

Conflict-Free Case Management Task Group
 September 9, 2014
 1:30 p.m. – 4:30 p.m.
 Health Care Policy & Finance Department
 303 E. 17th Ave Street Denver, CO 80203, Conference Room 7D

Date: September 9, 2014			
Task Group Members Participating:		State Staff Present:	
Amy Ibarra – Horizons		Lori Thompson – DIDD	
Amy Taylor - Parker			
Beverly Winters – Developmental Disabilities Resource Center		Facilitator:	
Bob Ward – Parent/Developmental Pathways		Claire Brockbank – Segue Consulting	
Danny Villalobos – Self-advocate			
Edward Arnold – Parent		Guests:	
Hanni Raley – The ARC of Aurora		Donna Sedillo – Host Provider and Caregiver	
Joe Manee – Self-advocate		Gerrie Frohne – Advocate and Family	
Linda Medina – Envision		Linsey Leith – Goodwill	
Maureen Welch - Parent		Mik Kamils, HTBI project	
Rob Hernandez – Provider		Steve Hemstrand	
Tom Turner – Community Options			

Agenda Item	Status/Decisions Made	Assignments/Commitments
Goals for Today's Meeting	<ul style="list-style-type: none"> Address need for exception issues due to lack of access to independent case management or direct services 	
I. Introductions & Administrative Tasks	<ul style="list-style-type: none"> Lori Thompson welcomed all attendees. All guests introduced themselves. Task Group members had no issues with the changes to the August Meeting Summary. In light of the delay in distributing this month's meeting material, the group agreed that Claire will send out the meeting packets 5 business days before the meeting. Any material that is not yet available will be duly noted. Any member of the Task 	<ul style="list-style-type: none"> Meeting packets will go out 5 business days before a meeting. Content that is still awaiting DDID input will be marked DRAFT but distributed regardless.

	<p>Group, including DDID participants need to honor the timeline.</p> <ul style="list-style-type: none"> • It was also noted that information promised during meetings for distribution post-meeting is often not forthcoming by the date indicated in the Meeting Summary. Again, a strong request was made that DDID honor timelines for meeting content. 	<ul style="list-style-type: none"> • All members, including DDID participants need to honor deadlines for content agreed upon during the meetings.
<p>II. Follow Up Information from August 20, 2014 Meeting</p>	<p>Several items were requested during the August 20 meeting. The following were distributed with the Agenda and are viewed as information only. If members have requests for discussion based on content review, please let Claire know for the October meeting agenda.</p> <ul style="list-style-type: none"> • Kentucky and Wyoming waiver information • CMS language defining financial interest <p>Information that was not distributed but is attached with these notes is the follow up document that Tom Turner compiled identifying parking lot issues that would arise if CCB ceased to exist.</p> <ul style="list-style-type: none"> • Because it does not relate directly to the Task Group’s scope, it will not be discussed today. If, however, there is time after the group’s core responsibilities are completed it can be discussed. • Alternatively, members of the Task Group can propose including it as an Attachment to the final report. 	<ul style="list-style-type: none"> • Attach the Parking Lot document provided by Tom Turner • Members of the Task Group: Notify Claire if anything from the material provided should be added to the agenda for one of the October meetings.
<p>III. Access Exceptions</p>	<p>The final rule states that (underlining added for emphasis): <i>Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan, <u>except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area also provides HCBS.</u> In these cases, the State must devise conflict of interest protections including separation of entity and provider functions with provider entities, which must be approved by CMS.</i></p> <p>The Task Group’s task today is to define what the Division expects from Case Management entities or Direct Service Providers/CCBs before initiating an exception.</p> <p>Lori told the group that under the current statute the CCBs are responsible for</p>	<ul style="list-style-type: none"> • Expanding the discussion of access issues to service delivery will be a focus of the October 8 meeting. • Resolution regarding whether the Task Group recommends access exemption options or not will be discussed during the October 8 meeting. • Those members of the Task Group that continue

developing capacity. Under the revised rule the onus is on the state to ensure capacity.

Options and issues discussed

- Promote vibrant engaged free market participation with real choice: If successful will obviate need for exceptions because access will not be an issue.
- Support a differential reimbursement rate for poor access areas: Lori advised that this is too much of a “how” not a “what”.
- Support the use of technology advancement to facilitate access: This is being reviewed as part of waiver redesign (the law currently requires in-person service planning). It would be optional and some encounters would still need to be face-to-face to ensure hands-on perspective on other possible issues that don’t surface from a distance.
- Consider issue of travel time – how much (if any) is too much, and is knowledge of local resources an issue the state should regulate versus allowing market and choice to manage?
- The CMS rule is not clear on whether it is the number of entities available to provide services or their capacity. The group concurred that capacity is the relevant metric.

Case Management Summary

- In general there was conceptual support for fostering a vibrant free market. However, there was division regarding the need for protections under certain circumstances.
- Some members felt that building to anticipate failure would keep a market solution from thriving and that this was not necessary. The focus should be on providing the supports needed to build up choice and increase access; essentially identifying what we can do as a state to help individuals build those services and capacity.
- Others felt strongly that protections would be necessary under certain circumstances. For example:
 - Despite the market a shortage of capacity exists (happens with service delivery)
 - CM doesn’t really have knowledge of local resources
 - Some threshold is reached where a disproportionate amount of the client’s resources are being used to compensate for travel time
 - The market doesn’t adjust overnight so how to handle the transition time

to support pushing the CMS to thoughtfully consider certain situations (other than geographic access) where an exception could be granted request that Brittani discuss the two scenarios identified with CMS. They would prefer that the conclusion of the discussion would be captured in writing (even if simply an email confirmation of the discussion).

- Bad case management agency
- In general the group seemed to concur that the state could be the back-up case management entity but would likely contract out for those services.
 - The state could also designate the SEP as their contracted back-up support
- In the case of poor performance or malfeasance the state has provider qualifications that it would have to enforce.

Remaining Access Exception Issues

- A client segment of particular concern is individuals without family or guardians to assist with the choice process. Lori indicates this has been an issue historically and needs to be considered.
- Most of the discussion focused on CM. Are the issues different for service provision? Rural access and the lack of economies of scale suggest that it is different but the group did not discuss in any detail. This will be considered during the October 8 meeting.
- Resolution regarding whether the Task Group recommends geographic access exemption options or not was not finalized.

Other Exception Situations

- Ed read the language from CMS regarding exceptions (see above) and was concerned that it only envisions one situation needing an exception – geographic access. Addressing the situation where a person specifically requests an exception should also be considered.
- This continued the discussion initiated during previous meetings regarding person-centered choice relative to conflict free case management. Two scenarios were identified that Brittani should raise with CMS during her meeting next week.
 1. A person knowingly wants to work in a situation in which conflict could occur. In this “eyes wide open” situation the person makes an informed choice. Protections are put in place to assure the state and CMS that the individual has made a free and informed choice.
 2. In those relatively rare situations where an individual has a longstanding relationship with a case manager and does not want to have to choose between leaving his/her case manager or his/her service delivery providers. Given the high rate of turnover among case managers this will not be common.
 - a. Note: Some have characterized this as permitting an exemption for

	<p>ALL current participants in the system. This is not the case; it is for those who can demonstrate a longstanding relationship and a negative impact for terminating either the CM or the service provider.</p> <ul style="list-style-type: none"> • Not all members of the Task Group support the above options for exceptions. Many feel strongly that there should be no exceptions for informed choice or “grandfathering” type situations. 	
IV. Final Report	<p>The group discussed the final report.</p> <ul style="list-style-type: none"> • Deadline: Final report turned in October 31. • Process pre-submission: Claire anticipates drafting a report and circulating for comment and feedback. One round of edits. • Post-submission: Lori will report back. • Recommendations: Not necessary to have consensus on all recommendations. In fact, not likely. It is up to the group to determine what to include in terms of range of suggestions. • Voting: The group considered the option of voting on each recommendation. Claire indicated this was an option but preferred not to quantify levels of support since the numbers won’t necessarily represent the overall stakeholders’ degree of antipathy or support for any particular issue. No final conclusion was reached. 	<ul style="list-style-type: none"> • Lori will report back on how the Division plans on reviewing/processing the report. • Resolve issue of voting during October 8 meeting.
V. Discussion	<ul style="list-style-type: none"> • As the group discussed the final report some members felt they would not be able to vote or otherwise weigh in on recommendations without the ability to “walk an 8-year” through the new system in its entirety – including issues like those raised in the Parking Lot document. <ul style="list-style-type: none"> ○ Claire noted that this is not really feasible in light of the overall waiver design effort and the number of issues outside this group’s purview that can impact the overall system. • There was discussion about wanting to see the results of the NCI survey. Two flaws were identified with that request: <ol style="list-style-type: none"> 1. The results will not be out in time for the group to review 2. Some host home providers and family members were fearful of responding honestly for fear of retribution. <ol style="list-style-type: none"> a. In general several members of the Task Group indicated that the host home and family community does not believe that anything will really change (see guest comments below). • The group raised the issue of defining protections during roll-out and 	<ul style="list-style-type: none"> • Claire will revise the Options Model document to reflect this discussion more completely. • The group will discuss language regarding protections for individuals during roll-out and implementation during the October 8 meeting.

	<p>implementation. There was concern that there need to be protections for individuals so they don't suffer any negative consequences of the new system (dislocations etc.).</p>	
VI. Guest Input	<ul style="list-style-type: none"> • Steve Hemestrand, participating by phone, deferred to Maureen Welch to read a statement expressing strong feelings regarding the importance of complete separation of CM and service delivery under every circumstance. He noted that separation should not permit subsidiaries that share a common board and can direct profits to a sister subsidiary as truly separate. • Denver Fox was not present but also provided Maureen a statement to read. This provided a history of recommendations (2007 University of S. Maine, 2009-2010 Task Force Report, 2009 Colorado state performance audit) to separate CM from service delivery. Denver noted that effective lobbying by Colorado Association of Community Centered Boards, CCB Partners, and The Alliance has kept these recommendations from being implemented. With new teeth in the CMS requirements it is time to implement true separation; grandfathering is not necessary; the delays have de facto already allowed for extensive grandfathering. • Gerrie Frohne: Indicated that she believes grandfathering options are not appropriate. When you allow grandfathering you allow a conflict of interest to exist. Not possible to have eyes wide open in an unbiased way. She recommended a clean division to avoid any conflict of interest. • Mik Kamils: Concurs with general guest comments about the importance of true separation and the need to attract new case managers, as well as the fear of repercussions for those who speak up against the current system. Mik indicated that training and quality standards for case managers are higher in other states and that Colorado should include training on how to deal with ethical management of their own conflicts. Mik noted that he was stunned that most case managers in CO are not members of Case Managers Association of America. 	<ul style="list-style-type: none"> • Maureen will provide an electronic copy of the statements. Attached: <ul style="list-style-type: none"> ○ Denver Fox statement ○ Transcript of Steve Hemestrand, Gerrie Frohne, and Mik Kamils statement
VII. Next Steps	<ul style="list-style-type: none"> • In response to a comment from Beverly, Claire asked the group to take time between now and the October 8 meeting to email their thoughts regarding areas of consensus, areas where differing recommendations will need to be made, and any other general thoughts or suggestions regarding the final product. <ul style="list-style-type: none"> ○ In order to compile this before the October 8 meeting and incorporate it into the agenda planning, Claire would like to receive this material by September 26. 	<ul style="list-style-type: none"> • Claire asked the group to take time between now and September 26 to email her their thoughts regarding areas of consensus, areas where differing recommendations will need to be made, and any other

		general thoughts or suggestions regarding the final product.
VIII. Future Meetings	303 E 17th Ave, 7th Floor <ul style="list-style-type: none"> • October 8, 1:30 – 4:30, conference room 7B • October 22, 9:00 – 12:00, conference room 7C 	

Attachments

- Parking Lot issues
- Electronic guest statements