

## MEETING NOTES

### OPWDD PROVIDER ASSOCIATION (PA) MEETING

Monday, February 23, 2015

10:00 a.m. – 2:30 p.m.

Conference Room 4B -- 4<sup>th</sup> floor

44 Holland Avenue, Albany, NY 12229

**OPWDD Attendees:** Acting Commissioner Kerry Delaney; Deputy Commissioner Helene DeSanto; Roger Bearden; Abiba Kindo; Kate Marlay; Laura Rosenthal; Kevin Valenchis; Sally Berry; Megan O'Connor; Neil Mitchell; Cathy Varano; Maryann Riviello; and topic-specific staff (Carlene Coons; Kate Bishop; Joanne Howard; Maryellen Moeser; Dixie Yonkers).

**Provider Association (PA) Attendees:** Nick Cappoletti (OPWDD Advisory Council – via videoconference); Phil Catchpole (Lifesong, Inc.); Susan Constantino (CP of NYS, Inc.); Mark Foley (DDAWNY – via videoconference); Ann Hardiman (NYSACRA); John Kemmer (NYSARC); Ron Little (OPWDD Compass Agencies – via videoconference); Edie Mesick (UJA Federation); Anne Ogden (NYS Catholic Conference); Peter Pierri (Interagency Council of MR & DD Agencies); Michael Seereiter (NYSRA); Seth Stein (Alliance of Long Island Agencies for Persons with Developmental Disabilities – via phone); Karen Thayer (Southern Adirondack Independent Living); Steve Vernikoff (Advance of Greater NY); Barbara Wale (Executive Directors Association); and Yvette Watts (NYS Association of Emerging & Multicultural Providers, Inc.).

### Welcome

Deputy Commissioner Megan O'Connor welcomed PA members to the monthly meeting on behalf of Acting Commissioner Kerry Delaney who was attending a meeting with Executive Chamber staff.

### Rate Transformation Discussion

#### People First Community Fund Update

- The application is nearly complete. OPWDD anticipates that it will formally be released within the next several days. The application includes questions related to financial deficit; working with Regional Offices/OPWDD to serve individuals who are difficult to serve; and/or those who are leaving developmental centers who have or will have program satisfaction statistics, who are current with CFRs and who have no current 45-day letters and did not have two 45-day letters within the past year.

#### Four Services Update

- A meeting is scheduled for Thursday, 2/26/15 to discuss concerns that have been raised over the SEMP methodology. In particular, there are concerns over what counts as a “billable hour.” OPWDD has widely expanded what is eligible for billing. The other services (family care, respite and pre-voc) have been shared in draft with CMS. There have been some recent exchanges between OPWDD and CMS about rate methodology and fees included in the submission.
- PA members expressed concern over a proposed 7/1/15 ban on admission to facility-based pre-voc programs which, due to the lack of property reimbursement under community pre-voc, creates system challenges. PA members suggested that OPWDD rethink the implementation timeline for the proposed ban as they feel they will not have 100% capacity by 7/1/15.

- DOH will distribute new rate sheets shortly.
- PA members asked OPWDD to follow-up on status of old (prior to 2009) day services contingency requests with OSC.

#### Updated CFR Penalty Regulations

- As a result of a shift in CMS policy, the 2% penalty will now be imposed earlier (at the due date as opposed to 30 days after the due date). New regulations are effective 6/1/15.
- Advance notification to providers is being eliminated (warning letters will no longer be sent).
- Expanded applicability of the penalty provisions to all HCBS Waiver services (this is to accommodate the new services being added).
- Carlene Coons will send a guidance document to the field that explains how the penalty will be imposed in two stages.

#### **HCBS Settings Update/OPWDD Transition Plan**

Kate Marlay and Maryellen Moeser used a PowerPoint presentation to update PA members on HCBS Settings and OPWDD's Transition Plan.

- The NYS Statewide Transition Plan is posted on the DOH website and will be submitted to CMS by the due date in mid-March 2015.
- OPWDD reconvened the HCBS Settings Stakeholder Steering Committee on February 4 to review OPWDD's revised Transition Plan prior to it being published for public comment.
- The Revised Transition Plan was published for formal input on OPWDD's website on February 13. The formal input timeline runs through April 1st. The Revised Transition Plan now includes non-residential settings as a result of CMS publishing its long-awaited guidance document in mid-December 2014.
- Two subgroups of the Stakeholder Steering Committee will be convened: (1) Heightened Scrutiny subgroup; and (2) Day services/non-residential settings transition. PA members were encouraged to send names of interested participants for the Heightened Scrutiny Workgroup (especially in New York City) to Maryellen.
- According to the Revised Transition Plan, OPWDD will begin reviewing sites triggering the need for heightened scrutiny in October 2015 through September 2016 with submission of evidence to CMS that justify settings supported by OPWDD as HCBS in early 2017.
- More discussion is needed regarding facility vs. non-facility based community day habilitation programs. It was agreed that the interpretation of federal guidelines is a key issue moving forward.
- The topic should be included on the March 2014 PA meeting agenda.

#### **Open Discussion**

##### CAS Validation Timeline

- The Coordinated Assessment System (CAS) project continues to move forward at a steady rate. The validity study is underway with 35 assessors completing assessments and collecting data. OPWDD continues to need provider support to encourage participation and to facilitate contact information sharing with the assessors. It is anticipated that data collection will be completed in the summer of 2015 with a final study outcome report delivered in the fall. The implementation of an assessment tool that will be used for resource allocation and rate setting is a critical foundational element to ensure an equitable needs-driven system of support for individuals with DD. OPWDD is committed to ensuring that the tool is valid – effectively measuring what it is meant to measure and that the

process for implementing the tool for rate setting purposes is consistent with best practice analysis. Once the validity study is complete, the tool will be used for new individuals entering the OPWDD system following eligibility determination.

- Upon completion of the validity study, 1,000 completed assessments will be available for analysis. OPWDD has been working with an actuary to develop the process and timeline for implementing the CAS so that it can inform needs-based resource allocation.
- The general steps in the process include:
  - establishing a scoring rubric based on analysis of data from the validity study;
  - using additional data sources to overlay service utilization and cost data for an analysis of service needs based on CAS scoring;
  - convening a work group for input into the elements needed to establish a changed rate methodology for identified services; and
  - implementing the CAS to apply a new rate methodology.
- The timelines for each of these broadly defined steps are dependent on several variables such as the need for additional data collection, contract execution, staffing, development of analysis processes and coordination with DOH. The analysis period alone could require up to 12 months. OPWDD will seek efficiencies and opportunities for simultaneous work tasks to reduce the time wherever possible. Specific decisions on implementation for the purpose of service rate setting have not yet been made. OPWDD will continue to work closely with DOH and the actuary group to finalize a work plan and an accompanying implementation methodology.
- Two other areas of CAS development are also critical to the project. First, OPWDD continues to work with DOH and ITS staff to finalize the business rules to build the CAS into the UAS NY. Second, the online assessment curriculum, which will be available once the CAS has been integrated into the UAS, is under development.
- The CAS will inform service planning -- by generating good information so resources can be targeted as needed -- rather than generate the actual plans.
- There was discussion about what might happen if the CAS isn't ready for widespread use when template funding expires at the conclusion of the Balancing Incentive Program (BIP). Kevin Valenchis mentioned that OPWDD is exploring several options, including establishing fees to amend the waiver or establishing a specific rate methodology in an acuity-based system. OPWDD will also consider approaching the federal government for assistance.

#### Self Direction Issues

Kate Bishop provided an update on Self Direction (SD) issues.

- All existing Consolidated Supports and Services (CSS) have been converted to the new SD methodology.
- New plans using the new methodology have been developed and implemented. Tracking continues and growth has been realized.
- Guidance and training has been provided. Administrative memorandums (ADMs) for fiscal intermediary (FI) and support broker services will be shared within the next two weeks.
- The implementation of FI Level 2, which allows for individuals or involved decision makers to act as the employer of record, has been delayed due to lack of interest. Additional legal research is needed to define the implication of the FI Level 2 status prior to the option being offered.
- PA members expressed concerns that access to FIs is a problem, mostly due to low levels of reimbursement available. Agencies also are confused by the FI rules and requirements, particularly the apparent disconnect between the philosophical intent and the fiscal realities of the Labor Law.
- PA members requested more guidance on how employers of record should comply with all applicable law Laws. OPWDD should keep the lines of communications open with FIs.

### Vacancy Management Policy Update

Abiba Kindo updated PA members on OPWDD's vacancy management policy.

- The protocol is operational (except for tracking sheet/priority 1 information sharing) in Regions 1 and 2.
- Regions 3, 4 and 5 are finalizing staffing for vacancy management.
- OPWDD received a response regarding the Help Desk ticket to place the tracking sheet on shared drives by district. Each district will have a folder accessible to specific individuals identified by region. Assistance from Information Technology Services (ITS) is needed.
- With help from ITS, OPWDD can begin data entry of all priorities/individuals at the regional/district level by the end of the week. Completion dates will vary by region; some may be completed by the end of March, others may take longer as they have more data to input.
- Previously conducted staff training is being repeated.
- The vacancy management policy is expected to be fully implemented by 5/1/15.

### Financial Impact of Natural Disasters

- Although OPWDD recognizes the impact of natural disasters on provider programs, including the loss of agency revenue, the Federal Emergency Management Administration (FEMA) does not recognize these situations as eligible for any federal reimbursement.
- PA members stated that DOH and OPWDD leadership needs to figure out what to do with state share savings when day programs are unable to open due to inclement weather.
- OPWDD will schedule a follow-up discussion with PA members to flesh out a proposed course of action to share with DOH.

### Enhanced Supportive IRAs

- PA members have submitted proposals to make supportive living more accessible during rate rationalization. PA members feel this is an opportunity to make supportive IRAs more flexible with different levels of funding available based on DDP scores. These ideas should be shared with DOH. Kerry will follow-up with DOH and OPWDD leadership staff.

### SEMP OMIG Protocol

- Information on the SEMP OMIG protocol is back up on the OMIG website.
- The SEMP coverage period runs from 1/1/10 through 12/31/12.
- PA members sent a letter that outlined two issues:
  - OPWDD will follow-up with the OMIG to make sure that changes are made in published audit protocol that reflect 2012 changes in OPWDD's habilitation plans.
  - CMS ruling involving the inability to receive SEMP services if not making the minimum wage or an enhanced wage which impacts all SEMP providers whether individuals are earning minimum wage or not. Since no OPWDD documentation ever required this, no ADM has been changed to reflect it. OPWDD will follow up with the OMIG to prevent the retroactive application of required documentation for minimum wage payments in SEMP audits. The fallback position will be to only disallow the claims in the audit sample without any extrapolation.

### FEGS Update

- PA members discussed the lessons to be learned from the FEGS closure in terms of what it means to the field. Families and other nonprofit Boards of Directors have expressed their concerns about the possibility of it happening to other agencies. Financial institutions have also asked probing questions. Kerry said that the situation presents an opportunity to place added emphasis on financial oversight. Kevin Valenchis stated that OPWDD is exploring whether to expand OPWDD's in-house capacity to track financial data for other provider

agencies from a holistic perspective, particularly as rate rationalization methodologies involve other federal and state agencies (OMIG; DOH; CMS; OSC). OPWDD is looking to establish of a centralized multi-agency database and expanded Early Alert process to correct negative trends and track fiscal pressures agencies face as they transition to managed care.

### **Commissioner's Update**

- Acting Commissioner Kerry Delaney updated PA members on the gradual phase-out of sheltered workshops and development of enhanced supported employment opportunities. One idea that is being explored is transforming sheltered workshops into more integrated models. This will be the topic of a daylong statewide conference in early May at the Empire State Plaza in downtown Albany. Sheltered workshops that have already successfully transformed themselves have been invited to share best practices and detailed guidance, including information on funding mechanisms.
- Kerry also provided information about the residential request waiting list and OPWDD's efforts to work through regional offices to determine immediate and long-term needs. Special emphasis is being given to better plan to meet these needs through OPWDD's Front Door. Approximately 800 individuals accessed the residential system from family homes in 2014.

### **Providers of VOICFs/SOICFs and NYAIL**

Helene DeSanto and Dixie Yonkers updated PA members on the ICF Transition Plan.

- See 2/4/15 dashboard for current Money Follows the Person (MFP) progress report.
- OPWDD's goal for 2015 is 357 transitions (77 in 2014).
- The New York Association for Independent Living (NYAIL) was awarded two statewide MFP contracts for OPWDD and DOH population in institutional settings: outreach/referral and transition assistance. The contracts began about a week ago.
- NYAIL will work through its regional independent living centers (ILCs) to:
  - Provide peer-based assistance to individuals.
  - Transition assistance in discharge planning as well as planning for community-based services.
- NYAIL will also conduct the required MFP quality of life (QOL) surveys before and post transition, and obtain signed MFP Informed Consent forms allowing their QOL data to be shared.
- SANYS will no longer be doing peer outreach in ICFs.
- OPWDD is providing NYAIL with the names of individuals who they can approach and offer assistance to:
  - Individuals identified as moving out of a DC who do not yet have a placement plan or who have a plan that meets MFP criteria.
  - Individuals transitioning from a VOICF – based on provider conversion proposals shared with OPWDD.
  - Individuals with DD residing in nursing homes who OPWDD knows are appropriate to be supported in community placement and are interested in community placement.
  - Students aging out of residential schools or those going home before aging out.
  - Individuals who have expressed interest in moving to a community setting when SANYS conducted peer outreach in 2013 and 2014 in ICFs/DCs.
- OPWDD Central Office staff have notified ICF providers via email of NYAIL's role and activities and how lists of individuals will be generated.

- OPWDD will also notify specific ICF providers of the names of individuals who will be shared with NYAIL prior to sharing those names with NYAIL.
- OPWDD Central Office staff have notified waiver service providers who are currently supporting MFP participants of NYAIL's role and activities.
- OPWDD has outlined contact procedures for NYAIL to follow.
- NYAIL will bring additional resources to transition planning, but will not interfere with discharge planning or waiver service planning.
- NYAIL will follow-up with individuals post discharge – both for QOL surveys (11 months and 24 months post discharge) and to ensure services are meeting needs. Follow-up with individuals in residential settings will be coordinated with MSC and will not be as extensive as follow-up with individuals in non-certified settings.

### **MSC Services for Willowbrook Class**

The group discussed the special rate for MSCs for Willowbrook Class members; the break out of caseload numbers for a breakeven point given the 1:20 caseload ratio required for Willowbrook class members is eight (8) class members. There are a number of reasons why new MSC providers are sought for class members, including ICF to IRA transitions. PA members were encouraged to reach out to providers to remind them of the special MSC rate for the class and encourage them to make MSC services available.

### **Residential Registration List**

Helene DeSanto provided an overview on OPWDD's review of the residential registration list with an eye toward outreach and planning. OPWDD goal is to ensure that the \$120 budget allocation for new services addressed the needs of those who needing supports including those on the residential registration list.

### **DSRIP Update**

Greg Allen from DOH updated PA members on the Delivery System Reform Incentive Payment (DSRIP) initiative as it seeks to transition from fee-for-service to value-based care across a coordinated community of performing provider system (PPS) networks. The DSRIP Project Approval and Oversight Panel met in Albany last week to review PPS applications and scoring policies. Thus far, 25 PPS systems have been approved across the state. April 1 marks the beginning of the implementation phase. Although the current DSRIP focus is centered on avoidable hospitalizations, DOH hopes to expand the number of PPS networks involved with the developmental disabilities community in improving health care outcomes. To this end, DOH is opening the window one more time for providers to join a PPS; this would be the last opportunity to do so prior to the mid-point assessment in two to three years. PA members interested in connecting with a PPS were encouraged to provide immediate attestations to networks in their respective regions. Greg will send Kerry a list of unaffiliated DD providers. OPWDD and DOH will arrange a 30-minute conference call to update unaffiliated providers on DSRIP and the importance of connecting with a PPS. This session will also be used as an opportunity to enlighten PPS networks on how developmental disabilities providers fit into their plans.

### **Wrap-up**

The next meeting of the Provider Association will be held on Monday, March 16, 2015 @ 10am @ 44 Holland Avenue in Albany.