

MEMORANDUM

To: Nancy Atkins, Commissioner, BMS
Eugenie Taylor, Commissioner, BHHF
Steve Mullins, Office Director, OBAH, BMS
Pat Winston, Program Manager II, OBAH, BMS
Frank Kirkland, Director, Division of DD, BHHF
David Majic, Director, OBHS, BHHF
Martha Walker, Secretary, DHHR

From: Steve Wiseman
Executive Director

Date: March 17, 2005

Re: MR/DD Waiver Renewal Application Draft

On behalf of the WV Developmental Disabilities Council I am offering the following comments and questions concerning the new MR/DD Waiver Renewal Application Draft and the process by which it was developed.

Based on its review, the Council strongly requests that the DHHR's renewal application contain no changes to the current approved plan other than to add a reasonable number of additional slots for FY 2006. Stakeholders need to have real opportunities to work with the Department on the design and improvements to the MR/DD Waiver. Then, the Department could submit an appropriate amendment based on that work.

The MR/DD Waiver remains the best State resource for many people with developmental disabilities to live productive, full lives in their communities. The Council is dedicated to seeing this valuable resource serve the most people to help them increase their independence, community inclusion, productivity, and self-direction. It has been generally understood that these services and supports need to be individually tailored by the individual and people who are important in his or her life, cost effective and person directed to the extent possible. There are several instances in both

the Renewal Application draft and the revised MR/DD Waiver Manual that do not support these basic, essential principles.

The following comments are grouped by topic with references to the relevant Manual sections. They are not intended to represent a complete analysis. In the attached document the DD Council identifies issues of great concern, seeks clarity on points that are unclear, and notes apparent errors by the Department in completing the application.

Before getting into the application draft content, a grave concern needs to be raised concerning the manner in which this document came into being. There has been no apparent solicitation by the Department of Health and Human Resources for outside stakeholder input or reactions about the proposed changes in policy and practice that now appear in this draft Application or the recently changed Manual. While the Department commissioned an independent review of the MR/DD Waiver, there has been no report on that activity available to stakeholders. In the related “focus group” meetings attended by staff and Council members, the currently proposed changes were not addressed. Similarly, the Department’s MR/DD Waiver Quality Assurance & Improvement Council has not discussed these proposed changes.

Most all changes to the application draft from the current, approved application are substantive and negative to people who are served through the program and to those who should be served but will be judged to be not eligible for the program. Since the new MR/DD Waiver Chapter 500 Manual is included as part of the application, it needs to be noted again that the Council objects to the substantive, negative changes that were made in that document without meaningful stakeholder involvement. (Please reference my December 10, 2004 memorandum to Commissioner Atkins and others on this subject.) I concur with the Commissioner’s statement in her letter of response that in the past the Bureau for Medical Services has included stakeholders in its policy development process. That involvement led to some of the improvements to the program that now are proposed to be eliminated.

To do an adequate review of the draft application one must have available several other documents for study and comparison.

These include:

- 1) The current application document dated July 1, 2000 with any changes authorized by CMS;
- 2) The section of the Medicaid State Plan regarding nursing services (As indicated in Appendix B-1 i., these standards would now apply to children who are on the waiver.);
- 3) The final order pursuant to **Benjamin H. et. al. v. Joan Ohl**;
- 4) The recent independent review performed by the Lewin Group;
- 5) The current Manual Chapter 500;
- 6) The listing of proposed services and unit limits; and
- 7) "Attachment 10" which is not included in the document.

It is now understood that the Department has not received a report from its contracted reviewer; one needs to access the State Plan *PI MA-01-21 dated April 11, 2001* (with a pass code) to see the nursing services that would be available to children on the Waiver; and the indication that there is an "Attachment 10" is actually a mistake in numbering.

With only 8 business days given by the Department in which to review and comment on the application, we and others are hard pressed to be able to collect the related materials, to understand the ramifications of the language in many parts of the document, and to form helpful comments.

To prepare an appropriate renewal application, stakeholders need, in a timely fashion: Opportunities to make recommendations on what should be kept and what should be changed; Information on what changes are contemplated by the Department; Access to all the relevant documents; and A simple but thorough analysis by the Department of the proposed changes. While it was reported by BMS that the notice of the availability of the Renewal Application for review was mailed by the Department to individuals served on the Waiver on Monday, March 7th. A dozen families from across the state were asked (on behalf of their family members) whether or not they had received this notice. **None had received it as of March 14th**. Some received them on March 15th. While that notice did not include a deadline for comments, the one on the web site indicates that comments will be received until Sunday, March 20th. Again, there is not

even a listing of the proposed changes from the current program included in the notice.

Again, the Council requests that the Department submit a renewal application that makes no changes to the current approved plan other than to add a reasonable number of additional slots for FY 2006 and to engage stakeholders in a dialogue that would lead to a consensus on the design and improvements to the MR/DD Waiver. The new plan could then be amended as needed.

Attachment: 1) WV DD Council Analysis MR/DD Waiver Renewal Application Draft (as posted by BMS on its web site March 8, 2005)

CC: WV DD Council Members/Staff
Disability Advocacy Organizations
Shana Phares, Deputy Secretary, DHHR
Jerry Roueche, Executive Assistant, DHHR
MR/DD Waiver Quality Assurance & Improvement Council Members