

DS State Program Standing Committee (SPSC)

February 17, 2022

Meeting Held Virtually on Microsoft Teams

Attendees

Committee Members: David Ballou, Max Barrows, Dawn Danner, Ed Place, Karen Price, Barb Prine, Cheryl Thrall, Lynn Ujlaky, Connie Woodberry, Bethany Drum and Susan Yuan

Guests: Barb Lee, Hayes, Jess Moore, Lee Riley, Karen Topper, Marie Lallier, Kara Artus, Gloria Quinn

State Employees: Jennifer Garabedian, Jessica Bernard, June Bascom, Clare McFadden, Hilary Conant, Jessica Nadeau, Kristen Murphy, Susan Aranoff, Dylan Frazier, Laura Siegal and Judy Spittle

Roll Call and Review Agenda

A roll call was completed, and the meeting agenda was reviewed.

Meeting Minutes, SPSC Member Check-In

The SPSC meeting minutes from the January 20, 2022, meeting were reviewed. Connie Woodberry made a motion and Susan Yuan seconded and made a motion to accept the meeting minutes.

Introduction – New Director Jennifer Garabedian

Jessica introduced Jennifer Garabedian as the new permanent DS Director. Jennifer shared her experience and what she is bringing into the role. She started with thanking Jessica for bridging the gap and was very appreciative of her assistance getting acquainted. Jennifer comes from the Children's Personal Care Program with 15 years of experience. She oversaw the Medicaid Fiscal Employer/Agent program at ARIS which provides payroll and administrative services. She's excited to re-connect with people she already is acquainted with and get to know the other members of the Committee. Connie Woodberry welcomed Jennifer and is very happy to have someone permanent. Connie asked Jennifer what her plan is on orienting herself on parts that she's not so familiar with. Jennifer indicated she would like to get out and meet with agencies and individuals who are getting our services but understands that this might happen a little differently in the short-term, as there are still some COVID restrictions. Barb Prine said she was pleased to see Jennifer back here and with her knowledge will be very helpful to us. For those

members not familiar with Jennifer expressed that they would like to meet her in person. Connie mentioned that there is a lot to discuss with SIS Payment reform, workforce.

SPSC committee members provided feedback that it is important to have documents at least a week ahead of time and in plain language format to be able to provide meaningful input.

Review draft of System of Care Plan (SOCP) Regulations - Clare and Hilary

Clare presented the process for updating the SOCP and Regulations Implementing the Developmental Disabilities Act (Regulations). The current SOCP was adopted on 10-1-17 to cover FY18-20. An extension was requested due to the significant impact of the pandemic on both the State and stakeholders.

Overview of the Process

The DD Act of 1996 (<https://legislature.vermont.gov/statutes/chapter/18/204A>) requires that DAIL adopt a plan every 3 years that describes the nature, extent, allocation, and timing of services for people with DD and their families.

In 2014, the DD Act was amended and now requires that certain categories of the SOCP plan be adopted through the rulemaking process along with the regulations. These include:

1. Priorities for continuation of existing program or development of new programs
2. Criteria for receiving service or funding
3. Type of services provided; and
4. A process for evaluating and assessing the success of programs.

Any changes in these categories must be included in the Department's Regulations Implementing the Developmental Disabilities Act of 1996 (DD Regulations) <https://humanservices.vermont.gov/sites/ahsnew/files/documents/MedicaidPolicy/7.100%20final-clean.ddact-regulations-10-01-2017.pdf>.

The SOCP describes:

- What services are available or will be developed
- How people apply and can be determined eligible
- How funding is authorized
- Parameters for use of funding
- How much funding is appropriated

The rulemaking process generally takes 6-8 months. Because of this, DDSD is planning on one year for the process and anticipates that the SOCP and Regulations will be complete in the Fall of 2022.

To renew the SOCP, DDS will review the current versions of the SOCP and Regulations, will consider past years experiences and feedback provided by stakeholders since last update, as well as new federal requirements.

We are collecting feedback today and will also have 30 days to comment before filing the Regulation updates with the Interagency Committee on Administrative Rules (ICAR). DAIL/DDS was asked to focus on three specific areas during the SOCP renewal, but accepts feedback related to any area.

There are three specific areas of focus which have been brought to the Department for consideration in the Plan.

1. Allowing parents to be paid with Medicaid funds for providing care to their children with DD,
2. Housing and other support services specific to the needs of adults with autism, and
3. Increased housing models for adults with developmental disabilities beyond those currently available.

The plan for gathering input on the 3 focus areas are:

- hold public forums for each topic
- Provide additional opportunities for written feedback
- Review previously collected information on these 3 topics
- Gather more feedback from stakeholders on proposed ideas, including soliciting feedback from SPSC 60 days prior to inclusion

Max shared concerns about allowing parents to be paid with Medicaid funds, because we have questions where the money will come from and how this will affect Global Commitment. Housing specific to those on the autism spectrum, providing housing that is a different from other disabilities. In violation of HCBS rules, would like these 2 items addressed. VT Legal Aid has not reviewed this yet. This should be about what the people want and not what the state wants.

SPSC committee to comment on these – this is first opportunity on this draft. Once the draft is filed with ICAR then a public comment period opens where they can weigh in on these such concerns mentioned by Max.

Regulations and proposals

Summary of proposed changes to Regulations

The two major changes are in Part 2 and Part 8. Part 2 is related to the Criteria for Determining Developmental Disability and Part 8: Grievance, Internal Appeal and Fair Hearing. The primary reason for making changes to Part 2 which describes who is eligible to receive DD services, relates to a 2019 VT Supreme Court decision indicating a lack of clarity in the regulations related to consideration of the

standard error of measurement in IQ test scores. The proposed changes are to create greater clarity in this regard.

Part 8, which deals with grievance and appeals is being changed to comply with updated Federal regulations related to grievance and appeals in Medicaid (42C.F.R. Part 438, Subpart F). The Department of Vermont Health Access (DVHA) updated the regulations for grievance and appeals for all VT Medicaid services on 6/1/18 (after publication of the 10.1.17 DDS regulations) to comply with the federal requirements (see HCAR 8.100). DDS has been following these rules since that time. The proposed change eliminates the current DDS regulation for grievance and appeals and refers the current VT rule which is being used now. DDS as a Medicaid program is required to follow these new rules.

For further information regarding these updates please refer to the Summary Document developed by Clare. <I:\DDSD\DS State Program Standing Committee\Agenda Minutes 2022\Summary of proposed changes to Part 2 of the DDS Regulations.docx>

Kristen has watched the HHS presentations, there is a compromise and important to stay true to families, advocates. Input has been selective and feel like you need to stay with fundamentals and do it right.

Barb Prine doesn't feel this meeting served as enough time for the Committee to fully comment. Clare will re-group with her Team.

Sherry Thrall wants DS and committee to step back and really formulate this process and reach some agreement as to how to go forward. It's very important to have those that are impacted w be involved.

Kristen – Intermediate Care Facility (ICF)– defends this facility and sees that it has been written out of this rule. She spoke with a representative from Senator Sanders' office who is working with a family that needs this type of support for without the only other choice is a nursing home. This should merit some discussions. Clare mentioned that it the Division supported the ICF. However, the facility struggled with staffing challenges and despite DAIL/DDSD's support, it was not sustainable.

Conflict of Interest in Case Management

Dylan Frazier, Deputy Director, DVHA

Dylan provided an overview of the current Plan

Step 1: Initial stakeholder engagement (October – December 2021)

- Updates provided at boards/committees
- Issue notice in the Global Commitment Register

Step 2: Submit HCBS conflict of Interest plan to CMS by December 17,2021

Step 3: Prepare for Technical Assistance Contractor

- Develop and issue request for proposals (RFP) for technical assistance (TA) contractor to facilitate conflict of interest plan scope of work

Step 1 and 2, no comments back yet

Open for comments now and into the future. Dylan indicated this to the committee.

Step 3 – currently working on this. M,

Sequence of events

Contractor online by June – focus on needs assessment – this will tell us how to go about stakeholder engagement.

Stakeholders input on how things work. Additionally, members of the Committee, expressed a concern with having an independent contractor coming and not knowing how our systems work.

Dylan was provided feedback that safe spaces were not created where participants felt comfortable sharing info about their agencies. This should be a requirement in the RFP. Self-advocates, providers, served by agencies that aren't rising to complain or asking for something.

Regional Meetings – Having State Leaders present at this meeting.

SPSC comments on this: safe spaces for everybody will be key. Have some meetings with that as well as with State leaders. Working together is key

What kind of technical assistance?

- An assessment of current HCBS programs
- Stakeholder engagement
- Recommendation of eligibility, assessment and case management/person centered planning solutions
- Implementation planning and execution

The Stakeholder engagement campaign starts in 1/1/23 but you will hear from DVHA throughout 2022. Two areas that will be focused on is the communication that the State is starting this process to assess HCBS program which could eventually result in program changes. Dylan asked the SPSC committee members who should receive this communication and how. SPSC members voiced that all DA and SSA Agencies, GMSA, DD Council and all other Advocacy groups should get the notice thru letters and stakeholder meetings held throughout the region to provide information and collect feedback. Stakeholders will get the opportunity to provide formal public comment before any significant changes are made to eligibility processes or reimbursement for services.

Max also wants Dylan to talk with GMSA to describe this to them.

Individuals can send comments to AHS.MedicaidPolicy@vermont.gov. They should mention "Conflict of Interest" or "HCBS COI" in the email subject line.

Wrap up

Sherry asked at the next meeting to have a robust discussion on future topics that will be brought to the committee so a conversation can be formulated.

The meeting ran over the allotted time.