



Regulatory Reform/ Home and Community Based Services (HCBS) Transition Plan

Steering Committee Meeting Minutes:

August 7, 2014 9:00-12:00 PM

In Attendance (in-person or via teleconference): Maryellen Moeser, Kate Marlay, Kate Bishop, Lynda Baum-Jakubiak, Alicia Matulewicz, Kelly McGuirk, Cheryl Mugno, Riele Morgiewicz, Barbara VanVechten, Candy Comer, Lourdes Reyes, Anne Swartwout, Nicole Weinstein, Janet Felker, Vicky Shultz, Ronnie Cohn, Ann Hardiman, Michele Juda, Mark Keegan, John Kemmer, Donald Lash, Frank Pennucci, Peter Pierri, Maria Torgalski, Maria Dibble, Clint Perrin, Steve Holmes, Susan Hornbeck, Maggie Riley, Lindsay Fulmer, Halla Washington, Ellen Arocho,

Absent: Chester Finn, Phil Catchpole, Charles Archer, Helene DeSanto, Dan Flanigan, Kris Garcia

I. Welcome and Introductions: Maryellen Moeser, DQI and John Kemmer, NYSARC

RECAP of 7/17/14 Meeting (See PowerPoint slides 3-5):

- The committee accepted the 7/17/14 Meeting Summary with no changes.

GENERAL UPDATE ON WAIVER APPLICATION AND OPPORTUNITY TO PROVIDE FORMAL INPUT IN AUGUST

- It was discussed that the full HCBS Waiver Application along with the HCBS Transition Plan, in Appendix C-2, was published on OPWDD's website. As a result, there will be an additional opportunity for public comment scheduled in August 2014 based upon the complete application.

UPDATE FROM THE PERSON CENTERED PLANNING SUBCOMMITTEE (Anne Swartwout)

- Some committee members would like to change the name of the Rights Modification Documentation Guidance to something more positive. The Subcommittee agreed to revisit this during their next meeting.
- The subcommittee is planning a wrap-up meeting for 8/22 to finalize materials to be reviewed for the larger regulatory reform committee meeting on 8/28/14.

OTHER DISCUSSION POINTS

- There is an OPWDD HCBS Settings Transition Plan Web Page. OPWDD is posting all materials from these meetings under "Stakeholder Meetings". OPWDD continues to accept written public comments/input/feedback at any time, however, all feedback is needed by the end of August 2014 to ensure that it can be integrated into the Draft ADM and Assessment Tool prior to initial implementation in early October 2014.
- The CMS presentation at the Reinventing Quality Conference was discussed. Committee members who attended the Conference remarked that CMS was taking a firm stance on timelines for HCBS Settings Transition. Some committee members expressed concern that safety can be compromised when change happens too fast. Committee members remarked on conversations at the conference with CMS officials on how different NYS is compared to other states in the number of facilities—both residential and day—where services are provided to individuals in the waiver. No other state has the volume and scope of NYS, yet NYS is going to be held to the same transition timeframe.



II. **Draft Video Camera Policy (Cheryl Mugno, OPWDD Counsel's Office)**

- The issue of surveillance cameras in certified residences has been a controversial issue, but the use of cameras may serve a good purpose in specific instances. Examples of when a surveillance camera may be of benefit:
 - For clinical reasons
 - As a deterrent for abuse/neglect
 - To prevent false allegations
 - For communication purposes
 - To determine injuries of unknown origin
- Family members sometimes request the use of a camera for reasons such as the ones stated above. Families are already becoming more comfortable regarding the use of cameras in other (Non-HCBS) residential settings such as ICFs. The use of video cameras is a tool, and can be comforting for the person, for families, and for staff because it is an added layer of protection.
- OPWDD welcomes dialogue on developing a workable and reasonable policy.
- This policy is not to be confused with policies on remote monitoring and "smart" technologies related to the use of assistive devices that can enhance independence.
- Some committee members voiced concern that it is institutional and will be a violation of privacy, but there are provisions in the policy about prohibiting the use of cameras in bathrooms, for example. The use of a camera in a bedroom would only be done with the consent of all of the occupants of the room. This is consistent with the policy CMS issued regarding the use of video cameras in ICFs.
- The policy should acknowledge that this doesn't apply to the use of cameras in vehicles, where there is no expectation of privacy.
- The use of a video camera for a person would be for specific reasons for a limited period of time. It would not be permanent in nature, but rather, it would be routinely reviewed to determine that the individual and family member/advocate still consent to it, and that it is still of benefit for the person.
- OPWDD would greatly benefit from public input on this policy and stakeholder feedback/discussion is greatly appreciated.

III. **Draft HCBS Settings ADM Version 8**

Context:

The HCBS Settings Administrative Memorandum will help set the stage for:

- Implementation of HCBS Settings Assessment Tool;
- Interpretation and Understanding of the HCBS Settings Standards; and
- OPWDD's promulgation of Future Regulations on this topic

Discussion, Input and Feedback:

- There was a lot of content taken out of this draft version (#8). Prior version (#7) that was submitted to CMS in November 2013 was based on draft federal regulations that had not been finalized yet. Now that the regulations are finalized, we may want to include more specific detail in this most recent version.
- The ADM outlines **program** standards, **not billing** standards that comprise fiscal audit standards.
- This ADM will also serve as one document that will explain to individuals and family members individual rights guaranteed by the HCBS Setting regulations.
- The ADM applies to certified residential settings. There is a presumption that a non-certified home setting is already compliant with HCBS Setting requirements.



- ❑ Any HCBS Setting regulations that OPWDD adopts will have to go through a public comment period. Until those regulations are eventually issued by OPWDD, this ADM will serve as guidance to the field in the mean time.
- ❑ Discussion on **Person-Centered Planning** aspect of the ADM:
 - There is a long road ahead of us to fully implement Person-Centered Planning, and skillful training is needed to implement a culture change. PCP training should address topics such as, the importance of having both paid and unpaid support available.
 - OPWDD has begun laying that foundation already. Issues related to Person-Centered Planning and risk have been addressed in the recently issued Strengths and Risk Inventory tool that was developed last year by a previous committee.
 - Effective Person-Centered Planning is critical to implementing these requirements.
 - Good Person-Centered Planning approaches also address topics related to risk for a person as well
- ❑ **Habilitation plan:**
 - It is important that the habilitation plan is person-centered and ensures full access to the community while still providing flexibility to providers in how to document this.
 - ADM and the HCBS Setting Assessment Tool address three aspects:
 - Staff need to receive support and financial resources in effectively operationalizing increased access to the community
 - The habilitation plan reflects what the person truly wants
 - The level of satisfaction that an individual has with their level/degree of access to the community. This means that the person is able to access the community to the degree that they want to.
 - The habilitation plan is critical to implementing person-centered planning approaches in a certified residence.
- ❑ **“Home of choice”** is a major aspect of these regulations. OPWDD will need to see that providers are having that dialogue. What are creative options for providers that can increase their capacity to ensure this? OPWDD should keep this in mind when picking out or developing new houses in the future. There are innovative approaches and ideas available where agencies are finding ways to build local communities around people in systematic ways.
- ❑ **Satisfaction:**
 - Ensuring that individuals make informed choices is a major aspect of these new regulations
 - We need ways to measure satisfaction. Satisfaction can change from day to day.
- ❑ **Size of facility:**
 - CMS has indicated that size of the facility is only one of the determining factors when deciding whether a setting meets HCBS settings requirements. One challenge for leadership to tackle is how larger residences will comply with HCBS setting requirements, as larger homes are likely to have more difficulty in complying.
- ❑ **Role of Direct Support Professionals (DSPs):**
 - It is critical that DSPs receive enough guidance on how to implement and carry out these requirements.
 - The Strengths and Risk Inventory is one tool that allows for careful person-centered planning discussions on topics related to risk and the layering of safety measures. The tool should be referenced in the ADM as one available resource to use.

IV: **Wrap UP and Next Steps** : Maryellen Moeser and John Kemmer

- ❑ There should be a written template for an occupancy agreement to address “Protection/appeals from Eviction” requirement. OPWDD is looking for volunteers to work on this aspect.



- Committee members should submit any feedback or modifications needed on this ADM by the person-centered planning subcommittee meeting scheduled for 8/22/14.
- The assessment tool and guidance will be issued to the committee shortly. Please come prepared for discussion on this by the meeting scheduled for 8/21/14.
- E-mail any comments directly to maryellen.moeser@opwdd.ny.gov