

Conflict-Free Case Management Task Group
 August 20, 2014
 9:00 a.m. – 12:00 p.m.
 Health Care Policy & Finance Department
 303 E. 17th Ave Street Denver, CO 80203, 1st Floor Conference Room

Date: August 20, 2014		
Task Group Members Participating:		
Amy Ibarra – Horizons		State Staff Present:
Beverly Winters – Developmental Disabilities Resource Center		Brittani Trujillo – DIDD
Bob Ward – Parent/Developmental Pathways		Lori Thompson – DIDD
Danny Villalobos – Self-advocate		Facilitator:
Edward Arnold – Parent		Claire Brockbank – Segue Consulting
Hanni Raley – The ARC of Aurora		
Joe Manee – Self-advocate		Guests:
Kathy Hill – Goodwill Industries of Denver		Bobby Poisson – Self-Advocate
Linda Medina – Envision		Donna Sedillo – Host Provider and Caregiver
Rob Hernandez – Provider		Ellen Jensby – The Alliance
Tom Turner – Community Options		Steve Hart – Host Home Providers

Agenda Item	Status/Decisions Made	Assignments/Commitments
Goals for Today's Meeting	<ul style="list-style-type: none"> Receive update on CMS clarifications and BIP guidelines Review and discuss information received in the context of current options for recommendations Continue to refine recommendation options 	
I. Introductions & Administrative Tasks	<ul style="list-style-type: none"> Brittani Trujillo welcomed all attendees in person (none on the phone). All guests introduced themselves. Task Group members had no issues with the changes to the June Meeting Summary. 	
II. CMS Clarifications	Reconciling CFCM and Person-Centered Choice: Reconcile the imperative to create conflict free case management environments with the equally compelling fundamental	<ul style="list-style-type: none"> Provide more information regarding CMS language

	<p>tenets of person-centered care and the ability for a person to exercise fully informed choice.</p> <ul style="list-style-type: none"> ✓ CMS considered the balance of an individual’s right to choose from any willing and qualified provider with the risks inherent in those agencies developing the service plan and also providing services. In the notice of proposed rulemaking, the requirement that the agent must not hold a financial interest in any of the entities that provide care is established as a minimum conflict of interest standard. CMS communications that their experience in HCBS waivers indicates that assessment and person-centered service plan development should not be performed by providers of the services prescribed. ✓ CMS received 1653 comments on the notice of proposed rulemaking and did not provide any provision for a waiver of this requirement. <ul style="list-style-type: none"> • Minimum standard is the same entity cannot provide an individual with CM AND services. • Many members of the group continue to have issues with CMS’ indication that conflict of interest “trumps” person-centered choice. The group discussed continuing to pursue this in their recommendations. One option that surfaced was including choice as a component of grandfathering. <p><i>Clarifying Situations under Which a Family or Individual Could Opt-Out of Certain Aspects of Case Management:</i></p> <ul style="list-style-type: none"> ✓ What case management services must be provided by an approved Case Management Agency? ✓ What case management services could be considered “optional” in terms of a family or individual choosing to opt out of the state case management program? <ul style="list-style-type: none"> • In this area, Brittani reported that Colorado has a little more flexibility. CMS required assurances include: <ol style="list-style-type: none"> 1. The CMS 1915(c) Technical Guide provides guidance on Service Plan development and monitoring. This is in appendix D. Service plan implementation and monitoring are set by the state, however needs must be reassessed at least annually. 2. Level of Care Assessment at least annually: This is not Case Management but 	<p>about financial conflicts and requirements regarding separation.</p> <ul style="list-style-type: none"> • Draft language incorporating person-centered choice as a grandfathering provision of the group’s recommendations. • Brittani will be attending an HCBS workshop after our September meeting and will participate in a CMS intensive about the new rule. This is an opportunity for us to provide Brittani with questions to ask.
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	<p>is nevertheless required. CO uses ULTC 100.2</p> <p>3. State has room to establish other face to face monitoring requirements under different waivers (e.g. CO waiver requires monitoring quarterly; this is something CO could modify).</p> <ul style="list-style-type: none"> • This means that the family can manage the service plan but that it must be developed by the CM – ideally with the input of the family. • The group discussed reasons an individual or family would want to “opt-out” of CM. There can be issues of delayed provision of services in which the CM is perceived as a barrier. In a choice situation the goal is that individuals or families that have a non-responsive CM can shop around for a more responsive CM. • The group asked about flexibility in monitoring use of units that are assigned in the PAR. Brittani clarified that the state has to assure CMS that what’s in the Service Plan matches the units in the PAR. • The group also asked for more specifics around the definition of financial interest. 	
<p>III. Guidance from the Balancing Incentives Program (BIP)</p>	<p>Balancing Incentives Program: CO was not eligible to participate in BIP but there are components that specifically address CFCM. Brittani reported on the four specific characteristics of CFCM as documented in the BIP:</p> <ol style="list-style-type: none"> 1. <i>There is separation of case management from direct services provision:</i> Structurally or operationally, case managers should not be employees of any organization that provides direct services to the individuals. Ideally, conflict-free case management agencies are stand-alone and provide no other direct services. This prevents financial pressure for case managers to make referrals to their own organization or the “trading” of referrals. 2. <i>There is separation of eligibility determination from direct services provision:</i> Eligibility for services is established separately from the provision of services, so assessors do not feel pressure to make individuals eligible to increase business for their organization. Eligibility is determined by an entity or organization that has no fiscal relationship to the individual. 3. <i>Case managers do not establish funding levels for the individual:</i> The case manager’s responsibility is to develop a plan of supports and services based on the individual’s assessed needs. The case manager cannot make decisions as to the amount of resources (individual budget, resource allocation, or amount of services). 4. <i>Individuals performing evaluations, assessments, and plans of care cannot be related by blood or marriage to the individual or any of the individual’s paid</i> 	<ul style="list-style-type: none"> • The issue of access-based exceptions will be a focus of our September meeting.

	<p>caregivers, financially responsible for the individual, or empowered to make financial or health-related decisions on behalf of the individual.</p> <p>There was discussion around the need to separate Service Entry Provision, CM, and Direct Service Provision (DSP). Some members of the group felt that three separate entities would be cumbersome, Lori clarified that although CMS has indicated that three separate is best, the minimum requirement is to separate CM and direct service provision. Brittani reminded the group that its task is to focus on the CM and direct service provision. There is an eligibility group that is working on the Service Entry Provision components.</p> <ul style="list-style-type: none"> • The CLAG has recommended a 3-prong service approach (3rd party eligibility, case management, and direct service delivery as separate entities. • Note: The 2010 task force also recommended a 3-prong approach. <p>The BIP indicates that when there are access issues, the state may permit a single provider to provide CM and direct services. State must explain why no providers are available and why resources cannot be developed.</p> <p>Lori indicated that as it exists currently, the burden of proof is on the CCBs to demonstrate that they've attempted to build capacity in their service area. The new rules indicate is that the State must ensure adequate access and/or protections from conflict of interest. The group discussed that the burden of proof with respect to adequacy of CM will fall on the state if CCB's are no longer responsible for providing these services.</p> <p>In instance of no access, state must develop conflict of interest protection. The issue of access-based exceptions will be a focus of our September meeting.</p>	
<p>IV. Other CCB Activities</p>	<p>During the discussion regarding CM and DSP, the issue of statutory requirements for CCBs was raised. If a CCB has to decide between CM and DSP, then de facto many of the CCBs will no longer really be CCBs. Examples raised of statutory requirements were mill levies, Early Intervention Service Coordination, and Investigations. Many of these are not financially viable business activities.</p> <p>The group agreed that although these issues do not relate directly to our task, they should be raised in our recommendations. Tom will work with members of the Task</p>	<ul style="list-style-type: none"> • Tom will coordinate efforts to create a list of CCB services that could be impacted. • Rob will coordinate efforts to compile a list of counties and their mill levy requirements.

	<p>Group to identify a list of CCB services that could be impacted. Rob will work with members of the Task Group to compile a list of counties and their mill levy requirements.</p>	<ul style="list-style-type: none"> All members of the Task Group should provide Rob and Tom with input.
V. Goals and Objectives through October	<p>Based on the information presented during the first half of the meeting, Brittani presented the Task Group's charge between now and the end of October:</p> <ul style="list-style-type: none"> Present a recommendation or multiple recommendations for models of CFM in Colorado Focus on the What not the How <p>The Task Group's recommendations are specific to DIDD's HCBS waivers but our recommendations could impact all waivers in keeping with case management services and conflict of interest in general. As such, our recommendations will also be assessed in the context of waiver redesign.</p> <p>Brittani also clarified that Tiffani typically represents the other waivers at our meetings but that SEPs do not do TCM (they do Administrative CM) and they handle the other waivers. State Plan case managed services (e.g. mental health) are outside the waivers.</p> <p>The question was raised as to what is left for this group to determine since the CLAG has recommended a three-prong service approach and CMS has specified a separation between CM and DSP.</p> <p>This group has the ability to set the features and specifics of the model, within the requirements of CMS. In light of the other activities that impact our work, the following material will be sent out to members of the Task Group:</p> <ul style="list-style-type: none"> The CLAG recommendations (https://www.colorado.gov/pacific/sites/default/files/Community%20Living%20Advisory%20Group%20Report%20DRAFT%2008-15-14.pdf) Program requirements for HCBS-Children's Extensive Support (CES), HCBS-Supported Living Services (SLS), HCBS-DD and Early Intervention Services 	<ul style="list-style-type: none"> The following material will be sent out to members of the Task Group: <ul style="list-style-type: none"> The CLAG recommendations https://www.colorado.gov/pacific/sites/default/files/Community%20Living%20Advisory%20Group%20Report%20DRAFT%2008-15-14.pdf Program requirements for HCBS-Children's Extensive Support (CES), HCBS-Supported Living Services (SLS), HCBS-DD and Early Intervention Services
VI. Discussion	<p>The group reviewed each of the different Options and Features it had identified during previous meetings. In general the following items were agreed upon:</p> <ul style="list-style-type: none"> The four components of TCM will remain intact <ul style="list-style-type: none"> Minimum provisions will be allowed for family engagement in service 	<ul style="list-style-type: none"> Claire will revise the Options Model document to reflect this discussion more completely.

	<p>plan implementation and referrals</p> <ul style="list-style-type: none"> • Case management will be provided entirely independent of service provision <ul style="list-style-type: none"> • Exceptions for access and grandfathering under consideration • Case management can be provided by a range of entities <ul style="list-style-type: none"> • Independent CM entities • CCB that has divested itself of DSP • Families for a limited range of activities • CCBs that still provide both CM and DSP but not for the same person • The State as a safety net or back-up option in cases of access issues, insolvency, TCM cap issues <p>Claire will revise the Options Model document to reflect this discussion more completely.</p>	
VII. Guest Input	<ul style="list-style-type: none"> • Ellen Jensby indicated that Kentucky’s waiver includes grandfathering provisions. It was approved in January 2014, which although prior to the final rule, quite likely incorporates CMS’ views vis-à-vis the final rule (given close proximity). • Ellen also indicated that Wyoming has had a new waiver approved which addresses some CFCM issues as well as a three year phase in plan. • Donna Sedillo indicated that she believes there will be plenty of individuals who will be eager to serve as independent case managers. 	<ul style="list-style-type: none"> • Review KY and WY plans
VIII. Next Steps	<ul style="list-style-type: none"> • Brittani and staff will do the identified follow-up work in advance of the next meeting. 	
IX. Future Meetings	<p>303 E 17th Ave, 7th Floor</p> <ul style="list-style-type: none"> • September 9 1:30 – 4:30, conference room 7D • October 8, 1:30 – 4:30, conference room 7B • October 22, 9:00 – 12:00, conference room 7C 	

Attachments

- Options Model, August 23, 2014