



OPWDD's Early Alert Committee

The Early Alert committee has been in existence since 1998. Its membership is multi-divisional within OPWDD and brings together members of the OPWDD Leadership Team and senior managers who have a wealth of knowledge and offer varying points of view.

The purpose of the committee is for OPWDD to be proactive in assessing and monitoring the quality of services, especially health and safety and the fiscal health of the not-for-profit agencies that provide supports and services to people with developmental disabilities. At each meeting there is a focus on specific agencies who have had repeated certification deficiencies impacting the quality of care or have significant fiscal concerns that threatens its fiscal viability.

Permanent Members of the Early Alert Committee:

The following are permanent members of the committee:

- Deputy Commissioner for Quality Management (Chair)
- Deputy Commissioner for Service Delivery
- Regional Associate Commissioners for Service Delivery
- Counsel's representative
- Regional Directors from the Bureau of Program Certification (BPC)
- Director of Compliance Management
- Director of Incident Management
- Director of Rate Setting
- Director of Central Operations
- Directors of the respective DDSOs whose agencies will be discussed at the meeting.

In addition, a staff member from the Technical Assistance Unit and a staff designated by the committee to maintain the minutes of the meeting, will also be in attendance. Area Directors from the Bureau of Program Certification and Compliance Management (BCM) will be asked to participate on an as needed basis.

Early Alert Committee Meetings:

An Early Alert meeting takes place at least monthly but has emergency meetings as necessary. The meeting is chaired by the Deputy Commissioner, Division of Quality Management or by a designee.

Early Alert Notification to Not-For-Profit Agency

The Deputy Commissioner of Quality Management will notify in writing any agency that has been added to or removed from OPWDD's Early Alert list. The notice will include the rationale for OPWDD's decision (see attached sample letter). Having Early Alert status does not affect the current certification or funding of an agency or its programs. In addition, while an agency is on Early Alert status OPWDD will not consider any requests for expansion of services and may suspend any expansion that is in progress.



Early Alert Trigger Points

The following are the most common reasons why a not-for-profit agency is discussed at Early Alert and as a result may be placed on the “Early Alert list” for monitoring, remedial action or an adverse action. In addition, OPWDD may conduct an analysis to see if there were grouping of deficiencies – that while potentially – not serious in themselves – when they are seen in aggregate – or in close sequence – seem to indicate warning signs.

1. Program Deficiencies:

- A failure to report, investigate or provide needed consumer protections in situations that warrant reporting as allegations of abuse or neglect
- Numerous allegations of abuse, neglect, significant injuries of unknown origin or unexpected deaths among program participants
- Repeated and significant lack of regulatory compliance resulting in 45 or 60 day letters, especially in the areas related to consumer health and safety
- Repeated failure to implement Plans of Corrective action, especially in the areas related to consumer health and safety
- Systemic ongoing deficiencies in critical operational areas such as nursing, health care, medication administration, incident reporting, fire safety, etc.
- Chronic staffing issues including high staff turnover, frequent use of temporary or per diem staff, failure to replace needed clinical staff in a timely manner
- Numerous complaints from program participants, parents or advocates
- Patterns of complaints from agency staff, particularly alleging lack of incident reporting, lack of administrative support such as food, supplies or utilities, chronic staffing issues

2. Fiscal Deficiencies:

- Receipt of Medicaid payment suspension letter from the Medicaid Fraud Control Unit (MFCU) of the Attorney General’s office
- Poor financial position as represented by key ratios, (Current ratio, Quick ratio, Days Cash) and significant negative working capital resulting in foreseeable fiscal crisis
- Inability to meet payroll or pay payroll tax withholdings
- Agency staff reporting bounced checks, especially payroll checks
- Tax delinquencies resulting in receipt of notice of liens
- Outstanding liabilities as the result of an audit
- Chronic failure to submit fiscal reports such as Consolidated Fiscal Report and financial statements
- Diversion of funds to other entities
- Loan of agency funds to members of the Board of Directors (BOD), agency employees or other entities
- Serious lapse of fiscal record keeping resulting in OPWDD’s inability to measure the Agency’s fiscal condition
- Breakdown of internal controls as identified by a review or audit, leading to misuse of agency funds



- Lack of certified financial statements
- Lack of CFR

3. Governance Deficiencies:

- There is no evidence of regular board meetings in accordance with the agency's By-Laws
- There is no evidence(written minutes of the board meetings) to indicate that issues such as incidents, health and safety violations, major physical plant issues, the Agency's Budget and any fiscal concerns are discussed routinely at board meetings
- No evidence of BOD discussion of audit findings from external agencies
- BOD lack of oversight of agency personnel including Executive staff
- Lack of awareness on the part of the BOD regarding the fiscal or programmatic issues facing the agency
- Lack of BOD participation in the policy setting activities of the agency
- Lack of independence and objectivity between the BOD and the Executive Director, leading to poor decisions/actions by the Executive Director and the Executive Director not being held responsible for the outcomes
- Self-dealing between BOD members and the agency

Potential Course of Action by the Early Alert Committee:

1. Monitoring

- The Early Alert committee may decide that an agency must be monitored for a period of time.

2. Remedial Actions

- Remedial actions may be required by the Early Alert committee based on a variety of factors including the size of the agency, the extent of the problems identified and the agency's past history as an OPWDD provider.
- Remedial actions would include meeting with agency Executive staff and/or the BOD to discuss the circumstances in which the agency finds itself. At this juncture OPWDD may require the agency to develop and implement a management plan that has been reviewed and approved by OPWDD staff, to address governance, fiscal or programmatic issues. OPWDD may require the agency BOD to report to OPWDD regularly on the implementation of the plan
- DQM may prescribe a directed Plan of Corrective Action and require the agency to engage in certain prescribed remedial activities such as hiring a QA consultant. During this time DQM/BPC will be conducting enhanced monitoring of agency sites to ensure that there is no deterioration in services. Significant deterioration may result in immediate consideration of an adverse action including change of Auspice.
- Requiring training of the Board



- Requiring technical assistance which if available could be provided by OPWDD or others including a Provider Association.
- Review of the agency's accounts receivable to determine if they are maximizing cash flow
- Fast-tracking any outstanding rate appeals/price adjustments to increase the amount of resources available to the agency, if appropriate
- Fast tracking the issuance of any pending payments to the agency
- Suggesting outside consultants that could be employed by the agency to provide technical assistance
- Making recommendations regarding other well-performing provider agencies that might be willing to provide mentoring

3. Adverse Actions

The Early Alert committee will also review recommendations from DQM to fine providers when there are circumstances encountered during survey and certification activities or review of agency incident management that are of such a significant nature or severity related to health and safety that the implementation of a fine should be considered.

Also if remedial actions fail to resolve the agencies issues the Early Alert committee may propose an adverse action such as surrendering operating certificates of one or more sites, surrendering the Agency's provider agreement or canceling its MSC contract. During this time the agency's programs will be monitoring by OPWDD staff including DQM/BPC and DDSO staff. This may require Agency's to submit closure plans in accordance with OPWDD regulations.

Moving an Agency from the Early Alert Active List to Early Alert Abeyance List

When an agency is place on the Early Alert List based on findings/reports from sources other than OPWDD, we will keep the agency on the Early Alert Abeyance List until we hear of any actions contemplated by the outside source. Once we hear of such actions, the committee will either move the agency to the Early Alert Active List or completely remove the agency from the Early Alert List, depending on the seriousness of the actions to be taken by the outside sources.

Removal of an Agency from the Early Alert List

An agency that has been placed on the Early Alert List can be removed from the list if it complies in full, with our recommendations and provides us with evidence to show that issues that were of concern, have been corrected and a system has been put in place to prevent recurrence. The other occasion when an agency will be removed from the list is when OPWDD takes action to transition service(s) to another agency.