

MEETING NOTES

OPWDD PROVIDER ASSOCIATION (PA) MEETING

Monday, November 16, 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; JoAnn Lamphere; Kate Marlay; Kevin Valenichis; Laura Rosenthal; Sally Berry; Megan O'Connor; Leslie Fuld; Maryellen Moeser; Jill Pettinger; Dianne Henk; Neil Mitchell; Susan Prendergast; and Maryann Riviello.

Provider Association (PA) Attendees: Phil Catchpole (Lifesong, Inc.); Tina Chirico (Financial Managers Association); Susan Constantino (CP of NYS, Inc.); Michael Seereiter (NYSRA); Ann Hardiman (NYSACRA); Rhonda Frederick (DDAWNY); John Kemmer (NYSARC); Ron Little (OPWDD Compass Agencies – by phone); Edie Mesick (UJA Federation); 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); Karen Thayer (Independent Living Centers); Steve Vernikoff (Advance of Greater NY); Barbara Wale (Executive Directors Association – by phone); 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:* The Transformation Panel met most recently on Friday, November 13. Discussion focused on self-direction, employment, housing, managed care as well as the design elements of the service delivery system of the future. Following "Strategies for the Future: Supporting Complex Needs," the recently conducted daylong symposium, the Panel is looking into ways to implement strategies that are working system wide. All Power Point presentations from the symposium are now available on the OPWDD website. Dianne Henk will provide an update on the Symposium later in the meeting. Peter Pierri suggested that OPWDD consider hosting an annual meeting focused on technology.
- *Integrated Employment Forums:* Ten (10) regional employment forums were convened. The comments from the sessions are being compiled and reviewed. The final guidance document will be issued in December. It will be shared with the federal Centers for Medicare and Medicaid Services (CMS) to ensure that these businesses meet HCBS standards. A timeline will be included in the final guidance document for when business plans should be submitted to OPWDD for Central Office and DDRO review.
- *Balancing Incentive Program (BIP) Best Practices:* BIP grantees have recently convened to informally share activities. The idea is to apply what's learned with BIP grants in real time and showcase all BIP grants on OPWDD's website.

Open Discussion

The group discussed several items on the Open Discussion agenda.

- *Nurse Practice Act (NPA) Update*

PA Issue: *What can provider associations do to assist in OPWDD's efforts to extend medication administration to community based services? Also, in a follow-up to previous questions, will providers be reimbursed for their four-day training for each staff as well as the required nurse overnight?*

OPWDD Response: On the implementation side, PA members can assist in OPWDD's efforts to extend medication administration to certain non-certified settings by ensuring that their members are aware of the necessary steps they need to go through to become approved providers of this service (i.e., registered nurses can supervise direct support professionals and delegate certain nursing-related tasks like medication administration). The draft timeline is as follows:

- **October 2015:** Certificate of Need (CON) revisions/process completed.
- **November 2015:** Letter to providers on process and timeline will be sent out.
- **December 2015:** Training for regional offices to be scheduled. Need to set up meeting to discuss venues and logistics.
- **January 2016:** OPWDD's Division of Quality Improvement (DQI) sends CONs to providers. Letter will include expectations of "early indication of request to provide NPA services" so OPWDD can gauge interest. Also training webinars will be held to provide OPWDD expectations to agencies as well as respond to questions.
- **February-March 1, 2016:** Regional Office review of CONs followed by submission to local government units.
- **March 15, 2016:** Final day for 10-day clock for local government unit review.

OPWDD will post ADM 2015-03 and the MOU with the State Education Department (SED), along with other training material, on its website for agency information.

The group discussed potential a potential roadblock that has arisen over SED's interpretation of a phrase in the ADM in which it feels that the terms apply only to individuals who live in non-certified settings while they are out and about in the community, not people who reside in certified settings while they are in the community. Although OPWDD feels this was a drafting error, SED remains firm in its interpretation.

- *Transportation Coordination*

PA Issue: *In New York State's Budget, there was an allocation for coordination of transportation, and we believe OPWDD was designated to be the lead agency on this initiative. What steps are being planned to begin this work and is there a time frame for its completion?*

OPWDD Response: The 2015-16 State Budget required OPWDD to conduct an assessment of the mobility and transportation needs of persons with disabilities and other special populations. It was largely an outgrowth of the recommendations contained in the Olmstead Report which proposed the design of a mobility management system across all disabilities. The assessment was required to include, among other areas of study, considerations regarding the availability of public transportation, and duplication of services; an evaluation as to whether specialized care needs are being met; recommendations for rate adjustments or methodology changes, etc. The goal is to release a report no later than 12/31/16 in consultation with other stakeholders (including other state agencies such as DOT, OMH, DOH, SOFA and OASAS). Ceylane Meyers-Ruff is the main OPWDD contact on this initiative. To comply with this requirement, OPWDD has formulated a project plan,

based on several conversations with a workgroup, to help set forth the scope of the procurement:

- 11/12/15: RFA Release
 - 11/20/15: Letter of Intent Due
 - 11/23/15: Submission of Written Questions
 - 12/8/15: Bidders Conference
 - 12/22/15: Applications Due
 - 1/25/16: Tentative Date for Award Announcement
 - 3/1/16: Anticipated Contract Start Date
 - 12/31/16 Report to the Legislature due from contractor
- *Safe Patient Handling Act (SPHA)*
PA Issue: *Providers are required to create committees by 1/1/16. Is there any further guidance being contemplated by OPWDD regarding this requirement?*
OPWDD Response: As a result of changes in the Mental Hygiene Law, the SPHA will be applicable to all state-operated and voluntary facilities. Many of OPWDD's state-operated facilities have either already established a SPHA Committee or are in the process of finalizing the committee's membership. For those committees already up and running, goals have been set and work has begun, including risk assessments, devising guidelines for training and establishing policies and procedures.

Key dates include:

- 1/1/16: DOH makes best practices and sample policies available to health care facilities.
- 1/1/16: Health care facilities establish SPHA Committees
- 7/1/16: Department of Financial Services (DFS) makes rules establishing requirements for health care facilities to obtain reduced workers compensation rates.
- 1/1/17: Health care facilities establish SPHA Programs
- 12/1/18: DFS completes its evaluation and reports the results to the Legislature.
- 12/1/20: DFS again updates the Legislature.

OPWDD will share a copy of DOH's best practices guidance document with PA members. OPWDD also will prepare a memo to PA members that provides an overview/synopsis of the issue ahead of setting up a conference call to discuss in greater detail. In addition, OPWDD will research applicability issues for target entities.

- *OPWDD Regulations and ADMs*
PA Issue: *There have been several examples recently of potential compliance problems with newly promulgated regulations and/or Administrative Memoranda (ADMs). We would like to discuss how we can work together to prevent these situations in the future.*
OPWDD Response: PA members stated that OPWDD is moving too quickly for them to keep abreast of new and revised regulations, particularly in the areas of person-centered planning (PCP) and supported employment (SEMP). One result is that due to concerns about liability and vulnerability, the number of self-disclosures among NYSARC program has risen significantly in recent months. The draft SEMP ADM is expected to be shared with PA members in early December. The comments from regional employment forums are being compiled. The upcoming 07 amendments will bring a new burst of regulations as will the regulatory framework accompanying new HCBS Settings and PCP rules. Acting Commissioner Delaney suggested that a standing workgroup (outside the regular PA monthly meeting process) be convened to foster communication and provide feedback from

PA members on practical realities involved in the rollout of new/amended regulations and ADMs. OPWDD staff also will discuss specific issues related to draft PCP and SEMP ADMs with PA members.

▪ *Changes in Clinical Services*

PA Issue: *When will rates for preventative services be promulgated so agencies can determine if this is a service they wish to pursue? Last month, we spoke about problems with some satellite clinics getting day habilitation programs interested in leasing space due to required PPA changes. Has there been any decision regarding this matter?*

OPWDD Response: DOH is working on fees; OPWDD staff anticipates that they will be available shortly. There have been several meetings regarding day habilitation property and satellites for Article 16 clinics. A solution has not yet been settled upon other than pushing out the property cost verifications into 2016. OPWDD will keep PA members posted on the matter moving forward. Approximately 40 agencies still have not responded to an OPWDD survey – Kate Marlay will share the list with PA members for outreach purposes with regional offices. Some PA members commented the establishment of a new administrative apparatus for clinical services is a substantial undertaking due to the overhead associated with offering preventative services and the substantive role of a medical director. Since many clinics are currently operating in deficit situations, APG rates must rise to compensate for this shift.

UPDATE: Draft IPSIDD Fees were distributed on December 17, 2015 as part of a package of information regarding provider enrollment.

Symposium Recap: “Strategies for the Future: Supporting Complex Needs”

Dianne Henk updated PA members on the recently held symposium.

- The event was successful in engaging participation and beginning a focused dialogue on the issue of supporting complex needs. Anecdotal feedback thus far has been very positive.
- All sessions can now be viewed at the following link:
<https://totalwebcasting.com/view/?func=RGTR&id=H3SJMGHXAP>
Currently, viewers must create a log in to view the presentations. In the future, the sessions will be posted directly on the OPWDD website where no log in is required.
- Total in person attendance at the symposium was approximately 250 people. Online viewers totaled 985. Servers accessing the symposium included 10 states outside of New York (Illinois, New Jersey, California, Colorado, Connecticut, Massachusetts, Michigan, Pennsylvania, Texas and Virginia).
- Of total viewers: 319 provider agencies; 218 State agency employees; 115 direct support professionals; 81 family members; 22 self-advocates; 230 did not self-identify.
- A workgroup recently met to begin organizing the summary report and topic recommendations with the Westchester Institute for Human Development and Strong Center on Developmental Disabilities (which are compiling the final report). It is anticipated that the report will be submitted to OPWDD by the end of 2015.
- NYSACRA is developing a Learning Institute to be launched in April 2016.
- Participant surveys will be issued. OPWDD will contact participants who submitted a paper survey and requested follow-up information.

HCBS Settings/Heightened Scrutiny Update

Using a Power Point presentation, Maryellen Moeser updated PA members on the status of HCBS Settings and the Heightened Scrutiny process.

- Update of activities to date have primarily focused on residential settings and centered within DQI.
- Funding and staffing continue to be cited as an issue with meeting compliance.

- In addition, the heightened scrutiny timeline is likely to be a major issue from CMS' perspective. During the last statewide call, CMS stated that there should be no billing after the transition period until the heightened scrutiny process is concluded. OPWDD cannot submit heightened scrutiny to CMS until the spring/summer 2017. Key timeline elements include:
 - 12/2015: Provider self-survey on heightened scrutiny.
 - Spring 2016: Evidence templates completed by providers and submitted to OPWDD.
 - 10/1/16-2/2017: heightened scrutiny/HCBS setting review and evidence validation by DQI.
 - Spring 2017: Public input process for heightened scrutiny settings.
- Action items in progress include: provider self-survey on heightened scrutiny; day habilitation work group to reconvene in December with Maryellen Moeser; evidence templates for heightened scrutiny is in progress; OPWDD Counsel's Office occupancy agreement template work is underway.
- Maryann Riviello will share a copy of the Power Point as well as questions on day habilitation contextual information with PA members.

START Update

Kate Bishop used a Power Point presentation to update PA members on the START Program, a statewide crisis prevention and response model, which is focused on ensuring effective treatment and reducing dependency on higher levels of service.

- NY START has two operational pilot teams delivering services in OPWDD's Region 1 and Region 3.
- Early data from the operational teams show a positive impact from the START services with an approximate 25% average reduction in ER use and acute psychiatric inpatient setting utilization for individuals engaged in START services.
- Region 4 is actively engaged in procurement for the START team vendor.
- Formal service analysis and program design is completed for Region 5 and an RFA is planned for early 2016.
- NY START will be implemented in the final region of the state, Region 2, in 2017.

Maryann Riviello will share a copy of the START Power Point with PA members.

Rate Transformation Update

- *Respite Update:* Respite meetings are ongoing, with the most recent meeting held on November 12. Current discussion includes three regional fees including: 1:1; 2:1; and Group, ranging from a low of \$16.74 (Region 4 Group) to a high of \$48.08 (Region 2, 2:1). PA members expressed concern about reimbursement for transportation costs associated with respite service delivery, particularly the nuances among transportation to after school, in-home, center-based (hourly and community-based), and freestanding respite settings.
- *People First Community Services Funds*
PA Issue: *Is there a target date for when these funds will be distributed to the field? Since DOH will soon begin its recoupments of overpayments to ICFs, has there been a resolution to the ICF issue pertaining to this Fund? Have there been any changes to how surplus/loss is calculated?*
OPWDD Response:
 - OPWDD has contacted 50 percent of the providers that had questions regarding their People First Community Service Fund surplus/deficit calculations. This process will be completed prior to Thanksgiving and the process of generating waiver contract letters will begin after Thanksgiving.

- The following changes have been made to the surplus/deficit calculations:
 - The special population (template) cost offset was recalculated to prorate the payment level based on the effective program start date of the individuals eligible for such funding. The IRA special population offset is based on 365 days whereas the Day Habilitation level was adjusted to 215 days of service. Template costs are removed as the People First Community Service Fund calculations are net of special population funding.
 - Prior calculations inadvertently did not incorporate day habilitation units related to OPTS and non—Medicaid payments.
 - The units utilized for revenue in the day habilitation calculation was changed to 2014 paid units (for New York City, the paid units are 7/1/14—12/31/14, annualized). Previously, the calculation utilized units at the higher of 2,014 paid units or the units reported in the 6/30/14 or 12/31/14 Consolidated Fiscal Report (CFR).
- The direction of the ICF/IID People First Community Service Fund is still under review. ICF/IID providers must not plan to utilize monies from the fund as an offset to the imminent ICF/IID rate recoupments.
- *Meeting on IRA Acuity Factor*
PA Issue: *At last week's meeting, DOH promised to distribute its calculation for minimum staffing, which came from data that OPWDD had given to the agency. Can OPWDD share that information with providers?*
OPWDD Response: DOH will review the acuity data to verify DDP information.

Action Items

- Reconvene Rate Transformation Workgroup shortly to weigh various options for recalculating respite rates (i.e., site-based costs, annual cap, transition period for moving to target rate).
- Research any changes CMS has approved for respite rates in other states.
- Review acuity formula and methodology, including review of DDP data.
- Six-page document will be posted to OPA prior to day habilitation rates being posted to eMedNY.
- IRA rates will be posted by the end of next week; operating rates will be posted first, followed by room and board.
- ICF survey results will be shared following a meeting later this week.
- Share copy of Minimum Staffing Excel spreadsheets with PA member.

Wrap-up

The next meeting of the Provider Association will be held on Monday, December 14, 2015 @ 10am @ 44 Holland Avenue in Albany.