jill Pettinger provided an update on methods that have been used to validate the CAS.

- OPWDD asked university staff members from SUNY Albany and Western Michigan University for guidance in designing a simple validation study of the CAS instrument. This is a basic validity study intended to add to the body of evidence performed by InterRAI on the validity of its ID tool, upon which the CAS is based.
- No parameters were given to SUNY about the research design – they are partners in the design and analysis of the CAS validity study. The only constraints placed on SUNY by OPWDD were the number of people from whom it could collect assessments, given timelines and the number of assessors hired.
- SUNY is comparing responses from the CAS to other instruments (DDP2 and the ICAP). Specifically, SUNY is examining correlations between scores across instruments that measure the following constructs: daily living skills, communication, cognition and behaviors. A random sample of people in OPWDD's service system, who are 18 and older, were chosen and recruited for participation. The research methods are similar to those used by InterRAI for their validation study in the sense that we are looking at correlations between scales on the CAS (which are the same scales on the InterRAI ID tool) to other instruments that have already been demonstrated to measure these constructs well. OPWDD's study is larger than InterRAI's ID study and includes specific subgroups (stratified sample) as compared to InterRAI's study which included people receiving residential services from four provider agencies in Ontario.
- SUNY will also examine the results of the CAS, ICAP and DDP2 for various subpopulations, including: people with various levels of intellectual disabilities; sensory impairments; autism; Prader-Willi Syndrome; individuals with a psychological diagnosis; people who have intense behaviors; people who have intense medical needs; and people with a neurological impairment. Data will also be collected for individuals in various

service settings including: day habilitation, supervised and supported IRAs, ICFs, DCs, pre-voc and SEMP.

- Feedback from the individuals reviewing the design of the study, with expertise in evaluation and measurement, suggested inclusion of a group who are most likely to have fewer needs than those in the other subgroups. The scores for this group can be examined against our other sub-populations to test for whether the scores are in the expected direction – e.g. we expect people with a diagnosis of profound ID to be associated with scores reflecting lower skill compared with those included in the comparison group.
 - All recruitment practices, including processes for obtaining consent, have been reviewed by an Institutional Review Board and deemed appropriate for this study. The study has just undergone its first year review with the board and has been approved for continuation.
 - All data collection activities are expected to conclude at the end of the year with a report to follow. Preliminary information will be shared as available. To date, over 670 assessments have been completed. OPWDD thanked agencies that have helped assessors in the field connect with individuals and families and asked for continued support to get good contact information for those people who have been selected to participate in the study.
 - There will not be a focus on acuity until the CAS has been fully implemented and new business processes are launched.
- Property Thresholds
PA Issue: *When will they be revised to reflect current market conditions for both purchase and rentals? What is the status of rental increase for 2015? Is there any update since last Provider Association meeting?*
OPWDD Update: Kevin Valenchis will discuss in greater detail with PA members, once the revised thresholds are finalized and DOB has had an opportunity to review and comment. He will also regroup with OPWDD staff on apartment rental ceilings; any effort to address would have to be negotiated as part of the budget process rather than accomplished administratively.
 - ICD-10 Coding Implications
PA Issue: *We request a follow up reminder be sent to providers identifying the implications of new ICD-10 coding and what has to be done. Is there a contact person at OPWDD for more information?*
OPWDD Update: OPWDD will send a communication to all providers later today regarding the upcoming transition from ICD-9 to ICD-10. This communication will remind providers that, effective on October 1, 2015, the Centers for Medicare and Medicaid Services (CMS) will implement the newest revision of the International Classification of Diseases (ICD-10). At that time, for services delivered on and after October 1st, all claim submissions to Medicaid will be required to have a valid ICD-10 primary developmental disability (DD) diagnosis code included on the claim format. Specifically, the primary DD diagnosis code of the individual receiving service will need to be identified and included on the claim in order for Medicaid to process payment.
OPWDD has worked diligently with providers to identify the appropriate ICD-10 primary DD diagnosis code for all individuals in the OPWDD service system. This effort will continue over the next several months. This DD diagnosis information has been loaded in the Tracking and Billing System (TABS), and will be made available to OPWDD provider agencies via the

CHOICES application. The communication will inform providers who to contact should they need to troubleshoot any problems as well as provide them with links to helpful tools and resources to assist in the transition to ICD-10.

▪ IRA Room and Board Supplement

PA Issue: Last month it was mentioned that a solution to reimbursing this at 100%, instead of the current 66% level was being reviewed. What is the status of that plan?

OPWDD Update: OPWDD is working with DOH to finalize the assessment of the impact of 7/1/2015 rate methodology updates to the Financial Plan. Staff will need to revisit the concept of budget neutrality throughout the methodology. The overall goal with this issue is to ensure that agencies stop getting reimbursed in excess of cost and allow those funds to be redirected to those operating at a loss.

Update on Residential Request List (RRL)

Emilie Wright stated that RRL calls began on 8/10/15. The Office of Children and Family Services (OCFS) is placing the outgoing calls at its Call Center in Schenectady. It is also receiving incoming calls to complete the RRL survey; the incoming line to call to complete the RRL survey is at 1-844-679-3369. To date, about 3,600 outbound calls had been placed; nearly 50 inbound calls had been received. These calls yielded a total of 902 completed surveys. Surveys are being accepted from anyone who calls in – even if they are not on the RRL list. An informational letter is being sent to individuals and families on the RRL telling them about the initiative and about the call options, including a copy of the survey so they can prepare for the call. OPWDD has also reached out to agencies that provide Medicaid Service Coordination (MSC) services to get updated contact information for individuals on the list and/or their caregivers. It is expected that calls will be completed by late September/early October. Emilie shared a copy of the RRL Caregiver Survey with PA members.

Incident Management Updates

Megan O'Connor updated PA members on overdue investigations and incident reporting policy and procedures.

- Overdue Investigations: OPWDD's Division of Quality Improvement (DQI) continues to send letters to agency executive directors/board presidents. DQI has also enlisted the assistance of PA members in following up with provider agencies. A small number of agencies received an overdue letter with a distribution to the full board in error. These letters are a courtesy, next step is a fine. Some agencies have submitted incomplete or inadequate investigations in Web Submission of Investigation Reports (WSIR). A past due investigation will trigger an overdue letter.
- Incident Reporting Policy & Procedures: It has come to the attention of OPWDD and the Justice Center that some agencies have internal procedures to internally report and triage incidents before calling the state control agencies. This practice is a violation of Part 624 and the Protection of People with Special Needs (PPSNA) Law. DQI will follow up directly with such agencies through the certification process. PA members will be encouraged to work with member agencies to ensure that they do not have any internal procedures that prevent staff from calling the JusticeCenter
- Incident Management and Justice Center Update
Leslie Fuld provided an update on several additional matters involving incident management.
 - Part 624 Regulations: The implementation of new regulations require changes in classifications and IRMA. These revisions it will result in better data impacting quality

improvement. Although the regulations will take effect in September 2015, the change in classifications will be delayed to allow for work on IRMA. DQI expects to implement those changes on 1/1/16. A guidance document will be issued shortly.

- Update on Investigative Reports for Justice Center-led investigations: After much discussion on the workload issues this has created for providers, noticeable improvement has been seen within the past week to two weeks.
- Chapter 394 Implementation: Minimal issues have been reported. The Justice Center putting out some additional guidance. OPWDD providers need to also follow the more specific OPWDD guidance.
- HCBS Settings/Heightened Scrutiny Update
Maryellen Moeser offered an update on HCBS Settings and Heightened Scrutiny.
 - Since the June 26, 2015 CMS requirements came out on heightened scrutiny, OPWDD is in the process of adjusting its strategy and timeline. The revised guidelines require states to name each setting subject to heightened scrutiny by name, location and number of people served for public comment and submission of evidence to CMS.
 - The new preliminary timeline/action plan is as follows with the caveat that the Non-residential Settings Work Group, led by Ceylane Meyers-Ruff, will make its final recommendations on the heightened scrutiny criteria as they apply to day settings by mid-September 2015:
 - **October 2015**: Provider Communication Memo describing how OPWDD will proceed with heightened scrutiny.
 - **Fall 2015**: Provider Self-survey on heightened scrutiny.
 - **October 2015 – September 2016**: DQI, through routine survey activity, will determine which settings are subject to heightened scrutiny. Residential Settings deemed subject to heightened scrutiny will be reviewed for baseline HCBS settings compliance.
 - **October 2016 – Feb. 2017**: DQI will frontload all heightened scrutiny settings for review and collection/verification of evidence prepared by providers.
 - **Summer 2017**: First Public Input Process.
 - **Winter 2017**: First Submission to CMS.
 - The Evidence Package for public input and submission to CMS is expected to include:
 - Survey results from October 2016 and February 2017 reviews.
 - Provider questionnaire based upon exploratory questions/CMS Q&A.
 - Community Integration Template.
 - Work Plan to achieve full compliance by October 2018.
 - OPWDD will cover the Heightened Scrutiny topic during the October 14, 2015 DQI Fall training webinar. DQI will make sure that the technical details for this WebEx are glitch-free. During a previous WebEx, there were technical problems resulting from participants not properly muting their phone lines.

Audit Reports and Recoupment Update

Jim Nellegar and Jessica Lynch updated PA members on recent discussions with the Office of the Medicaid Inspector General (OMIG) regarding collections on OPWDD audit findings.

- OMIG Counsel has advised that their agency should be responsible for recoupment of Medicaid overpayments identified in OPWDD audit findings.
- As such, OMIG will be issuing reports.
 - The cover will bear its logo; the recoupment process will be theirs.
 - OPWDD will circulate the discussion draft to provider agencies.
 - The final draft will be sent by the OMIG.
 - Provider agencies' respective responses will be shared with OPWDD; OPWDD will handle the auditor notes.
 - OMIG will handle appeals.
- Impact on provider agencies:
 - Get out from under the backlog.
 - OPWDD will contact, and work directly with, agencies with pending reports.
 - CFR audits will be summation letters (control recommendations only: will not include rate implications or require a response from the agency).
 - State-funded programs will still come from OPWDD.
- Additional refinements are expected.

ICF Conversion Issues

Abiba Kindo offered a status update on ICF conversion issues. While most ICF conversions to date have gone smoothly, OPWDD is looking at coordination process improvements and overseeing the different efforts of those involved in the conversions: provider agencies, regional offices, MSCs, development staff, fiscal staff, DCPS and DQI. Specific to ICF conversions involving Willowbrook class members, OPWDD staff will be identified who can serve as a contact point for provider agencies and work with provider agencies to ensure all appropriate steps and notifications occur.

Thus far, there have been 29 conversions involving 259 individuals transitioning to waiver services. Another 36 proposals involving 335 individuals are under review. Approximately 1,203 individuals have been targeted for transition by 12/31/15.

OPWDD requested that PA members assist with ensuring that appropriate team members are at the table in finalizing conversions as well as assist with proper notification.

Rate Transformation Update

- People First Community Services Funds
PA Issue: *What are the timeframes for distribution of OPWDD's corrected surplus/deficit analyses? How many organizations applied and what is the amount anticipated to be distributed? Of how many applied, how many will be eligible as a result of OPWDD's determination of surplus/deficit?*
OPWDD Update: The corrected surplus/deficits were distributed to providers on August 14, 2015. Eighty-eight (88) agencies applied for Waiver funds and 39 applied for ICF/IID funds. At this time, OPWDD anticipates that 42 agencies will be eligible for at least one year of funding for Waiver and 30 agencies will be eligible for at least one year of funding for ICF/IID funds. For each of the funds, three applications were rejected. Prior to the issuance of contracts, OPWDD will re-check the status of CFR submissions and 45/60 day letters.

▪ Fiscal Intermediaries

PA Issue: *What are OPWDD’s next steps (and anticipated target dates) for dealing with data submitted by FI’s on their costs?*

OPWDD Update:

	<u>Action</u>
	<u>Completion Date</u>
○ Log all CFR submissions	8/14/15
○ Contact FIs that have not submitted	8/17/15
○ Review CFR submissions for reasonableness	8/21/15
○ Begin fee analysis based on acceptable CFR submissions	8/31/15
○ Present findings to OPWDD executive staff	9/21/15

▪ Respite

PA Issue: *As per Laura Rosenthal’s memo of August 4th, what type of additional information will providers need to submit regarding exceeding the cap during 2015? What is OPWDD’s plan for addressing situations where the overnight cap needs to be exceeded after January 1st?*

OPWDD Update: CMS imposed thresholds in 24-hour respite. The majority of the rates, as calculated by methodology have been loaded and posted by provider agency. At this point, DOH is holding providers harmless; it will not impose thresholds on providers. Regulations will be updated by 1/1/16 to include regional averages and transportation add-ons, thus avoiding caps. DOH will engage PA members when respite rate runs are calculated.

▪ 2015 Rates

PA Issue: *What is the status of finalizing ICF rates as well as status of the July 1, 2015 rates for IRAs and group day habilitation?*

OPWDD Update: DOH is still unable to promulgate the July 1, 2014 ICF/IID rates as State Plan Amendment 14-0033 has not yet been approved by CMS. The July 1, 2015 ICF/IID rates will not be able to be promulgated until the finalization of a State Plan. The most recent plan constructed by DOH identified that the July 1, 2015 rates for IRAs and Group Day Habilitation would be finalized in August 2015. That plan is under revision by DOH due to missing information.

- PA members asked DOH/OPWDD to distribute a list of pre-10/1/15 rate deadlines.
- DOH/OPWDD will send PPA cost verification forms and instructions to PA members in advance of an upcoming webinar (between now and November 2015).

Wrap-up

The next meeting of the Provider Association will be held on Monday, September 21, 2015 @ 10am @ 44 Holland Avenue in Albany.