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HCBS Waiver Settings Standards

With regards to the rights of individuals spelled out in the new Home and Community Based Services (HCBS) Waiver Settings Final Rule, if an individual is given a choice and would like to just do nothing during the day, how are residential providers supposed to handle this? These providers are not funded or staffed to be able to support individuals who want to stay home all the time.

The federal rules require that people have freedom to control schedules and activities and that providers support the person to do so. Providers must be flexible to allow people to remain in their home on days when they do want to attend other services, or are not able to do so because of an illness. If a person is not satisfied with their supports, the person, his or her service coordinator and advocates should review the ISP and assess whether alternate services would be preferred. OPWDD is working to promote self-direction, which would give individuals the opportunity and flexibility to pursue possible options that would increase the likelihood they would want to participate in activities in their community. The federal regulations are clear that people need to be fully engaged and at the center of the planning process for home and community based services.

Under the new HCBS Waiver Settings regulations, how is vacancy management going to interface with individual choice when it comes to Individualized Residential Alternatives (IRA) or other certified settings?

As OPWDD goes forward with the multi-year planning process for this transition we will assess our operational policies and practices , including vacancy management in certified residences from the perspective of both individuals looking for residential opportunities and individuals already residing in the residence where a vacancy occurs, to ensure that the rights established in the HCBS Waiver Settings Final Rules are addressed. e

Will the rights of individuals spelled out in the HCBS Waiver Settings rule regarding certified housing, such as access to food at any time of the day (or night) or the ability to have visitors whenever they wish, increase the likelihood of negative events like an individual with diabetes choosing (consciously or not) to dangerously raise their blood sugar levels?

The federal rules are clear that there are circumstances where ‘modifications’ to a person’s rights are necessary for health and safety reasons. The rules further specify that any modifications to these rights must be addressed in the person centered plan, and that the person is fully engaged in the development of the plan. The modifications must be specific, tied to a particular need, time-limited and routinely evaluated to ensure the continued need for the limitation. The service planning process should continually explore options that assist the person to gain the skills needed to have full expression of these rights. We cannot have situations where a limit is placed on a person’s rights without the person being engaged in decision

making, or situations where these restrictions are not addressed in the person centered planning process on an on-going basis with the desired outcome of the person living with optimum independence.

In regards to the housing criteria that an individual must have a lease or legally enforceable agreement, can you please comment on the current problems, especially downstate, with landlords wanting to evict individuals who are not paying/unable to pay rent?

Again, this is one of the many issues OPWDD will address as we implement a transition plan. The concern on the part of the federal government is that the individual has certain rights to their residence which will protect them from the possibility of discharge with no recourse. NYS regulations afford significant rights to due process related to a person's residency in a certified setting. However, a stakeholder group will examine this issue as we re-evaluate the draft Administrative Memorandum that OPWDD published on its website in advance of the federal rules being finalized.

Is there a compliance deadline date for the HCBS Waiver Settings Final Rule?

The rule itself becomes effective on March 17, 2014. OPWDD must submit a transition plan with its HCBS waiver renewal and then the state as a whole has 120 days to develop a statewide plan to comply with the new regulations. We anticipate that New York State's HCBS Transition Plan will be developed during the summer. The federal legislation allows for a multiyear process for implementation with complete compliance likely expected within no more than five years. The rule at its core is really about person-centered planning which touches every element of our service system. OPWDD is thoughtfully developing a plan that will include a period of discovery where we evaluate the opportunities for improved compliance with the new rules. We will work to keep the public informed as we progress.

Balancing Incentives Program

During the VC, it was noted that there are millions of dollars in resources being made available in the coming months looking at ways to encourage self direction if that's what people choose. Please elaborate.

New York State's participation in the Balancing Incentive Program (BIP) will allow the State to build upon current efforts to improve the delivery of long term services and supports and to promote enhanced consumer choice. New York State's participation in the BIP program will also reinforce ongoing efforts to improve access to home and community-based long term care services for those with physical, behavioral health needs and/or intellectual disabilities. The funds available through the BIP grant are being used in a variety of ways to expand self-directed options for the individuals we serve. For example, individuals who are transitioning out of institutional settings will be afforded the opportunity to self-direct services using transition funding available through the grant. For more information on the funding available through the BIP grant and how it is related to New York's effort to expand self-direction, go to <http://www.health.ny.gov/funding/rfa/1402140135/index.htm>.

Employment

How is OPWDD supporting individuals who will be graduating from high school?

OPWDD is committed to increasing the number of individuals we serve who participate in competitive employment in an integrated setting, in the general workforce, where a person earns at least minimum wage. In an effort to increase the number of students who transition from high school to employment, OPWDD regional offices will partner with the State Education Department to educate families and youth about employment options. Youth who reach the age of transition out of school and who apply for OPWDD services will receive information about Pathway to Employment, Supported Employment, ACCES-VR and Commission for the Blind services. Individuals who are unable to receive ACCES-VR or Commission for the Blind services will have the option of receiving OPWDD's Pathway to Employment or Supported Employment services. For more information on OPWDD's efforts to increase employment for the people we serve, please visit

http://www.opwdd.ny.gov/opwdd_services_supports/employment_for_people_with_disabilities.

Self Direction

What is the difference between traditional Community Habilitation (CH) and CH as a self-directed service and how it is delivered by a not-for-profit agency? What is the benefit, if any, of receiving self-directed CH? How would this transition be made?

Traditional CH involves an arrangement with an agency to create a CH plan outlining the individual's goals and desired outcomes and then to provide the services described in the plan. The agency would be responsible for all elements of face-to-face delivery, billing and documentation of the service. Self-directed CH allows for increased flexibility and a wide range of levels of involvement and authority for the individual. For example, the individual can choose to purchase agency supported self-directed CH where the individual would select the staff they want, but the agency determines the staff salary and provides all management and oversight of the service. The individual could also choose to be the "employer of record" which means they would be responsible (and liable) for virtually every aspect of the service. Transition from traditional CH to self-directed CH would be accomplished through reaching out to the CH service provider of the individual's choice.

What is the cap that the Centers for Medicare and Medicaid Services (CMS) and OPWDD agreed upon for Environmental Modifications and Assistive Technologies?

The caps that have been agreed upon and approved by CMS are as follows:

- Environmental Modifications: \$60,000 for a 5 year period per individual
- Assistive Technologies: \$35,000 for a 2 year period per individual

Quality Improvement in Managed Care

What is the expected time frame for DISCOs to integrate the use of the Personal Outcome Measures (POMs)? Will this be ready by the start of DISCO operations or within a specified amount of time after the start of operations?

As part of the contract between OPWDD, DOH and the DISCO entity, it is the expectation that the DISCO will integrate the use of the POMs beginning the date the contract takes effect. Language concerning the mandatory incorporation of the POMs by the contractor (DISCO) into an individual's care management, coordination and continuity is included in the contract. There are requirements laid out in the contract to ensure consistency in the review of these measures across DISCOs in making assessments about the degree to which care coordination and person centered planning are truly supporting an individual's achievement of their valued outcomes. It is also required that the resulting data from these assessments be utilized for the purposes of ensuring continuous quality improvement within the DISCO and its network.

Will there be Balancing Incentive Program (BIP) funding or other grants available for DISCOs to certify the state uses the Personal Outcome Measures (POMs)?

The state is working on grant opportunities that will further the transformation agenda that includes the use of the Council on Quality and Leadership Personal Outcome Measures (POMs) to assess quality of care on an individual level. OPWDD anticipates the release of additional information on the specifics of these grant opportunities in the coming weeks.

When assessing the overall achievement of HCBS Waiver performance measures and the quality of a DISCO's care coordination program and the supports and services delivered by its network providers, what percentage of individuals in the DISCO will be selected? Is there a standard ratio out of the total number of people enrolled in a DISCO and the percentage that would be reviewed?

As part of the DISCO contract, OPWDD will be required to collect data on many different HCBS Waiver assurance components. While no exact standard sample ratios will be included in the contract, the very nature of these components dictates variations in data sources and sampling approaches (100% review versus less than 100%, but representative sample) to collect and measure data. The frequency of data collection, the entity within OPWDD responsible for this data collection and the responsibilities of the DISCO or network provider in the data collection process will also vary for different performance measures.

Will there be any guidance from OPWDD regarding standards for non-certified settings in the areas of fire safety (environmental and evacuation), documentation, nursing supports or audits and expectations of providers?

The expectations in the areas mentioned will not change with OPWDD's transition from a fee for service (FFS) system to managed care.

Transformation

The ICF Transition Plan shows a target goal of 456 or less individuals remaining in voluntary ICFs by October 1, 2018. Will these 456 ICF opportunities remain or will there be further transitions?

The 456 voluntary ICF opportunities that are expected to remain on October 1, 2018 are the Children's Residential Program (CRP) opportunities.

Continuum of Service Options

It was mentioned that OPWDD is investing in 24 hour services, just not in bricks and mortar. Does that mean that if an individual needs 24 hour support (even if living with aging parents) it may be provided?

Determining the appropriate services for an individual is part of the person-centered planning process which includes the individual and his or her circle of supports. OPWDD is committed to ensuring that all individuals have access to the services they need while offering the flexibility to revise the individual's service plan as their circumstances and those of the people who support them change. OPWDD is working with its stakeholders to establish this kind of residential supports menu that will accommodate the many different levels of need within the service population and provide greater community integration. OPWDD will, at the same time, evaluate the need for additional development, taking into account the needs of individuals on the registration list, the available resources within OPWDD's current housing stock, and our ability to develop additional, flexible supports.

During the VC it was mentioned that an individual/family member has the option to select from "several setting options." What does this mean how will individual choice be addressed related to this?

CMS has outlined in the HCBS Waiver Settings Final Rule that the expectation going forward is a person-centered planning approach which already aligned with OPWDD's current expectations. From that perspective, an individual and their family should have the right to select where they want to live. Options could include provider-operated OPWDD-certified residences such as Individualized Residential Alternatives (IRA), Family Care, purchasing a house or apartment of their own, renting a residential unit alone or with others, etc.

Miscellaneous

Can an individual or their family see a specific template as to what funding they will receive based on the individual's DDP2 assessment? Based on the DDP2 is this a flexible funding allocation that will follow and support the person centered plans moving ahead?

The Developmental Disabilities Profile (DDP2) may be used to provide an accurate and thorough description of the skills and challenges of a person with developmental disabilities that are related to their service needs; however; it does not determine a specific funding allocation for use in the person centered planning process. For specific information about the DDP2 can be found at <http://www.opwdd.ny.gov/node/1662>.