

MEETING NOTES
OPWDD PROVIDER ASSOCIATION (PA) MEETING
Monday, September 21, 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; Roger Bearden; Abiba Kindo; Kate Marlay; Kevin Valenichis; Sally Berry; Joanne Lamphere; Megan O'Connor; Leslie Fuld; Maryellen Moeser; Jill Pettinger; Dixie Yonkers; Emilie Wright; Christine Muller; Dianne Henk; Neil Mitchell; and Maryann Riviello.

Provider Association (PA) Attendees: Susan Constantino (CP of NYS, Inc.); Michael Seereiter (NYSRA); Ann Hardiman (NYSACRA); John Kemmer (NYSARC); Edie Mesick (UJA Federation); 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); Scott Barkin (for Steve Vernikoff, Advance of Greater NY); Kirk Lewis (for Barbara Wale, Executive Directors Association); and Yvette Watts (NYS Association of Emerging & Multicultural Providers, Inc.).

Commissioner's Welcome and Update (Neil Mitchell)

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:* Updated meeting minutes will be posted on the OPWDD website. Statewide Listening Sessions have begun; the primary focus thus far has been to answer stakeholder questions, particularly related to barriers to employment and system sustainability. Sessions were recently held in New York City and on Long Island; upcoming sessions include: Syracuse (9/24); Rochester (9/24); Buffalo (9/25); Albany (9/29); and Plattsburgh (9/30). All comments (as well as respective responses) raised at the gatherings will be compiled and posted online. Individuals who are unable to attend the sessions in person have been encouraged to submit input and questions *in writing*. There is a possibility that more sessions (possibly via videoconference or a webinar) will be added at a later date.
- *HCBS Waiver 07 Amendments:* CMS approval is imminent on the 07 Amendment following the final submission by OPWDD of the agreed-upon document. Negotiations on the 1915(c) renewal will begin in earnest following the approval of the 07 Amendment. Kate Marlay and Ceylane MeyersRuff will update PA members later in the meeting on the 1915(c) renewal and integrated employment issues, respectively.
- *Strategies for the Future: Supporting People with Complex Needs --* Plans continue for 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. The symposium's focus will be on how to take best practices system wide. A general session will be held around the issue of technology. Dianne Henk will update PA members on specific details later in the agenda.
- *ICF Conversions – Feedback from the Field:* **Dixie Yonkers** reported that the receipt of conversion proposals has slowed considerably. At the monthly Money Follows the Person Leads and ICF Transitions Liaisons call, Regional Office staff relayed concerns shared by ICF providers about ICF conversions, specifically:

- *ICF providers are expressing concern about having an insufficient rate to meet the needs of the residents in IRAs, despite the revenue neutrality policy in place now. They are not moving to convert for this reason.*
- *Some are saying that they are waiting to convert until they see other providers making this same move.*
- *Some have saying they want to convert, but are acquiring rental properties now (this may only pertain to those that want to downsize).*
- *Some have said they are getting renovations done via Prior Property Approvals (PPAs) and must do that before converting because Triple R funding was removed.*
- *Some (even those of 14 or fewer people) want to downsize, but are waiting for support with property costs.*

OPWDD asked PA members if these concerns were consistent with what their provider agencies were reporting. PA members were also asked if they were aware of other concerns preventing conversions from moving forward this year. PA members confirmed that agencies are confused about the fiscal policy that would be used to support ICF conversions. Apparently, they do not understand that the operational costs of the ICFs will be covered. It was agreed that PA members would share the fiscal policy document (that underscores the revenue neutral policy for conversions of ICFs to IRAs) again with their respective provider agencies.

Open Discussion

The group discussed several items on the Open Discussion agenda.

- *Day Habilitation Expansion*
PA Issue: *What is OPWDD's policy about approving additional center-based Day Habilitation capacity when providers receive additional referrals? Are all additional Day Habilitation capacity approvals limited to Day Hab Without Walls? This issue was raised at a recent Transformation Panel meeting.*
OPWDD Response: All additional Day Habilitation capacity approvals will be limited to Day Hab Without Walls. Apparently, this is the message that many providers are being told by Front Door staff. Acting Commissioner Delaney will follow up with OPWDD Regional Directors and Offices for clarity on this issue, particularly as it relates to building occupancy vs. authorized capacity.
- *SEMP Transition: Revenue Shortfall (Ceylane MeyersRuff/Laura Rosenthal)*
PA Issue: *Some providers are reporting an ability to only bill for 30% to 50% of their previous SEMP revenue levels due to the new rate system. What corrective actions are contemplated to address these shortfalls?*
OPWDD Response: During Open Discussion, PA members stated that they wanted OPWDD to understand the negative financial impact of the issue in order to bring it to DOH's attention. Members were worried what they will not be able to recoup funds lost in July and August 2015. The Acting Commissioner stated that OPWDD will provide more clarity as to billable services, so that providers are better able to claim for services rendered.
- *Clinical Services Changes*
PA Issue: *Direct vs. Indirect Clinical Services: how will determinations be made regarding direct vs. indirect clinical services in day habilitation programs starting 1/1/16?*
OPWDD Response: This issue is still under discussion.

PA Issue: *Rates for Preventative Services: When will the rates for preventative services be published?*

OPWDD Response: OPWDD is working on them now. A follow-up meeting is slated for 9/24/15.

PA Issue: *Article 16 Clinics Certificates of Need (CON): What is the status of Article 16 CONs?*

OPWDD Response: A guidance document regarding the information that is needed for the CON application was issued on 9/16/15. The due date for completed CON applications is 10/19/15. This deadline was communicated via e-mail on 9/17/15.

OPWDD will share several related communications with PA members this week. Some of these issues will be addressed during a meeting on 9/24/15.

The Acting Commissioner asked PA members for input and ideas on what OPWDD can do to help providers that are struggling to comply with the looming changes in clinical services. She asked that they respond with any suggestions they might have for easing the transition to the new process; these ideas can then be woven into the Q&A document. Some of these suggestions (i.e., revisiting the CON process) can be communicated to provider agencies during upcoming training sessions.

OPWDD will work to identify the line in the sand with respect to the safety value for increasing authorized units of service (i.e., above 50 units of service). OPWDD will also share draft regulations with PA members when they are available. Roger Bearden will follow up with Seth Stein on the issue of how preventative services can help bridge the gap since Article 16 clinics can no longer be provided in off-site locations.

▪ *START Program Update*

PA Issue: *How is it working in regions where it has been implemented to date?*

OPWDD Response:

Region 1 Update

- As of 7/31/15, there are 149 active cases. Of these, 67 individuals are under 18 years of age. Date of first referral was August 2014.
- The Region 1 clinical team is nearly complete with one remaining coordinator position to be filled.
- Region 1 continues to recruit staff for its “Support Specialist” position that provides in home supports to families.
- Staff continue to work to develop the two Resource Center locations. The four-bed Dansville location is due to open by April 2016. They are also exploring three potential locations for a second Resource Center to serve the western counties of the region.

Region 3 Update

- As of 7/31/15, there are 180 active cases. Of those, 36 individuals are under 18 years of age. Date of first referral was September 2014.
- Currently, each of the three areas is looking to fill one coordinator position. The teams have been moving individuals off the wait list (initially established due to high volume of referrals and continuing to “staff up” the teams) based on acuity and need. Both Capital District and Taconic sub-teams have halved their waitlists (Taconic went from 20 to 10 and Capital went from 17 to 8) in recent weeks.
- There have been recent collaborative meetings with both Saratoga and Glens Falls Hospitals. Several individuals who had a history of psychiatric hospitalizations and/or emergency room (ER) visits prior to becoming NYSTART service recipients

have shown a considerable decline in psychiatric hospital and/or ER usage since becoming NYSTART service recipients.

- There is a property in Kingston (Ulster-Greene ARC) that is still being pursued as a possible Region 3 Resource Center site.

PA members expressed a willingness to help identify potential properties (i.e., former ICFs) for the START Program. OPWDD will send PA members suggested criteria for target properties.

- *Controlled Substances*

PA Issue: *Some regional DOH offices are now requiring OPWDD providers to meet “institutional dispenser” rules for controlled substances. What is OPWDD’s position on this?*

OPWDD Response: This has been a topic that providers raise periodically with OPWDD. As questions come in, OPWDD confers with Counsel’s Office for guidance. NYSACRC recently brought it to OPWDD’s attention and OPWDD’s Director of Nursing and Health Services has met with Counsel’s Office to discuss. A follow-up meeting will be held on 9/25/15. Legal staff with OPWDD and DOH’s Bureau of Narcotic Enforcement will need to work out how an “institution” is defined for purposes of requiring the Class 3A license to dispense controlled substances. Up until this point in time, OPWDD’s position was that if they were told by DOH to have a 3A license, they should follow the process to obtain a license.

Division of Quality Improvement (DQI) Updates

Megan O’Connor updated PA members on several critical issues.

- *Incident Investigations and Justice Center Update*

PA Issue: *Concerns are being raised regarding varying interpretations by Incident Management Unit (IMU) staff on sleeping, texting while driving, talking on cell phones, etc.*

OPWDD Response: Ms. O’Connor stated that it would be helpful if specific concerns with case numbers, etc. could be forwarded to Leslie Fuld for review. Since many of these tend to be gray areas depending on the specific fact of each case, it is important that any concerns are elevated to Ms. Fuld and regional compliance officers. DQI staff is working on a new interpretative guidelines handbook. OPWDD will issue 624 guidance for regulations. In the meantime, it is important that agencies are aware of proposed emergency regulations that will apply until the final regulations take effect.

PA Issue: *IMU, the Justice Center and DQI seem to have differing ideas of the necessary level of review for investigations.*

OPWDD Response: OPWDD is playing a more involved role in reviewing quality of investigations and offering feedback to providers on improving the quality and minimizing back and forth activities with the Justice Center, agencies and OPWDD.

PA Issue: *The growing cost of staff out on leave due to investigations.*

OPWDD Response: Agencies should elevate specific cases of impact/concern to OPWDD IMU Regional Compliance Officers so staff can elevate issues with the Justice Center and take steps, where possible, to expedite. The older cases are often criminal cases. There may be instances where different protections (other than administrative leave) can be implemented pending the outcome of an investigation. Agencies should follow their policies and procedures, but are not required to put staff on administrative leave in all cases.

PA Issue: *Neglect vs. Mistreatment.*

OPWDD Response: The Justice Center makes the determination; OPWDD needs to hear more information from providers on this issue to best address it.

- **HCBS Settings/Heightened Scrutiny Update**
Maryellen Moeser explained that the workgroup has made revisions to the Heightened Scrutiny communication which will now go out in October. Maryann Riviello will share a copy of the revised document with PA members. DQI is beginning the survey for heightened scrutiny triggers on 10/1. DQI staff is also putting together a provider self-survey so providers can self-identify to OPWDD the settings the provider thinks will trigger HS. Between the DQI survey and the provider self-survey, OPWDD should have a complete picture of the scope of HS in the system. Next steps: OPWDD is working on contents for the evidence package which will be shared late 2015/early 2016 so that providers with HS settings can start to develop the evidence package. The first public input session is planned for spring/summer 2017.
- **Reconstituting Membership on the Statewide Committee on Incident Review (SCIR)**
DQI is in the process of reconstituting the SCIR membership. Currently, Bridget Waldron and Kathy Broderick are the only two provider representatives. State Operations representatives are also needed. Ms. O'Connor asked PA members to forward suggested nominees to Deb Whiting by October 5.
- **DQI Provider Training**
Training will be held on October 14 using a WebEx format. Group participation is encouraged as about 500 individuals will have access via personal computers and phone lines. Ninety minutes will be devoted to HCBS and Heightened Scrutiny issues.

Sheltered Workshop Guidance Update

Ceylane Meyers-Ruff updated PA members on the upcoming series of Regional Employment Forums which are a follow-up to OPWDD's 5/8/15 conference on Integrated Employment. All conference attendees as well as workshop providers and families which have provided input will be invited to nine statewide forums in October to solicit additional feedback for sheltered workshops to convert into integrated community businesses. The draft criteria will be sent to invitees prior to the sessions in order to focus and frame the dialogue at the forums. The criteria include two ways that providers can convert their respective workshops into integrated settings that meet HCBS standards and qualify for Medicaid funding. The first option is to hire a workforce that consists of 40% or less of employees who receive OPWDD services. The second option is to employ 41-75% of workers who receive OPWDD services. PA members were encouraged to reach out to their provider agencies to attend the forums. (Note: The draft criteria referenced above was posted on the OPWDD website on 10/2/15.) <http://www.opwdd.ny.gov/workshoptransformationguidance>

Integrative Supported Housing: OPWDD Application Guidelines 2015

JoAnn Lamphere provided details on OPWDD's work with housing developers and provider agencies interested in pursuing funding to expand integrated supportive housing. In order to plan for the development of new projects and obtain timely funding commitments (as a required component of the NYS Office of Housing and Community Renewal's application process), OPWDD has designed a short, simple form for all applicants to complete. Starting this fall, applicants for new integrated supportive housing that may receive funding from OPWDD are asked to submit this application. OPWDD will issue an updated copy of the draft application that was shared with PA members prior to the meeting. OPWDD wants to ensure that projects conform to federal HCBS settings regulations, individual choice and other parameters.

Site Selection Hearing Officers

According to Roger Bearden, there has been an increase in the number of site selection hearings being requested with increased attention paid to these proceedings. The Padavan Law, which regulates the site selection process, provides a very narrow window for the process to be contested on the grounds of over-saturation. Historically, OPWDD has appointed members of its leadership staff to act as hearing officers for site selection hearings. At this time, however, OPWDD plans to retain professional hearing officers to preside over future site selection hearings. The goal is to assure the public of the hearing officer's professional objectivity and independence in the conduct of the hearing.

New Guidance for Providers on Self Direction

OPWDD will forward a copy of this guidance document to PA members.

Staff Contact List for ICF Transitions

Sally Berry called attention to an OPWDD DDRO staff contact list that was included with the meeting agenda circulated to PA members.

Residential Request List (RRL) Update

Emilie Wright and Christine Muller updated PA members on the status of the RRL Survey, designed to provide outreach on current and anticipated unmet needs in future residential settings.

Approximately 11,400 individuals are on the list. At the beginning of the project, OPWDD reached out to 364 agencies that provide MSC services to the persons on the RRL to get updated contact information for the individuals to whom they provide MSC services. (43 agencies provide services to more than 50 individuals listed on the RRL).

As of 9/12/15, 2,400 surveys were completed. Over 11,000 calls had been made. About 1,100 individuals and family members had called into the survey. October 10 is the cutoff date for surveys. PA members were encouraged to reach out to individuals and families and tell them to call 1-844-OPWDD-NY during survey hours (8am to 8pm M-F and 9am to 5pm on Saturday).

Strategies for the Future: Supporting People with Complex Needs

Dianne Henk updated PA members on the 11/5/15 Symposium. Online registration begins on 10/1/15. All program segments will be live streamed. Five breakout sessions will each be held twice – once in the morning and once in the afternoon. Topics include Housing; Innovative Service Delivery; Workforce Transformation; Employment and Meaningful Activities; and Self Direction. Meeting Room 6 at the Empire State Plaza can accommodate approximately 250 participants with another 100 attendees housed in other meeting rooms. For more information, see: http://www.opwdd.ny.gov/news_and_publications/symposium.

Rate Transformation Update

Laura Rosenthal and Donna Cater (DOH) updated PA members on rate transformation.

- *ICF and IRA Rates*

- **PA Issue:** *How and when will the IRA rates be adjusted to accommodate for the 10/1/15 changes?*

- DOH/OPWDD Response: The draft rates are under review and will be released shortly. A follow-up meeting will be held with PA members to provide further clarification.

- *Family Care Rates*

- The draft rates were shared with PA members. They will be finalized as part of the 07 Amendment currently awaiting CMS approval.

- *Supplemental Day Habilitation*

PA Issue: *With the 10/1/15 elimination of this service from family care and supported IRA rates how will day habilitation providers be paid for this service going forward?*

DOH/OPWDD Response: It will be the responsibility of the residential provider to pay for these services as of 10/1/15. OPWDD will set up edits in Medicaid to prevent payment. If the individuals reside in state-operated residences and attend voluntary programs, there will be mechanisms in place to pay providers with state dollars.

- *Respite Provider Payment and Rates*

PA Issue: *Some respite providers report problems with being paid due to new provider IDs not being issued. Many center-based respite programs have concerns about the regional rate approach to their service. When will draft rates be available to analyze how providers will be impacted to avoid a retroactive application of respite rates in 2016?*

DOH/OPWDD Response: OPWDD's Central Operations unit contacted providers in December 2014 to inform them of the pending changes. Medicaid enrollment applications were sent to affected providers. OPWDD monitored the issuance of provider IDs and followed up periodically with each agency that had not been issued one. The applications were submitted directly to DOH which has 90 days to act on them. If there are issues with any components of the application, they can be returned for corrective action. Most of the delays are related to providers not taking timely action. Providers will be able to bill for services when the provider IDs are issued and will be paid for any outstanding services they have delivered.

Action Items

- OPWDD will circulate updated documents on IRA rates, Family Care rates, and acuity adjustments with PA members.
- OPWDD will follow-up with DOH on how to deal with retroactivity in IRA rates and report back to PA members.
- OPWDD will set up a meeting with PA members exclusively devoted to certain rate issues and the best way to communicate with providers, including respite and supplemental day habilitation rates.

Wrap-up

The next meeting of the Provider Association will be held on Monday, October 19, 2015 @ 10am @ 44 Holland Avenue in Albany.