

CMS Waiver Steering Committee Minutes -- FINAL

Date: July 10, 2008		Location: HCPF, 225 E. 16 th , basement conference room	
Present:		Cami Learned, CCB Partners	X
Kathy Athens, Denver Options	X	Carol Meredith	
Claire Brockbank, Segue Consulting	X	John Miles, DDD	
Chris Collins, Alliance (Jeremy Schupbach)	X	Julius Monge	X
Mike Crane, DHS/DDD		John Nevins, Alliance/Imagine	X
John Daurio		Al Orlofsky, DDD	X
Gerrie Frohne, Parent	X	Barb Prehmus, HCPF	X
Amy Haight, HCPF	X	Barb Ramsey, DDD	X
Ted Hernandez, Denver Options	X	Sarah Sills, Governor's Office	X
Sharon Hill, HCPF	X	Linda Skaflen, ARC Adams County	X
Sharon Jacksi, DDD	X	Matthew Solano, DDD	
Roger Jensen, Alliance/Starpoint		Kerry Stern, DDD	
Jo Kammerzell, DD	X	John Taylor, Alliance/Imagine	
Jay Kauffman, DD	X	Jed Ziegenhagen, HCPF	

I. SLS Rate Setting Process Briefing – Jon Fortune, HSRI and Al Orlofsky

Jon Fortune focused on the sources and use of data for establishing caps. This is distinct from the rate setting process that the Division is working to complete. Rates and rate setting refer to the specific payment rates for specific services. In some cases there is a cap on the total amount that can be paid for a service, but that is within the context of rate setting (e.g. Home Accessibility Adaptations). HSRI is working on the overall cap on the total payment for services. The current cap is \$35,000 for everyone, although very few ever meet the cap. The Division anticipates more levels of caps, perhaps three, but subject to what the HSRI analysis indicates.

- HSRI will rely on three primary sources of data:
 - SIS results, including addendum questions. Small sample is being used currently, but Division will send in data representing 50% of the SLS population shortly.
 - Amounts billed for SLS individuals.
 - Amounts planned for in the individual's IDT.

Mr. Fortune indicated that the preliminary sample is showing a support index of about 90, relative to the Comp support index of 100. He indicated this was anticipated and implied that the SLS population should have lesser needs. Members of the Steering Committee urged caution with this assumption.

- Knowledge of the cap can impact the IDT
- Much of the SLS population reflects lack of access to Comp rather than the true needs of SLS
- SLS population, particularly parents tend to under-describe their needs during the SIS out of sensitivity to their children or siblings in the room. Family is not allowed to call back and provide more frank information after the interview because in almost all cases the client has to be present.

Mr. Fortune clarified that there are no assumptions going in, simply the fact that less is paid out in SLS than Comp.

- Once the larger sample is received, as well as the additional data, HSRI will describe the overall results; understand the relationships between the different information provided and the services/dollars provided; and work to identify natural distinctions in the population. The end goal is an appropriate number of caps reflecting the differing service needs of the population. Jay clarified that caps apply to the upper limit that can be spent on behalf of an individual not on the number of units of any particular service that can be used.
- Anomalies – There are two types of data anomalies or outliers to consider.
 - One refers to individuals whose needs don't logically or statistically fit in the algorithm established. Similar to the Level 7 established for Comp, there will need to be a place for these statistical outliers. HSRI indicated that this kind of statistical outlier is almost guaranteed to occur but that until the data is analyzed it is premature to anticipate what will drive it.
 - The second can be considered support level anomalies in which an individual's identified support level does not match with reality. The example provided was high functioning but very dangerous to self. Al clarified that these are the same issues that the Support Levels Work Group is addressing and that recommendations should be germane to the SLS population as well as the Comp.
- ULTC 100.2 – Amy Haight clarified that this information will not be used by HSRI to establish caps. Colorado uses it as a tool to help drive development of the service plan, not rates. HCPF is working to improve the processes associated with using the ULTC 100.2.

II. Updates/Clarifications

- Current range in rates for SLS – Jay Kauffman provided the following range in SLS rates:

- Personal Assistance \$8 - \$28, average \$18/hour
- Day Habilitation \$9 - \$22, average \$15/hour
- Supported Employment \$5 - \$55, average \$20/hour
- Professional Services \$6 - \$138, average \$50/hour
- Transportation \$7/day - \$16/day

- CDAS Work Group – Barb Ramsey: Last month DDD indicated that it is moving on the issue and anticipates including CDAS in the new SLS waiver application. A work group is being convened, which will include services in the family home and payment to family members. Work on this has been delayed, but further information regarding the work group will be released by the end of next week ((7/18).
- FAQ Process – Jay Kauffman: Karen Large will be responsible for monitoring the FAQ process. In response to questions raised by members of the Steering Committee regarding the process issues identified last month and the web site structural issues (FAQs not all placed in the FAQ section, making identification difficult), Jay committed to having Karen present further information regarding both issues next month. Both Partners and the Alliance offered to revisit their web postings and create mirror sites of the DDD FAQ site to help consumers with consistency and ease of navigation.
- SIS Default Policy Decision – Al Orlofsky: An advisory notice will be sent out shortly clarifying mechanisms for dealing with SIS scores that don't track with the IDT. This will apply to those already in the DD waiver, those new to the DD waiver, and individuals transferring to different providers. At the current time, people can be enrolled in SLS without a SIS score, but once SIS scores are required these mechanisms will apply to the SLS population as well.
- Jay also noted that non-medical transportation was still an issue.

III. SLS Service Definitions and Provider Qualifications – Al Orlofsky

Before discussing the specifics of the Service Definitions and Provider Qualifications document, members of the Steering Committee expressed concern about the Division's lack of willingness to permit them to get feedback from their stakeholders and constituents by distributing electronic copies. With the very limited comment time provided, this makes getting feedback almost impossible. In response, Barb Ramsey agreed to the following process:

1. Put draft documents in PDF format for electronic circulation by the Steering Committee. Documents can be emailed by Steering Committee members but cannot be posted on websites or circulated further without clear explanation regarding the

draft status of the document(s) and the importance of not posting them

2. Once the Division has incorporated Steering Committee feedback (including that solicited by Steering Committee members during Step 1 above), a version will be circulated for public comment with a defined timeframe for comments.
3. The next version of any given document will be the version submitted to CMS, which will incorporate those public comments as appropriate. This too will be posted for public view.
4. Final CMS-approved version will be posted.

Comments on the current Service Definitions/Provider Qualifications document are due to the Division by August 7. A detailed discussion will be held during the September 10 meeting. In general, please focus comments on the Provider Qualifications components. However, due to the change in policy regarding public circulation of the document, if comments on Service Definitions are needed, please be very specific and outline the thought process behind the suggestion. DDD will circulate a copy of the document for discussion September 10 in advance of the meeting. In addition, a document responding to the comments submitted last month regarding Service Definitions will be circulated to all who submitted comments, with a copy to the Steering Committee as a whole by July 24. **Please note:** The August 7 deadline for comments is a hard deadline. Comments received after that time may not be incorporated due to time constraints on the Division's end.

General Comments

- In general the fewer changes to the CMS template language the better in terms of timeliness of CMS scrutiny, review and approval.
- As used in the document, e.g. refers to "example given" and can be thought of as "such as"; i.e. is from the Latin term "id est" and can be thought of as "limited to".
- There was some discussion regarding the ability to include family members as qualified providers. The current policy allows family members that don't live in the household to provide services if they meet the provider qualifications. Family members living in the household can provide Personal Care services. Barb Prehmus qualified that Relative/Legal Guardian or Legally Responsible Person must be checked on the application for this to be permitted. The federal definition of these two terms is as follows (from the Version 3.5 HCBS Waiver Application Instructions):

A legally responsible individual as defined is state law but typically the parent of a minor child or a spouse. Legally responsible individuals do not include the parent of an adult beneficiary (including a parent who may be a legal guardian).

Technical guidance: CMS policy is that payments for personal care or similar services delivered by legally responsible individuals are not eligible for federal financial participation. This prohibition is based on the presumption that legally responsible individuals may not be paid for supports that they are ordinarily obligated to provide. However, through HCBS, a state may select to make payment when "such services are deemed extraordinary care so long as the state specifies satisfactory criteria for authorizing such payments.

CMS Review Criteria:

When the waiver provides for the payment of personal care or similar services to legally responsible individuals for extraordinary care, the waiver specifies:

- The types of legally responsible individuals to whom payment may be made.
- The waiver services for which payment may be made.
- The method for determining that the amount of services provided is "extraordinary care," exceeding the ordinary care that would be provided to a person without a disability of the same age;
- Limitations of the amount of services for which payment may be made;
- How it is established that the provision of services by a legally responsible individual is in the best interests of the participant; and
- The procedures that are used to ensure that payments are made for services rendered.

Relatives/legal guardians: related individuals who are not parents of minor child participants or spouses.

CMS Review Criteria:

When the waiver provides for payment of services furnished by relatives or legal guardians:

- The types of relatives/legal guardians to whom payment may be made are specified;
- The waiver services for which payment may be made to relatives/legal guardians are specified;
- When relatives/legal guardians may be paid to furnish waiver services only in specific circumstances, the waiver specifies the circumstances and the method of determining that such circumstances apply;
- Limitations on the amount of services that may be furnished by a relative or legal guardian are specified;
- When a legal guardian who exercises decision making authority may be paid to provide waiver services, the waiver specifies how it is established that the provision of services by the guardian are in the best interests of the participant;
- The waiver specifies the procedures that are employed to ensure that payment is made only for services rendered and that

services are furnished in the best interest of the individual.

Mentorship

Several people commented that 132 units or less than 3 hours per month seems too low for this service and represents a significant drop from the Support Living Consultant allowance. Jay indicated that SLC had expanded beyond the State's intent and mentorship was meant to focus back to the original more limited concept. Ted indicated that the scope of services in the definitions was still very broad, however. Members also felt that the term self-advocacy was too limited.

Day Habilitation

Was it the intent of the Division that Day Habilitation not be provided by independent contractors? Barb Prehmus interjected that again, the federal definition of individual versus agency is relevant. **Please Note:** The Division will provide the federal definition of these terms.

IV. General Issues

Gerrie Frohne raised several questions that she feels have yet to be addressed, including:

- How can an advocate participate in or attend the Support Level Work Group?
Kerry Stern is in charge of the Support Level Work Group. Mary Jo Rymer has been selected to represent advocates. Kerry will post a document on the What's New section of the Division website that identifies participants and clarifies participation opportunities.
- How will people be allowed to weigh in on CES and SLS before waiver applications are submitted?
Draft waiver documents for SLS and CES will be posted for comment. The Division will try to honor Gerrie's request for a 6-week review window. Gerrie also requested that the Division meet with families to get input on SLS and CES, rather than rely simply on posting draft documents.
- Will the complete algorithm and explanation for the SIS be provided to the public?
Judy Brown's detailed presentation and spreadsheets are posted on the website. In addition, the HSRI and Navigant reports will be posted on the website within the next few weeks. Barb Prehmus indicated it is not likely that the full technical spreadsheet model will be released but she will provide a specific response to Gerrie's request. Individuals who want a full technical explanation are free to call Judy Brown at DDD directly. **Please note:** HCPF has indicated that they will provide the above noted at a later date.
- Linda Skaflen asked the Division to post the public comment process in general on its website. Her perception is that many people are still accustomed to the Public Forum type approach to public comment, but that the Internet has caused a shift away from that approach.

- Sharon Jacksi announced that a joint memo would be released (DDD and HCPF) announcing a delay in implementation of the DD Comp until 1/1/2009.

V. Future Meetings and Topics of Focus

- August 14 – Rates (Fort Logan, location tbd)
- September 10 (1:30 – 4:30) – Service Definitions, Rates and Caps (HCPF, 225 E. 16th, 6th floor conference room)
- October 23 – Wrap-up (DDD, location tbd)

VI. Public Comment

- No public comments

Hand-Outs and Attachments

- Agenda
- Service Definitions – DRAFT (PDF attached)