

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
Martha Walker, Secretary, DHHR

From: Steve Wiseman
Executive Director

Date: May 26, 2005

Re: Second Draft MR/DD Waiver Renewal Application

On behalf of the WV Developmental Disabilities Council I am offering the attached comments and questions concerning the second draft MR/DD Waiver Renewal Application.

Since the new MR/DD Waiver Chapter 500 Manual is included as part of the application, it needs to be noted once 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 and March 17, 2005 memorandums to Commissioner Atkins and others.)

Hopefully, these comments and questions will be viewed as constructive and will lead, in part, to the development of a more effective and responsive MR/DD Waiver program.

Attachment: [WV DD Council Comments on the Second Draft of the Title XIX Home and Community Based MR/DD Waiver Renewal Application](#) (Also available on the web site at www.wvddc.org)

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

**WV Developmental Disabilities Council
Comments on the Second Draft
of the Title XIX Home and Community Based
MR/DD Waiver Renewal Application
May 25, 2005**

The Council has reviewed the second draft of the MR/DD Waiver Renewal application and offers the following comments for your consideration. These comments are not exhaustive, but attempt to address some of the more critical issues in the document.

The new draft has addressed many of the Council's Serious Concerns which were spelled out in our comments on the first draft, including:

- Adding language that includes the individual in the development of his or her own plan;
- Deleting language that prohibits family members from providing residential habilitation services;
- Deleting language that requires individuals to have been previously institutionalized in order to receive pre-vocational or supported employment services;
- Restoring environmental accessibility adaptations for vehicles; and
- Restoring access to Adult Companion Services for people who live with their families.

Another Serious Concern involved the proposed caps on transportation services. The caps have been omitted from this draft of the application. The Council is uncertain whether this means the Bureau has reconsidered this matter and decided not to impose caps, or whether they will reappear in a future Chapter 500 Manual.

Many of the issues the Council listed as Questions and Concerns or Apparent Errors or Points of Confusion have also been corrected in the second draft or explained somewhat to our satisfaction since the release of the first draft.

Appendix G-2 , Respite Services, Column D ratios of 1:2 and 1:3, seems to have addressed the concern expressed by many Specialized Family Care providers who provide services to more than one Waiver recipient.

The following are taken from the Council's original list of Most Serious Concerns and have not yet been addressed:

- **Health and Welfare**

Application Page 6, Item 18

This deals with the assurance by the State that it has a formal system in place to ensure the health and welfare of service recipients. The DHHR proposes to submit Attachment 1 (information pertaining to the Quality Management System) as its assurance. The statements in the attachment indicate that the State has a functioning system in place and currently carries out the procedures outlined. Two staff individuals of the Council are members of the QA/QI group and have been members of all previous MR/DD Waiver quality committees of the Department. **The statements in this attachment are not factual and are misleading.** No where in this attachment is there an indication that the State *is moving in this direction*.

- **Reasonable Pace**

Application Page 40, Appendix E-2a

Included in the list used to provide a description of the process by which the plan of care is made subject to the approval of the Medicaid agency is, "A wait list that moves at a reasonable pace will be maintained by the State." **The wait list will not move at a reasonable pace when no new slots are being requested over the 5 year renewal period.**

The above comments on reasonable pace are our comments from the first draft. The current draft of the application, Page 41, Appendix E-2a, makes reference to Attachment 11. Attachment 11 makes no reference to the wait list or reasonable pace. However, with no new slots being requested, the comment about reasonable pace still applies.

- **Slot Allocations**

Application Page 44, Appendix G-1

In "Factor C" it indicates that no increase in the "Unduplicated Individuals" will occur over the five years of the Waiver. If there is no addition of slots, there will be increased in-State and out-of-State institutionalization of people in expensive group homes and other facilities. **This is a very serious problem with adverse budgetary and human costs. The Department needs to a) indicate modest growth over the next 5 years, or b) indicate modest growth for the first year while submitting a renewal application that keeps in place the program as it is now and commit to the inclusion of stakeholders in a dialogue with the Department to develop an**

effective program and application. The Department has reported that over 140 people are on a wait list for services, including many who have waited more than 90 days.

After having met with Bureau staff on a few occasions to offer input, this Council continues to have serious concerns about the Bureau's intent for the future direction of the MR/DD Waiver program. Despite the input and opinions of people from across the State, the Bureau has planned a Waiver program that may appear at first glance to address the concerns people have expressed, but in actuality adds one more layer of bureaucracy and very few, if any, substantive improvements.

There appears to be great potential here for inappropriately cutting services and supports to individuals and/or their families using the assessment and 'budget leveling' approaches described. We clearly heard people across the State speak of money being wasted on behalf of themselves or their family members for required services that they found no value in. Rather than designing a program that would allow people to design and choose only what supports and services they feel they need, this proposal adds two more evaluations [the Client & Agency Planning Assessment (the ICAP) and the Supports Intensity Scale (the SIS)], added procedures involving another State level administrative agency, and Master's level (?) staff across the state from that agency to administer the new evaluations. To the best of our knowledge, no one had voiced a concern about "who" was conducting the current evaluations. The concern was the "necessity" and the "frequency" of some of them.

We also have clearly heard from people across the State how a very similar process has not been seen as successful in the other Waiver program, the Aged and Disabled Waiver. Public hearings for that program repeatedly included comments from both participants and providers about the problems with having assessments conducted by someone unfamiliar to the individual.

Concerns or Unknowns:

- While the language used in the documents is mostly positive, what is described throughout the appendices appear to be new utilization management steps, involving an administrative services organization (ASO), added onto the already existing IPP process without any true person-centered planning necessarily taking place. The menu of services is proposed to remain the same as the current Waiver.

- In Attachment 11 it states that, “The ICAP will determine the budget – The SIS will determine the supports needed.” This may be just poorly worded, but to say that evaluations ‘will determine budgets and supports needed’ does not support a person-centered planning or a person-directed supports approach. The ICAP has been used in WV relative to establishing payments to the home operators by assigning people who reside in ICF/MR group home facilities to funding levels. Those settings are fairly consistent with each other and the people who reside in them experience similar levels of regimentation. The validity of establishing budgets for individuals on the MR/DD Waiver using this methodology is of some concern. How will factors such as the variable costs related to: various living and program settings, the intensity of supports needed, and the effects of natural supports be incorporated? The Council has many concerns about what this will actually mean for individuals who need services and for their families as it is played out.
- The concepts of person-centered planning and person-directed supports are actually fairly foreign to the system in WV. Education will be needed not only for individuals and their families, but even more so for those at the Bureau and ASO level, advocates, and providers – particularly those service coordinators who are tasked with facilitating that process to develop an IPP.
- Information provided by the Council regarding the ineffectiveness of “levels” and the need for more global services (e.g., Community Supports billed on a daily or monthly basis), which is known to be working well elsewhere, was not included in this proposal. Similarly, there is no indication that the length of time for units of Service Coordination will be changed from the current 15 minutes to daily or monthly. That change coupled with a change in the focus from paying for ‘billable time’ to paying based on outputs and outcomes would help reduce unnecessary, unhelpful paperwork reporting and clerical chores and increase valuable contact time of those needed staff.
- Suggestions provided regarding the use of fiscal intermediaries were not included.
- While it is stated on Page 35 that for persons aged 18 years and older, psychological evaluations would be required every three years, in Attachment 10 under “Level of Care Evaluation/Re-evaluation” it appears to indicate that all persons will have annual psychological evaluations.

Questions

- This proposal indicates the “Personal Needs Budget places the person in charge of their budget.” **In what way does it do this?**
- It also “Allows for a choice of services that is tailored to meet the individual needs of the person.” **How is this accomplished?**
- The Needs Assessment results determine the person’s “individualized” budgeting level (from 7 levels). **What is “individualized” about fitting in to one of seven levels?**
- Each level is based upon the unique needs of the person. **Again, how “unique” is one of seven?**
- **How will factors such as living situation, behavioral supports, and medical care be used to determine “level of need?”**
- “Each level of need establishes an upper range for a personal needs budget and a lower range based upon factors such as setting, intensity of supports needed, and access to natural supports.” **What, exactly, does this mean?**
- In Attachment 11, Page 1, the concepts of “transparent” service planning and budgeting services are alluded to. **These concepts need to be explained in the document.**
- Later in Attachment 11, Page 1 states, “Following the determination of a budget range, the personal needs budget is then distributed to the consumer and family to begin planning for services with the service coordinator (case manager) and the rest of the interdisciplinary team.” Attachment 11, Page 2 states, “Consumer authorizes the Personal Assessor to inform the Service Coordinator, selected by the Consumer, of their personal needs and their budget range.” **Which way will it actually be?**