



COMMONWEALTH of VIRGINIA

JAMES W. STEWART, III
COMMISSIONER

DEPARTMENT OF
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Post Office Box 1797
Richmond, Virginia 23218-1797

Telephone (804) 786-3921
Fax (804) 371-6638
www.dbhds.virginia.gov

DBHDS Settlement Agreement Stakeholder Group

DRAFT MINUTES

July 10, 2013

1:00 p.m. - 4:00 p.m.

House Room 3, State Capitol
Richmond, VA

I. Welcome and Introductions

At 1:05 p.m., James W. Stewart, III, Commissioner, welcomed all present and asked for the members to introduce themselves.

Establishment of Office of Settlement Agreement Advisor

Mr. Stewart reported on an organizational change to better support the Department regarding the implementation of the Settlement Agreement - the establishment of the Office of the Settlement Agreement Executive Advisor (OSAEA). The office will assist in the leadership, direction and advisory responsibilities related to monitoring, evaluating and reporting on the Commonwealth's progress toward compliance with the terms of the settlement agreement. The OSAEA will be led by the newly established position of Settlement Agreement Executive Advisor and include up to two additional positions. Heidi Dix, who previously served as the Assistant Commissioner of Developmental Services, has assumed this new role responsible for advising and communicating with stakeholders on the plans, progress toward compliance, and barriers to successful implementation of the settlement agreement. Ms. Dix will also serve as DBHDS' chief liaison for all matters related to the settlement agreement with the court appointed Independent Reviewer, the Office of the Secretary of Health & Human Resources, Office of the Attorney General, other state agencies, community services boards, private providers, consumers, families, advocates and other stakeholders. Lee Price, formerly the Director of the Office of Developmental Services, will serve as Senior Advisor within OSAEA. DBHDS is currently advertising for the Assistant Commissioner of Developmental Services position; in the interim, Olivia Garland, Deputy Commissioner is assuming those duties.

Brief Summary: Independent Reviewer Report

Mr. Stewart reported that the Independent Reviewer (IR) produced his second report covering the time from October 7, 2012 through April 6, 2013. The report is available online: <http://www.dbhds.virginia.gov/Settlement.htm>. The report states that Virginia is in compliance with the terms of the agreement, lists a number of key accomplishments, and areas of needed improvement. The major findings section states that "the Commonwealth has made a good faith,

concerted, and coordinated effort to comply with the requirements of the Agreement.” One area that is an exception to this is crisis services for children – the IR reported Virginia is out of compliance in this area. Other areas of concern were reportedly the START programs for adults and Employment First. There were other, less significant findings related to identifying individuals with a developmental disability residing in nursing facilities or community ICFs; the Individual and Family Support Program; data collection; and, the ability to hold providers accountable when out of compliance. DBHDS must respond to the IR by October 1, 2013. Commissioner Stewart noted that the Independent Reviewer is a critical component in the process.

II. Review of Training Center Discharges, FY2013

At 1:20 p.m., Jae Benz provided a thorough description of the discharge process for individuals residing in training centers including: census reduction trends across all training centers; what kind of setting individuals have moved to in the community; community integration preferences of the remaining training center residents; the process of communication with individuals and their authorized representatives; and, examples of specific individuals successful moves to the community. Ms. Benz received a question from Mr. Harvey Crone about the plan for those who wish to transfer to another institution (see addendum to these minutes with his written comments).

III. Case Management Update and Data; Quality Service Reviews Update

At 1:51 p.m., Kathy Drumwright, Assistant Commissioner for Quality Management and Development, provided an overview of measures required by the Settlement Agreement.

- Jennifer Fidura stated the information from data collection doesn't do much to improve the system unless consistent feedback is given to the provider; the emphasis needs to stay on that feedback and be presented in a direct, simple manner.
- Marisa Lois commented that it is important to make sure all case managers know what service/support options are available in the community, to understand and be able to explain how an individual could use those options, and not just hand out a piece of paper listing service/support options.
- Jamie Liban asked if the integration of the Developmental Disabilities (DD) Waiver was part of the discussion of case management. She also asked how DBHDS plans to respond to the Independent Reviewers report (ex., assistive technology). Karen
- Kimsey, DMAS, asked if all DD case managers should be trained on the next module by December. An update will be provided to this group in October.

IV. Regional Support Team Overview and Data

At 2:15 p.m., Gail Rheinheimer reviewed the structure of the Regional Support Teams (RSTs). The settlement agreement states that the purpose of the RSTs is “to provide recommendations and assistance in resolving barriers to the most integrated community setting consistent with an individual's needs and informed choice.” Ms. Rheinheimer presented data on choices by those referred to the program as well as barriers to integrated options. Questions and comments were received from:

- Michelle Johnson, regarding matching the elimination of barriers to effectiveness of RSTs (which is not available in the data);
- Ms. Fidura, regarding the helpfulness of the forms shown in the slideshow (which are available on the DOJ website); and,
- Ms. Liban, regarding the RSTs appearing as described in the settlement, also requesting data to

help in determining effectiveness of the RST.

V. Regional Community Support Centers (RCSCs); Waiver Activity, START & Crisis Services Updates

At 2:41 p.m., Dr. Olivia Garland, Deputy Commissioner, reported on a number of topics. Regarding RCSCs, a project team has been established and transitioning services from SVTC, NVTC, and SEVTC to the community is anticipated for FY2015. The contract for the waiver study was awarded and the first recommendations are due in September. The study is expected to take a year and requires stakeholder input and participation. Stakeholder forums, in collaboration with VCU, will be held starting in August/Sept 2013. An amendment to the exceptional rates proposal was sent to CMS in July. A variety of meetings with providers have been organized by DBHDS to increase capacity. START and other crisis services are under review (START) and development (children's).

- Norma Draper asked if there was a criterion for dental services. Dr. Garland responded that the committee will lay all that out in the RCSC proposal.
- Ms. Liban asked (because The Arc of Virginia hasn't been involved) if a family representative was included in the project workgroup and Dr. Garland stated there was.
- Ms. Fidura asked about the September recommendations on the waiver study because her association would be setting legislative agendas and would like to have that information to consider. Dr. Garland stated that they were being piloted with groups of providers.
- Dave Wilber responded that there were a number of providers in the room that weren't getting the information. Ms. Fidura added that it can work both ways, as providers are developing their strategies; not a sense of "we're going *this* way you're going *that* way" – there is a need for dialogue.

VI. Individual and Family Support Program

At 2:59 p.m., Cindy Gwinn reported that 814 applications were approved for a total of \$1,845,355. The start date for FY2014 is Tuesday, September 3, 2013. On-line web-based applications and paper applications will be available on the DBHDS website.

- Ms. Lois asked for a detailed explanation of what is expected. Ms Gwinn explained that all information for the program is located on the DBHDS website under Developmental Services. A separate document has been created for directions on the best way to fill out the application and what is expected in order for an application to go through the approval process as smoothly as possible and lower the amount of pended applications due to the needs for additional information before that application could be approved.
- Linda Redmond asked whether, since it is a web-based application, would VITA provide assistance. Ms Gwinn stated DBHDS has received assurance by VITA that it will not have an issue handling the demand of on-line applications from this program.
- Mr. Wilber commented that the online process helps DBHDS, but not all families have access to the internet. Dr. Garland responded that internally the department was having that discussion; Ms. Gwinn explained that the paper application will still be available and the first come first serve nature of the program, mailed applications will be reviewed based on post mark dates. The Department has also urged Case Managers and Support Coordinators to assist their families on the waitlists to apply for the Program.

- Jennifer Acors asked if the case managers would be contacted if families did not turn in receipts, as receipts are required for the individual to participate again. Ms. Gwinn responded that because the program is run directly at DBHDS and not by the CSBs, DBHDS will be contacting families if receipts are not received in a timely manner.
- Ms. Liban stated The Arc was happy to provide feedback.
- Mr. Wilber asked if the stakeholder group could see the budget for program. Ms. Gwinn ensured him that when numbers are finalized they will be available.
- Ms. Redmond asked if the same people can keep getting funding every year or if there is a mechanism to ensure that those most at risk can access the funds. Ms. Gwinn responded that since this is a first come, first served program that it is probable that some families will receive funding more than one year in a row, and the criteria of being on the waitlist means that everyone that is eligible is considered at risk. However due to the increase in funding for FY2014 additional families will be funded compared to FY2013.

VII. Budget Update

At 3:14 p.m., Don Darr, Assistant Commissioner for Finance and Administration, presented spreadsheets showing what the settlement agreement will cost over the length of the agreement, and that there were not changes since he last presented the information. Mr. Darr showed how actual expenditures for FY2013 compared to the budget. There were several areas where expenditures were significantly less than what was budgeted - facility transition waivers due to delays in discharges, the rental subsidy pilot as it is a multi-year effort and administration due to the data warehouse taking several years to roll out and DMAS not asking for reimbursement for administrative costs.

- Mr. Wilber stated it takes two weeks to administer the program.
- Ms. Liban indicated that it may be helpful to have more details on some of the budgetary items. Mr. Darr indicated that he would follow-up with Ms. Liban.

VIII. Public Comment (comments limited to 3 minutes)

At 3:23 p.m., two individuals provided comment:

1. Karen Tefelski, vaACCSES, thanked Ms. Benz for including in her presentation data on day activities and supported employment. However, specific numbers regarding what services and where services are needed should be shared to help providers plan for expansion. She stated this is especially critical for un-served and under-served areas of the state. Providers cannot respond without accurate information.

Ms. Tefelski spoke to this issue of provider rates. Providers cannot wait for rate changes to be implemented in 2015/2016 because of a survey. Today, crises exist for individuals with significant medical and behavioral issues. An immediate "bridge" solution is needed for individuals transitioning from ICFs to Waiver slots. She gave a Northern Virginia example of individuals attending an offsite day program (some for over 20 years) while living at a training center. The day program receives a cost-based rate while an individual resides in an ICF (community or state ICF). However, when the individual transitions into a community-based waiver slot, the rate slips 42%. Same individual - same needs - but 42% less. Providers cannot assume this level of risk to serve individuals in these situations.

Ms. Tefelski stated that Virginia's provider system has had rate surveys before. Each survey showed, for the majority of services, that provider's costs sit just below the rate. Often, only nonprofits and some CSBs can capture their actual costs that show the rates are subsidized with fundraising efforts or local funding.

2. Mary Ann Bergeron commented as a private citizen whose granddaughter has William's Syndrome and complex medical, behavioral and social needs. Her care is covered through a combination of Elderly or Disabled with Consumer-Direction (EDCD) Waiver, private insurance, and out of pocket funds. At the end of the settlement agreement timeline, Ms. Bergeron hopes that the system looks very different for someone like her granddaughter. The information in the reports you have presented are indicative of a lot of work behind them.

Ms. Bergeron then gave comment on behalf of the Virginia Association of Community Services Boards (VACSB). Because this process is evolving quickly, it has become easier to identify some of the barriers in working with individuals who are interested in transitioning to the community. Our VACSB Developmental Services Council along with provider and advocacy groups have agreed that the following budget priorities will greatly assist transition efforts:

- a. Facility transitions will be facilitated with funds attached to the individuals for items they don't own, certain equipment that is needed for transition, and specialized assessments that may be needed but are not reimbursed. The VACSB believes that up to \$4000 per person should be allocated for each individual transitioning according to the targets that DBHDS has.
- b. Through the transition process, case managers have found that three months of case management is not enough. There is a tremendous amount of work; and while not everyone may need 6 months, case management should be reimbursed for up to 6 months.
- c. Building the medical support in the community would greatly benefit from an RN with ID specialty funded: within each CSB/BHA support the CSB staff, individuals themselves, families, provider, and to give the local medical community an excellent resource to help physicians and nurses understand the specialized medication and other needs of individuals who are transitioning or who live in the community now. This will greatly support the work of moving the regional community support centers to the community.

Finally, because the Independent Reviewer included this item in his last report, the VACSB strongly believes that, for individuals not on the waiver waiting list and not eligible for the ID/DD Waiver, funds should be allocated to develop an Individual and Family Support grant program for this population. This would not dilute the current Individual and Family Support Grant (IFSP) program now in place. It would add a category of grant funds for individuals who are not eligible for the Waiver but, if their needs are not met, could be at risk of institutionalization. The same model could be used since that model has been successful.

IX. Future Meeting Topics and Next Meeting Date

At 3:45 p.m., Mr. Stewart offered the date of the next meeting, in October.

Next Meeting Date Changed: 1:00 p.m. to 4:00 p.m.,
~~Wednesday, October 23rd~~ **Thursday, November 21st**
~~House~~ **Senate Room 3, State Capitol**

4:00 p.m. Adjournment

ADDENDUM: Written Comments

Remarks of Harvey L. Crone regarding Item II., following the question presented to Jay Benz:
When will the clients presently located at scheduled to close training centers and elect to remain in another training center be told when and where they will be transferred.

- Will the Client and family who elects to remain at a training center be provided input and considered regarding the location of the transfer.
- When will the Commonwealth notify the client and family regarding the transfer location and timeframe.

As per my remarks our son Brian is Non ambulatory, Epileptic and a severe Spastic Quadriplegic with significant muscle wasting in his lower extremities. Brian is fed with a G-Tube. Over the past several years Brian has been Hospitalized and treated for a range of disorders including surgery for Hydroceal , Oxygen depredation, G Tube complication, constipation among others. Brian's current adaptive assessment measurement is 3 months old. Brian is clearly Medically Fragile and remains dependent on others for his medical, personal and daily care.

Brian has received and requires intensive, comprehensive, individualized programs of active, Priscian and nursing treatment and care designed by an interdisciplinary team of qualified professionals that are trained to provide for Medical Fragile Clients such as Brian that care is presently being provided for Brian at Southside Virginia Training Centers. His mother and I visit Brian regularly and we are confident that there is not an ICF that can meet Brian's complicated personal and medical needs in a less restrictive environment than our training centers now provide.

Today I had a conversation with a Community Service Representative for Hanover County. The representative stated that Hanover was continuing to review with some providers an ICF for Hanover; however, it appeared to be long term in development. Those few community ICFs in our judgment will not be able to provide the appropriate and adequate care and support that Brian is receiving and has received at South Side Virginia Training Center. It is my judgment at worst our training centers should be consolidated to provide perhaps two centers in the Commonwealth to continue the outstanding support and care for those who qualify and in need. **Therefore Nancy and I have elected to have Brian transfer to another training center.**

Mr. Crone was not able to stay for the public comment period. These comments received on July 11, 2013, per discussion with staff at the meeting.