

**Title XIX MR/DD Home and Community Based Waiver  
Draft Application for Renewal  
Comments  
March 17, 2005**

**Most Serious Concerns** (Not in any order of priority.)

**1) Person Centered Planning**

Application Page 4, Item 13

It is stated that, "An individual written plan of care will be developed by qualified individuals for each individual under this waiver." The previous application included the words "...developed by the consumer and qualified individuals..." In Appendix A of this renewal application draft it states, "The Bureau is committed to creating and implementing a self-directed service delivery system incorporating a person centered plan approach with individual budgeting." **It would be inconsistent with the Department's stated commitment to a "person centered plan approach" if it allowed the language that omits the person during the development of their own plan to remain as is. Please qualify the document as necessary.**

**2) Independent Assessment**

Application Page 6, Item 17

It is disappointing to see that the Department will not provide for an independent assessment of the waiver program prior to its next renewal. The Department is well aware that the Council and others have had major concerns about the assessment that was performed prior to this current renewal request. **We request that the DHHR commit to having an independent review of the Waiver as has been done throughout the history of the program. Concerns raised by stakeholders need to be used to improve the program and subsequent renewal applications.**

**3) 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*.

**4) Waiver Amendments**

Application Page 7, Item 21

This is intended to assure that the State Medicaid Agency will submit in writing any modifications to the waiver in the form of waiver amendments. The State signed the same assurance in the previous renewal application but then proceeded to modify the program through practice and the December 2004 MR/DD Waiver Manual Chapter 500 without following the procedure [Reference the DD Council's Memorandum of Concerns about changes in eligibility standards (November 30, 2004) and the new Manual (December 10, 2004).]. **What guarantee is there that this assurance will be met in the future?**

#### 5) Respite Care

Application Page 12, Appendix B-1e

There are several concerns in this section of the application. When the Department wrote Chapter 500 for the MR/DD Waiver they neglected to specify that Respite Care units could be carried over for a three month period. The Council was told that it did not matter and the carryover provision was still in place. It is also not mentioned in the draft renewal application. **If the carryover is not mentioned in the application, and it is not mentioned in Chapter 500, what assurance is there that it still exists?**

Due to the definition of the service, it only makes sense that Respite Care would not be available in an ISS or group home setting. It is unclear what prompted the need to reiterate the obvious here when there are so many instances that clarity is desperately needed and yet not provided. **This leads the Council to assume that the obvious clarification is being made in an attempt to explain the loss of a service to families that will be addressed later, Adult Companion services.**

#### 6) Residential Habilitation

Application Page 13, Appendix B-1g

**This is of very serious concern to the Council....**The template language is "Payment for residential habilitation does not include payments made, directly or indirectly, to members of the individual's immediate family." This particular statement was not part of the previous application. West Virginia has always had an exception to this requirement, and, in fact, it is spoken to in Chapter 500, Section 511. The Council finds it impossible to imagine any circumstance under which WV would gain anything by deleting this exception. It has been a cost-effective and community supportive provision of the MR/DD Waiver for nearly 20 years. **The Department must add this stipulation back in to this waiver renewal application.**

#### 7) Pre-vocational Services and Supported Employment Services

Application Page 14-15, Appendix B-1g

**This is of very serious concern to the Council....**The Department had previously made a decision to make these services available to all MR/DD Waiver recipients. The template language restricts these services to only those who have been previously

institutionalized and it is not apparent that an exception has been requested in this application. The Waiver was modified in 1998 to include persons who had not been previously institutionalized (see attached memorandum that was included in the previous Waiver application). **The Department must add this exception back in to this waiver renewal application.**

**8) Environmental Accessibility Adaptations**

Application Page 16, Appendix B-1h

The State's previous application included adaptations to vehicles. It is not included in this application. **What was the Department's reasoning for no longer allowing individuals to make accessibility adaptations to their vehicles? This provision needs to be restored in the waiver renewal application.**

**9) Adult Companion Services**

Application Page 18, Appendix B-1n

**The proposed deletion of this service for people who live with their families is a serious problem.** It serves a valuable function to aid adults in becoming more included and independent in their communities. It is important that people do not receive active "programming" at all times. [Making social connections by attending a typical community social event without the pressure of following task analyzed program plans makes as much sense for people who live with their families as those who live in group homes and other facilities.] This service IS NOT RESPITE CARE. Respite Care is for the "...relief of those persons normally providing the care." These are distinct and equally important services WITH IDENTICAL RATES OF REIMBURSEMENTS.

This service was added in the last renewal based on the dialogue between the Department and people with developmental disabilities, their families and advocates who wanted the State to include Attendant Care Services. The Department agreed instead to add the Adult Companion Service as a compromise. It has served people who live a home well. [Also, what does the comment Pages 18-19, "n. Adult companion services: Other service definition (specify): ...See respite services for supervision or monitoring supports for family settings." mean?]

Adults who live with their families are being **unfairly and unnecessarily** discriminated against by this proposed restriction. **The Department must restore this service in the Wavier renewal application.**

**10) 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." **How will a wait list move at a**

**reasonable pace when no new slots are being requested over a 5 year renewal period?**

### **11) 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 position to take 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.**

### **12) Budget Caps and Utilization Management**

Application Pages 8-9, Appendix A

The effects of carrying out the “administrative services organization” functions identified in the renewal application are yet to be seen. While certain assessment instruments (e.g. the Supports Intensity Scale, AAMR, 2004) show promise of being tools to aid the people who need supports and those who help them plan their supports and services, it is too early to know how valuable these will be. The use of scores from instruments in setting “tiers” of funding maximums have not been beneficial to people who depend on these types of supports in the past. This is an area that should be explored with great caution. It appears from the language in the renewal application that decisions have already been made by the Department to control utilization and include a new level of prior authorization for supports. Stakeholders need to know what premises and decision rules are envisioned to be used in controlling the access and restrictions on the use of services.

It is encouraging to note in the second paragraph (Page 8) of the language added by the Department: “The Bureau is committed to creating and implementing a self-directed service delivery system incorporation a person centered plan approach with individual budgeting. To assure appropriate system analysis and stakeholder input, a phased-in approach will be executed over a period of time.”

Persons served by the Waiver, their family members and advocates will be anxious to work to assure that true person centered planning, self-directed service delivery and realistic individual budgeting is achieved.

### **13) Transportation**

Application Page 17, Appendix B-1 j.

A drastic cut of the maximum billable miles of transportation of over 60% per recipient per month (1300 miles reduced to 500 miles) coupled with the reduction in the number of trips per recipient per month will have devastating impact on some individuals' access to the community based services, activities, and resources. This is especially true for those in rural areas. No information is supplied to justify these cuts. **The Department needs to restore these limits to the current levels.**

## **Questions and Concerns**

### **Eligibility**

Page 2, Item 6

Is there any significance to changing from a "yes" to a "no" on "This waiver program includes individuals who are eligible under medically needy groups?"

Page 4, Item 11t

Is there any significance to "Other services" being changed from "psychotherapy and psychiatric" to "Crisis Services?" Are psychotherapy and psychiatry available to recipients through the State Plan and not Extended Services now?

### **Transportation**

Page 16, Appendix B-1g

It is unclear as to the effect of changing the language regarding transportation here. The application preprint states now, "The cost of transportation is included in the rate paid to providers of the appropriate type of habilitation services."

WV answered "yes" to the related paragraph in the previous application, but is now answering "no." Although the sentence is new, the intent doesn't seem to be. Rather, it appears to be added for further clarification. The section already indicates transportation to and between habilitation sites is a component of habilitation.

### **Skilled Nursing**

Page 17, Appendix B-1i

Specifications state "below 21 covered under State Plan." **What does this mean? Would this have an effect on habilitation services provided by a nurse?**

### **Provider Qualifications**

Pages 24-25, Appendix B-2

A. Licensure and Certification Chart

Transportation is not listed as a service as it had been before. Is this an oversight, or does it not belong here?

### **Freedom of Choice**

Page 26, Appendix B-2

The document marked Attachment 7 is the DD-7A. It is “Informed Choice of Providers and Services.” It says you have the right to:

1. Choose among providers
2. Hear about all service coordination agencies in your area
3. Choose a service coordination agency
4. Choose among all available MR/DD Waiver services
5. A fair hearing

**Where does any of this say you can choose to receive each service from any providers?**

**This document also refers to the “MR/DD Waiver Reference Guide.” What document is that? How can it be accessed?**

### **Executive Summary**

Page 34 Appendix D-1

It is indicated that the evaluation of level of care is addressed in the “Executive Summary.”

**What/where is the Executive Summary? How can it be accessed?**

### **Apparent Errors or Points of Confusion**

#### **Eligibility (Medicaid Eligibility Groups Served)**

Page 27, Appendix C

Why is the box # 3. checked? It states that those “Aged, blind or disabled....” would be eligible.

Why is box #2. (SSI recipients) not checked?

Other boxes are not checked in this section that need to be, e.g. box 6.B. Spousal impoverishment rules...

#### **Extended State plan services**

Page 3, Item 11s

Why check “Other” and specify PT, OT, Speech, Hearing and language when those boxes were already checked immediately above?

#### **Line of Authority for Waiver Operation**

Pages 8-9, Appendix A

On page 8, BHHF is a separate agency of the State.

On page 9, BHHF is a separate division with the single State agency.

#### **Definition of Services (Case Management)**

Page 10, Appendix B-1

The template definition seems appropriate, but it wasn’t checked. Instead, the Department checked “Other service definition” and wrote something that is quite unclear. [E.g. “Case

Managers will be defined as Service Coordination and Case Management will be defined as Service Coordination.”]

### **Transportation**

Page 17, Appendix B-1j

The appropriate box that provides the definition is not checked.

### **Adult Companion Services**

Page 18, Appendix B-1n

The appropriate box that provides the definition is not checked.

### **Crisis Services**

Page 21, Appendix B-1s

A lengthy description of Crisis Services has been added although the appropriate box was not checked.

### **Provider Qualifications**

Pages 24-25, Appendix B-2

In the Licensure & Certification Chart, it looks like “Habilitation” provided by “Program” is listed twice.

- “Habilitation: Vocational and Supported Employment: is missing the “provider.”
- “License” column is blank on several.
- “Certification” column is blank on several.
- “Other Standard” column is blank on several. It would seem one of the three should be filled in for each service, and an “N/A” where appropriate.

### **Freedom of Choice**

Page 26, Appendix B-2

The template wording says the State assures each individual has free choice of all qualified providers of each service. The State lists the DD-7 and DD-7A as supporting documents. They are not. The DD-7 is informed consent to a choice between the Waiver and ICF/MR. The DD-7A is discussed above.

The DD-7 still offers a copy of the “MR/DD Waiver Handbook.” This document has not been updated to reflect the new Chapter 500.

### **Keys Amendment Assurance**

Page 26, Appendix B-3

One of the two boxes must be checked but neither are.

MR/DD Waiver Renewal Application Comments

March 17, 2005

Page 8 of 8

**Post Eligibility**

Page 30

Missed checking box 1.A.a.1.A.

**Cost Neutrality**

Page 43, Appendix G-1

Information is missing.

None of the Appendices including **Factor D** (Page 45, Appendix G-2) are completed.