



## Transformation Panel Meeting Summary

MEETING TITLE: Transformation Panel: Self-Direction  
DATE/TIME: March 10, 2015

### Attendees:

#### Panel Members (All Present):

- Kerry A. Delaney, Chairperson  
Acting Commissioner, Office for People With Developmental Disabilities
- Charles A. Archer Evelyn Douglin Center for Serving People In Need, Inc. (EDC-SPIN)
- Gerald Archibald, The Bonadio Group
- Nick Cappoletti, Developmental Disabilities Advisory Council Chairperson, Parent
- Donna Colonna, Services for the Underserved
- Susan Constantino, Cerebral Palsy Associations of New York State
- Barbara DeLong, Parent (via video conference)
- Stephen E. Freeman, Freeman and Abelson Consulting
- Ann Hardiman, New York State Association of Community and Residential Agencies  
(via conference call)
- Steve Holmes, Self-Advocacy Association of New York State, Inc.
- Steven Kroll, NYSARC
- Clint Perrin, Self-Advocate
- Peter Pierri, Interagency Council of Developmental Disabilities Agencies
- Michael Seereiter, New York State Rehabilitation Association
- Seth Stein, Moritt, Hock & Hamroff (via conference call)
- Arthur Webb
  
- Sheila Carey, Developmental Disabilities Planning Council
- Robin Hickey, Developmental Disabilities Planning Council

#### OPWDD Staff

- Neil Mitchell, Special Assistant to the Commissioner
- Diane Woodward, Statewide Assessment Coordinator
- Kate Bishop, Director of Health and Community Supports
- Carlene Coons, Developmental Disabilities Program Development Specialist 4
- Helen DeSanto, Deputy Commissioner, Division of Service Delivery
- Don Moffitt, Associate Budgeting Analyst
- Jennifer O'Sullivan, Director of Communications
- Anne Swarthout, Medicaid Service Coordination Statewide Coordinator

#### KPMG Staff

- John Druke
- Andrea Cohen

- **WELCOME AND OVERVIEW OF THE MEETING: ACTING COMMISSIONER DELANEY**
  - Welcome and thank you for joining us today
  - With regards to the process related to recommendations: Once we have developed our draft recommendations there will be a public process for comment. We will update and finalize the recommendations and then present them to Deputy Secretary Courtney Burke before the implementation plan is developed.
  - OPWDD is working on a list of the “givens” for the Panel to review
  - We have started with Self-Direction because we want it to be a meaningful option for as many who want to take part. We want to be able to answer the question: How can we ensure that self-direction is a viable and desired option for many people in our system?
  
- **THE FOLLOWING NOTES PROVIDE A SUMMARY OF THE DISCUSSION THAT TOOK PLACE DURING THE POWER POINT PRESENTATION BY OPWDD**
  - Overview of Self-Direction in New York/Recent Changes in Self-Direction
    - We have set goals to ensure people have an understanding of Self-Direction as a viable option in the system, and to make sure we are compliant with the requirements set out by CMS
    - We want to make sure we understand the implications of recent changes to self-direction to individuals, families, providers, and others
    - We have heard anecdotal feedback from self-advocate groups, parents, and others that individuals who utilize self-direction are happy with the option and see positive change in terms of flexibility compared to services which are not self-directed
    - Self-Direction started with self-advocates that wanted to receive services in a different way
    - Members of the panel expressed their excitement to see a renewed focus on Self-Direction
    - CMS determined that OPWDD’s old self-direction program (Consolidated Supports and Services or CSS) was non-compliant because it was designed as its own service, not to deliver other services.
    - Work is being done to streamline Self-Direction and reduce the timelines from planning to implementation, to help more people use Self-Direction in a realistic and timely way
    - Self-Direction is not a service, but rather a way for individuals to access the supports and services they need, and to work with providers to create a supportive infrastructure to empower individuals to engage with the support system
    - Self-Direction supports a person-centered approach. It is focused on an individual person and the best way for him or her to engage in a life of their choosing, with the supports and services they need
  
  - There are two Self-Direction options: Agency Supported Self-Direction and Self-Direction using Budget Authority
  - Agency Supported Self-Direction:
    - Person uses employer authority: an individual maintains the authority to hire staff, supervise work, set hours, and develop agreements with the employee. This lets the individual define the supports in manner that best suits them
    - Agency receives payment for the delivery of the administrative and clinical elements of delivering the services (e.g. Staff background check, compliance with labor laws and regulations, contract compliance, etc.)
    - The panel discussed workforce challenges encountered and the impact that may have on an individuals’ ability to hire staff and determine performance
  - Budget Authority:
    - The Personal Resource Account (PRA) amount is currently established using the Developmental Disabilities Profile (DDP-2) as an evaluation of need

- There are a range of payments established based on need, and depend on whether an individual receives residential services, day services, or both
- Consolidated Supports and Services (CSS): The old self-direction model
  - Under the old model the CSS price was based on:  
Self-hired staff + purchased services + contractors / vendors + state paid services / housing subsidies + 17.5% Administrative fee
  - The CSS price was individually loaded into the rate system for billing.
  - CMS required a number of changes with an effective conversion date for all CSS plans of 10/1/14
- What Remains the Same and Additional Benefits: Employer Authority
  - The panel noted there is a tension in the system related to training. What training is now required? And what is built into the costs? It was discussed that under employer authority there are still training requirements and that these are considered as indirect costs. They cannot be billed for directly, but they should be built into the plan
  - Under the new model, if the individual is present during training, staff will be paid for training; however, the cost for e.g. class based training where the individual is not present must be built into the plan
  - The panel noted the benefits of using an FI include help with liability, Office of the Medicaid Inspector General (OMIG) requirements, workers comp, and other forms of insurance, etc
  - An individual can access more hours of community habilitation by self-directing because they can reinvest funds otherwise used for administrative costs into services
  - In addition to employer elements, the individual is also able to, within limits, set the rate of pay for self-hired staff. The panel noted that this is a tremendous benefit as you can attract people who are the right fit, increase longevity, focus on areas that are important to you, and pay them accordingly
  - This reinforces good matches, longevity, strong relationships and can also help get more hours for the level of support based upon the wage set
- What Remains the Same and Additional Benefits: Budget Authority
  - Under the budget authority model you can work with agency support and use self-direction. For example, you can purchase 10 hours a week of agency supported community habilitation and use the remaining funding for self-hired support. This results in economies of scale – but it does require more work and coordination
  - The panel discussed the context of both labor laws and union employment
  - It was noted that for all self-directed plans it is still necessary to develop a back-up plan and safeguards. There is no one solution for everyone, these plans need to be developed from a person centered perspective
- Self-Directed Services align with HCBS Services
  - If we think of new services, we have to think of self-direction from the onset
  - In the CSS model one challenge was the approval process for developing plans, setting and implementing, and determining the price. There was a lot of inconsistency around these categories. It required regional level approval, central office approval, etc. One benefit to having all the IDGS services spelled out in one service category is that it eliminates grey areas, provides clear definitions, and streamlines the approval process
- Discussion of Fiscal Intermediary Model and Rates
  - The panel noted that with regard to the rates and models of Self-Direction we need to make sure it is an easy model to understand. Providers know and understand the community habilitation model, but this does not encompass all of the structures needed to support Self-Direction
  - With the new model, people can have a plan approved and implemented in (estimated) three months (reduced from 2 years). The process has improved
  - The panel noted that New York State has much higher levels for IDGS than other states (we have \$32,000 cap for IDGS services, and some elements can go as high as the cap, i.e., transportation)

- Success breeds success! The panel discussed the importance of sharing success stories in the community
- FI Fees and PRA Amounts:
  - The State has to move away from a fixed percentage for administrative support, CMS requires administrative fees to be based on cost of administration
  - OPWDD looked at 2012 CFR data to calculate average program costs and agency administration fees, and other comparable monthly services to help identify and calculate the cost
  - There are three proposed levels of FI fees:
    - Level 1: FI has minimal involvement
    - Level 2: An individual takes on the responsibility to become the employer of record
    - Level 3: Most people are using this level, it utilizes a full FI model, with self-hired staff. It has the greatest scope and comprehensiveness
  - The panel noted the need to consider ways to scale FI fees as people get older and how we address change in needs
  - OPWDD noted that they will continue to collect and review data to evaluate the FI service cost
  - There has been some anecdotal feedback from FI's that the cost does not capture all activities, for example some clinical services related to respite, and some administrative costs. The panel noted this is of concern as it might deter providers from embracing a self-directed model
  - Using an average cost of services might not capture the costs for more complex needs. There is a spectrum of needs and it is important to identify the scale of costs.
- Open Discussion
  - The panel noted the need for education and awareness around self-direction, for example clarifying questions related to overnight support, housing subsidies, etc.
  - There is no cookie cutter approach to providing services, and a person centered approach needs to be simple and flexible to respond to individual needs. Going forward, the panel will bring a Self-Direction lens to the other sessions
  - During this transition it is important not to lose the continuity of care.. OPWDD has tried to fold costs related to the transition into the plans to help address this
  - It is important we find a way to simplify the process for individuals, families, and providers
  - There is a potential need for a pool of qualified support brokers to help navigate the system and make sure the transition is successful.
  - The panel raised the question of how the new model will work when people want to live together and share services. OPWDD noted that community habilitation costs can be shared by multiple individuals. In addition, services can then be augmented through Self-Direction
  - Under CSS, if a person did not spend all of their funding there was an option to pool it for an emergency or contingency fund. Access to a contingency or emergency fund is important and should be considered, as opposed to a full reassessment of need if a person exceeds their PRA; it was noted this is no longer available, however the use of remaining budget funds can address this need
  - The panel discussed the importance of helping families answer the question: "What happens when I die?" How do we provide services that are formalized and secure to support people in the long term?
  - There are social, economic and cultural structures and sensitivities that we need to be aware of; these impact the development of a Self-Directed plan
  - We need to communicate with families and in communities in a way that is accessible and easy to understand. Who is going to deliver this message? There

has been some success using peer-to-peer groups, for example in parent support groups.

- We must be mindful of regulation changes' impact on Medicaid compliance. We need to make sure there is no fraud and abuse in the system and that people understand how to remain compliant
- Let's consider how other States are handling the challenges we've identified.

- **OVER THE COURSE OF DISCUSSION THE PANEL IDENTIFIED A NUMBER OF AREAS THAT CAN BE IMPROVED:**

- **Communication, Awareness, and Education:** Communication, awareness, and education are required to help make this model work. Let's look at who is sharing the message. We need to make sure messages are delivered in a way that is accessible to people. We need to share success stories and make sure people are comfortable with implementing Self-Direction
- **Developing standardized job classifications:** Job descriptions and labor laws are very complex. There is an opportunity for some standardization across the system. There is a need for guidance around these classifications, labor laws, working with unions, etc.
- **Reporting Requirements:** Requirements for documentation and reporting for individuals who have Employer Authority, FI, and provider agencies need to be well documented in easily understandable language. There is confusion about who is required to document care, the level of detail, timelines, and billing, etc., and in what circumstances. This results in providers defaulting to more onerous documentation requirements, or, defaulting to alternative modes of care. If the documentation burden were reduced, more would use Self-Direction.
- **Get It Right:** We need to create one smooth program for accessing services and engage CMS early to make sure we meet their requirements. This is a long journey and may take 2-3 years to fully implement. We need to get it right!
- **Flexibility:** The program needs to be standardized but flexible. This will help make sure it is easy to understand and still meeting the unique needs of each individual
- **Pool of Brokers:** There is an opportunity to train a group of people to help individual and families implement Self-Direction during the transition.
- **Providers:** We need to identify the steps required to protect providers so they are comfortable supporting Self-Direction; risk appears to be a barrier to change – what happens if the transition to Self-Direction doesn't work? Can we identify a way to flexibly and quickly respond? Can we build this into the Self-Direction methodology?
- **Training:** All training plans, requirements, and budgets under Self-Direction should be clarified and communicated; it would be helpful to understand why people who have been trained to implement Self-Direction have chosen not to. This will help us understand where we need to make improvements and what may not be working well.
- **Emergency Funds:** The potential for contingency or emergency funds that can quickly be accessed should be explored
- **Feedback:** An ongoing feedback loop should be considered. It would be helpful to formally document satisfaction and success in the system and be able to identify areas for improvement
- **Data:** We should consider improvements in data analysis such as seeking relationships between the number of people trained and the use of Self-Direction to help us better understand the root causes of success and inhibitors of progress
- **New Programs:** Whenever new services are developed, Self-Direction should be proactively built into the design of the new services.