

# OPWDD/Provider Association Partnership

## Monthly Meeting – December 20, 2010

### Meeting Notes

OMRDD Attendees: Max Chmura; Jim Moran; Jay Kiyonaga; Jim Whitehead; Jill Gentile; Sheila McBain; Ceylane MeyersRuff; Joanne Howard; Henry Hamelin; Carol Metevia; Suzanne Sennett; Bob Vasko; Jenny Haneman; Joanne Howard; Barbara Brundage; Deb Franchini; Kerry Delaney; Anne Swartwout; and topic-specific staff

Provider Association Attendees: Jan Abelseth (COMPASS Agencies); Sue Constantino (CP Association of NYS); Mark Foley (DDAWNY); Pat Dowse (NYS Rehabilitation Association); Ann Hardiman (NYSACRA); John Kemmer (NYSARC); Gary Milford (Learning Disabilities Assoc.); Peter Pierri (Inter Agency Council); Gary Siegel (Catholic Charities); Seth Stein (Long Island Alliance); Barbara Wale (EDA NYSARC); Yvette Watts (NY Assoc. of Emerging & Multicultural Providers, Inc.); Jeff Wise (NYS Rehabilitation Association)

### Welcome/General Remarks

- *Transition Activity* – Governor Elect Cuomo visited Sunmount DDSO. After a brief meeting with Acting Commissioner Chmura, he took a tour of the facility where staff described how OPWDD operates and he got meet with individuals who reside on the campus.
- *Budget* – OPWDD continues to work on the budget and meetings with DOB have taken place; DOB has also been meeting with the Transition Team. The budget is expected to be released no later than February 1, 2011 and is likely to include reductions beyond what have occurred in the past two years. As part of the discussions with DOB, OPWDD is seeking to have flexibility in implementing the Budget actions required while still achieving all required savings.
- *1115 Waiver*– OPWDD has been working with the DOH, DOB and the Transition Team on several documents connected to the potential submission of an 1115 Medicaid Waiver concept paper to CMS. In addition, OPWDD has responded to CMS on its inquiry on OPWDD’s current rate methodology for institutional settings.
- *Fiscal Viability*- Concern was expressed about our providers maintaining fiscal viability. Acting Commissioner Chmura has discussed with several CEOs of

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voluntary agencies what fiscal viability means to them. A workgroup will be created to examine this issue.

- *Fire Safety*- OPWDD recently received CQC's report on the Well's Fire. OPWDD is in the process of drafting a response to CQC. Early next year, the Panel of Experts will be brought back to review the changes made or proposed to OPWDD's fire safety protocols.
- *Day Service needs of the Medically Frail and Elderly* – On the recently released memo, concern was raised about certifying IRAs as day habilitation sites. It was decided that the memo would be reissued clarifying the rule on day habilitation services being provided in an IRA.

### Property Streamlining (Provider sub-committee) recommendations

- *Streamlining of Supportive Apartment Leases* – Currently Supportive IRA apartment leases are reviewed individually both at inception and at renewal (fair market rent studies and PPA's). The recommendation from the subcommittee is that all existing Supportive IRA leases will be added to the property base in the rate. A growth factor index will be used annually as opposed to a PPA. New Supportive IRA leases are recommended to be handled the same way as they are now, but then will be added to the base after the first rate year. This streamlining initiative is proposed to take effect 7/1/11 for New York City and 1/1/12 for the rest of the state. Implementation will require a regulation change. The process for passing through other property costs such as fees associated with condos is outside of this process. This change would be reviewed in five years to see if it is working effectively for OPWDD and agencies. The subcommittee will continue to meet and see what other items regarding property can be streamlined.

### Waiver Surplus Deficit Calculation and Appeal/Price Adjustment Vacancy Limitation)

- *Appeal/Price Adjustment Vacancy*- Rate and Price adjustments will not be available to ICF/DD and IRA's for any vacancy that is beyond 90 consecutive days for each occurrence. This change will take effect on 1/1/11 for upstate and 7/1/11 for New York City. Concerns were raised about being able to resolve issues that are beyond the provider's control within 90 days. OPWDD committed to looking at how these issues can be addressed.

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- *Waiver Surplus Deficit Calculation*- Agencies that request price adjustments have a surplus/deficit calculation performed on that specific service. In addition, effective 1/1/11 for “Rest of State” and 7/1/11 for NYC, agencies will now have a surplus/deficit calculation performed on its entire waiver program. Agencies will be allowed to retain 10% of the surplus in its waiver program and rate setting will take into account the day habilitation and residential habilitation efficiencies. SEMP will not be included in the waiver wide surplus/deficit calculation. Concerns were raised about the value of a percentage of a surplus as opposed to using a percentage of total waiver service revenue; and including pre-vocational service funding in the calculation. OPWDD agreed to review these concerns and will respond in January.

#### OIG Audit (Phases I &II and Assistive Technology)

- The DHHS-OIG has provided a preliminary verbal report for Phase 1 (NYC) HCBS Waiver Audit. OPWDD and the Provider Associations are working with the providers with claim errors to determine whether alternate documentation may be available to support the claims. However, there is no assurance that this alternate documentation will be accepted. Two areas of concern for OPWDD are the requirement of MSC’s qualifications and QMRP involvement in residential services has been interpreted differently by the OIG than what was OPWDD’s intent in the 2004 Waiver Agreement. For Phase 2 (Upstate) of the Waiver Audit, conference calls were held with the 74 agencies and 10 DDSOs that have been selected for audit. It is not known when the audit will start, but some DDSOs and agencies have been notified that they will be receiving an official letter very soon. The separate Assistive Technology Audit’s initial sample has been expanded by HHS/OIG to include a larger statewide sample of e-mods that have been done. OIG will be going to the DDSO for cross documentation and will be scheduling on-site visits for selected e-mods and adaptive techs.

#### Updates

- *QM Survey Pilot* – The draft protocol for the Central Regulatory Review was sent out. Piloting started December 10 and the first phase will end in the beginning of January and any changes to the survey protocol will be made by the end of January. A full scale pilot that includes all agencies will occur for six months

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after that point. Other phases that will begin later include staffing and physical plant safety. Targeted reviews will start in March and it is hoped that all aspects of the revised survey process will start in April. The universal protocol is being revised to remove items that are occurring during the central regulatory review.

- *624 Handbook* –To establish more consistency across the state on how incidents are handled, the revised 624 Handbook was re-released and an Administrative Memorandum (ADM) will be issued to make the Handbook a policy document. Provider Associations should speak with their agencies on any issues or concerns about the Handbook before the ADM is released. A workgroup including stakeholders will be established to examine Part 624 Regulations for possible reform opportunities.
- *MSC Enrollment* –Guidance is being developed for the field to use to assess an individual’s need for ongoing and comprehensive service coordination. The document would be used for initial enrollment and ongoing periodic reassessment.
- *Plan of Care Support Services (PCSS)* – OPWDD is looking at making changes to PCSS to increase flexibility of this service.
- *Incident Report and Management Application (IRMA)* – Ninety-one agencies responded to a query that asked them to identify how incidents are being tracked: 15 agencies use a vendor system, 15 agencies use IRMA, 21 agencies use their own developed system, 40 agencies do not have a system, and 3 agencies did not respond yet. It is OPWDD’s intent that all providers will eventually be required to use IRMA. OPWDD is working on electronic interfaces for those agencies that currently use a vendor or their own developed system. It is expected that this interface will be available to providers by the spring of 2011.

### Wrap Up

- The next meeting of the Provider Association will be Monday, 1/24/2011.