

**Participant Directed Programs Policy Collaborative (PDPPC)
October 26, 2016
Community First Foundation in Westminster**

Draft Minutes for Approval at November Meeting

Executive Summary:

We discussed that FEA transition is almost done, and those who have not responded will be getting an 803. We agreed no need for registry to remain in FMS contracts. FMS vendors can continue to maintain their registries as they see fit. We approved a new CDASS form and were asked to comment on the IHSS FAQ. We had a long discussion about what to do about people who share attendants and AR who are going into overtime causing problems. We are still researching. We received an SLS update and had two public forums.

John Barry called the meeting to order at 1:03 pm

Attendance

Excused: Jason Smith, Cheryl Vennerstrom, Ryan Zeiger, Renee Farmer, Candie Dalton

In Room

Adam Tucker	Kady	Lynn Lonzanida
Curt Wolff	Hetherington	Mallory Cyr
David Bolin	*CDCO Vote	Rebecca
Debbie Miller	Kathi Sargent	Sturdevant *MS
Diane LaManna	Katie Hotvedt	Vote
Erica	Katie McGuire	Rhyann Lubitz
Weidenfeld	Kelly Tobin	Sharita
Jennifer	Kevin Smith	Richmond
Martinez *PPL	Kirk Miller	Valerie Baker-
Vote	Linda Andre	Easley
John Barry	Linda Medina	

On Phone

Brent Salner

Corinne Lindsey

Craig Morrison

*AC\$ Vote

Hanni Raley

Heather Jones

Julie Miller

Julie Reiskin

Kathy Estes

Kelly Morrison

Leslie Taylor

Linda Jernberg

Linda Skafren

Liz Wuest

Louise Apodaca

Margaret

Proctor

Maria

Rodriguez

Mark Simon

Matt Dotson

Sandi Bray

Sarah Hoerle

Sivani

Rasanayakam

Stephanie

Holsinger

Kari Vinopal

Our host from the Community First Foundation was introduced. She shared info about the Community First Foundation and offered use of the space for other non profit work. This is a 40 year old nonprofit foundation. They see themselves as a connector, partner, collaborator, and resource, for Jefferson County and the 7 Metro counties. They were founded by the fundraising branch of Lutheran Medical Center and have \$350 million in assets. They empower good work in community and welcomed us. People commented that they like the space and that the audio is working well.

The attendance record and voting rights for each agency was determined, no conflicts on who has voting rights. There were no errors on record that was sent out.

Minutes: The minutes were sent out with all of the documents for this meeting on 10/13.

Maria said she did not receive them, Mark did not either. There were no comments on draft minutes. John Barry suggested we take a tentative vote to approve draft for September so that Mark and Maria and anyone else that did not get minutes could review and respond. Curt moved and Valerie seconded the motion and it was unanimous.

Julie suggested that people let John know if they do not get the minutes or material ahead of the meeting since it is usually sent out two weeks early. Julie said if it is one week before the meeting people should let John know so he can get them the material if there was an error. In the meantime the agreement was the minutes are approved and if John hears anything from people who have not seen them he will let us know and in that case it will go on the agenda in October.

Open forum number 1:

Leslie Taylor

She reported that she-attended first FAS (funds for additional services) meeting then was in hospital and missed the 2nd meeting. She was not sure if there is anything set up for another meeting and she wants to participate if possible but can only do so until November as she is having back surgery again. Rhyann said that she canceled October meeting as

they had not heard back from CMS yet but the November meeting is 11/21 at 2 pm. She will send out agenda 2 weeks before with call in number.

Kelly Tobin

She said she has been in this group for a couple years. She said it took a long time to figure out what was going on, and lots of info she does not have, she wants to create orientation and welcome sheet, that has information. She wanted to know who was interested in helping. She said anyone interested should call her at 719-930-3119. She will take the lead in making this happen.

Corrine Lindsey

She wanted to know if the Medicaid Advisory Committee still has an opening. She was responding to an announcement from Dr. Zerzan. John Barry answered. He said this committee is also referred to as the Night MAC. John explained what it was and he is not sure but will find out, Corrine is interested. There was discussion about the process. There is an application process—that application goes to someone in Dept. Kelly said that Dr. Jackson is on the committee and she was appointed by the governor. Therefore after the application is vetted by the Department it goes to the Governor's office. John will find out if there is still an opening. Corrine asked if she could refer to previous resume used when she applied for the Indian Affairs Commission. John did not know but suggested she follow whatever application is provided and reference her placement on that commission.

Louise Apodaca:

She said she thought that we were going to get surveys about CDASS and the FMS agencies and she never got one. Rhyann asked what day were surveys mailed and what do people do if they did not get one? Kady said that one reason people may not have it is the FMS had the wrong address and said it is important that everyone keep info current with FMS. She said if you moved or if you did not receive call Kady at 844-381-4433. She said that it was over a month ago that they went out. If you did not get one you should have. Kady will research Louise's file and follow up directly.

Louise Apodaca:

In the minutes we discussed having the FMS agencies do PDPPC outreach in their newsletters or with statements. She wanted to know if this happened. PPL does put them in the statements, and both Morning Sun and Aces\$ said they were in process and it should be in their next set of statements.

PDPPC location:

John said that they are still looking for regular place to meet. Community First Foundation does not want this as monthly meeting but they let him set up about 4 meetings. He is talking with the Lakewood Cultural Center, which charges a fee but HCPF would cover it. They want us there, sound system not great but they are working on getting a new one. Please pay attention to the notices for meeting location until we find permanent space. Lakewood Cultural Center also has good parking, and RTD right there and very nice facility. We all agreed that we will not go back to Rocky Mountain PBS—sound system not workable.

FEA TRANSITION:

We only have only 64 people left to transition. 10 had existing FEIN number issues. The remainder received 803 notices with effective date and appeal by date. Rhyann told case managers to outreach people in addition to calls –some have not responded. There is no specific location where there are problems, clients are scattered around counties. Some clients have not responded at all and others are waiting on documents –Julie and Leslie both commented about a lot of lost documents and problems with how paperwork is processed.

Corrine said PPL did a great job with her case. Some documents had to be hand written and they went out of their way and came to her home to pick up the documents. If you give them a call they will come to your house.

Long term Policy issue re FEA:

Rhyann wanted input on a specific policy issue. She had FMS vendors reach out to people that share attendants and ARs. In our system we do not have way to pay overtime or travel time if an attendant works more than 40 hours a week across multiple clients that share one FEIN/AR. We wanted to do education but that is not working. Can do time and a half

with only one AR and ONE attendant. There are fewer than 100 in this situation, but we do not know if they any have exemptions from overtime. Julie asked if we knew how many are AR by choice. Currently Rhyann cannot tell them to be own AR or have different AR-all she can do is give education. Julie said that if it is by choice a client could be given suggestion to become own so they can control the worker and then the problem goes away.

Curt –you can have policy that says no overtime –we could have policy that does this.

Rhyann—if we can do this we would have to do rule and waiver change. Curt said that one other option would be to require each client to have FEIN number. Rhyann said that the problem with that is that the bottom line of liability when a client has own FEIN but there is an AR is not completely settled because no lawsuits yet and no precedent. The national resource center and some FMS vendors say regardless of who holds EIN that DOL would look at whomever directs and manages the care as being the employer liable for overtime. Without a DOL complaint it is difficult to know what is accurate. Until there is definite lawsuit or policy issue we are grasping at straws. Curt said the whole point of separate FEIN is to have separate employers it makes no sense to say anything else –not sure they could force that based on who is allegedly directing.

Mark Simon—DOL and IRS have used approach of deciding who is employer goes back to days of how they deal with independent contractor –the approach is about who is in control, who is decision maker ----they have all ends of spectrum—AR who does everything to the AR who just pushes paper –not exercising direct daily oversight –when it is in the middle is where it gets vague and what the courts have to figure out eventually. Some of what he read was either from DOL or from National Center—he has read 100’s of pages on this whole mess. He suggests we send formal request to DOL and copy our congressional delegation to ask them to provide prompt reply –also wanted to know who would investigate a problem, US DOL or CDLE—not sure. If CDLE we may be able to have answer.

Curt said his background is dealing with franchises –other states may have same issue. Based on his background he would say FEIN holder is employer.

Mark said we could ask NRCPS to do state by state response on what each state is doing about this.

Julie said she would prefer NRCPS to asking DOL or CDLE to do letter but suggested we have clear and strongly written letter to everyone in situation about the requirements and have them sign it. They would sign and say that they understood the person with the FEIN is directing and if one person is directing the same attendant with two people it is not OK to go over 40 hours combined. Then if they do it no one can say they were ignorants.

Sivani—what are other states doing?

Rhyann said she knows that WI has cap with some small fund for extras and Texas capping at 40 hours for every single client.

Rhyann asked everyone to think about options further as she is concerned on how to best ensure we are meeting all requirements and protecting our program.

Corrine –depending on time limit she would err on side of caution and research more.

Sivani – agrees in terms of waiting. If there is money to find out what other are doing lets do this. We should also find out from case managers more about the situations—could some clients get new number and in future limit for 1 AR per client? Are trying too hard to benefit a few risking that we all pay the price? We should not have something affect all of us that is only caused by a few people.

Leslie- agreed on a strongly worded letters and also said we can ask DOL, CDLE for information. She said we need to get question answered. It should be answered now not sitting in a committee. We need action rather than discussion. Letters can be the same but should be addressed to both state and federal government and someone will have to answer.

Corrine—understands Leslie's reasoning but also does not want to risk anything –has to be more research maybe could take one more meeting.

David said IHSS does not have this issue as they have in/out times on timesheets. There is a clear indication of who is liable for overtime hours when timesheets are processed.

Curt had a question as to why hours are entered now without a start and end time on timesheets. If we had this we could comply with CMS?

Rhyann said we have never had in/out times on the CDASS timesheets going back to the days of the CDASS pilot. She is not sure why we enter time the way we do.

Julie said not sure there was ever specific decision –could not remember if we have had time in and out—Linda A said we never had in and out.

Kirk do we need to do overall census of clients re what they prefer?
Sivani—having to add time in and out would be a nightmare—others agreed.

Rhyann—what do people do to be able to demonstrate when someone works, for something like work comp? Several answers included:

- Sivani tracks it but not always a specific category ---
- Maria –feels like time clock is good idea and also consideration for FAS because there would be cost
- Julie-has regular schedule and documents when variance
- Louise-has two attendants writes on calendar specific to CDASS when person arrives and leaves and what they do
- Kelly-uses note card system –important to talk to aides as they come and go about time, has them sign in and out—perceptions of time are interesting, not a problem, but interesting. Employers and employees must be on same page.
- Leslie –opposed to in/out times on time sheets. And we need to not insult our caregivers—this is not burger king or McDonalds.

Curt: NEW ISSUE: Home modification and equipment costs tied together and realized feds changed language and said they are not to be

tied together. What this means is that things like ceiling lift could be considered DME not one mod and he does not know what is DME and what is not. Could we have a resource guide to say what it is and what is not? Julie—there is a law that says the state cannot have specific list of DME and limit based on that list. She said CCDC has some info on this and will send to Curt

Curt---state person said that anything screwed in wall was home modification-but grab bars are DME. Julie said that grab bars may have been used as DME just to allow it to be easy since there are so many of them. But based on definition they should probably be home modification since they cannot be used in the community.

Leslie –had home mod and her house burned down, does this mean the \$\$ burned down with it? Answer yes.

Louise wanted to go back and talk about overtime in next open forum

CDASS FORMS

Rhyann said the updated forms were in packet.

- 1) ASMP update—last month it was brought to group and we suggested that we have a reason –either due to change in needs or to address overspending and what is done to resolve. This is not the same ASMP we use when we start but the one that would be used if there is a change.

Question—if people had a change and they did not do one do they have to do this now? Rhyann, no we will do this going forward. However if CM is going through records and the plan is way old and there have been lots of changes it might make sense to update but she is not telling case managers to redo all of them.

Louise thanks for changes

Maria said she did not have any form to review so could not review— Rhyann will send to Maria. She also found one typo so she will fix that and proceed to send to clearance.

Rhyann said she appreciated the work of the group on the forms.

2) Other forms. One is FMS FAQ 2016 –this is update of the one in 2014 which was when we started with 3 FMS, etc. This lets everyone know of changes in program, pros and cons, FAQ, charts etc. It has lots of good info. On Page 2 of 6 there is typo, should be period after December. Louise had a question on #3 page 4 of 6 about the PMPM rate. She wanted to know why there is a difference in amount. Answer-when HCPF did the RFP they set a maximum rate. Two bid at that rate and one went under. We have discussed if in future bids we want them to have different rates and we will need to discuss more before next bid.

Sivani-really good document, she did not know much of this info

Kelly—great document.—in welcome to PDPPC could we have a list of important documents or links? This is great and can clear up lots of confusion.

Kady- all of these forms and other important documents and FAQ are on the consumer direct website. When clients go through training they get this info also, may be older clients that do not have all of this information unless they stay up to date through the consumer direct website. Page 5 and 6 items 9 and 10 discuss overtime. It gives examples also number 11 of page six helps. She thinks this does answer questions about overtime.

Rhyann –this tells people options we have but some people are not responsive.

FLSA

Two meetings ago we did panel on this with FMS and CDCO—this is a response to the questions –sources are cited this was in response. This includes answers to things like sleep time and other areas where there questions. David said OT should include more than 12 hours in a day you are entitled to overtime even if less than 40 hour. David suggested CD-CO check with CDLE because state law is more restrictive.

Linda said there is exemption for live in attendants.

SLS UPDATE:

Adam Tucker works in SLS and is filling in for Roberta who retired, he is temp until position is filled but trying to move forward with adding CDASS to SLS waiver. He wanted to come and give an update. He has been working with CMS and are in 3rd iteration of question from CMS and they hope and think this is last group of questions and that CMS will allow waiver amendment. This will allow HCPF to move forward to implement. They will also need to add rules—they are working to make sure that CCB case managers are aware of CDASS and are developing trainings. He said they are very committed to making CDASS and SLS successful, committed to consumer direction. They also want to learn as much about consumer direction so it is robust and works well

Valerie:

Is IHSS ever going to get in DD waivers? Answer from David: need to pass legislation, tried last year and will try again

Linda thought it was approved for SLS but not implemented

Linda: not everyone in SLS does not need 24 hour care –people are in SLS waiting for comp waiver. Also wanted to know how is training different in this group from SEP training?

Answer: They don't know about cdass or consumer direction—also make sure language and way they understand system as whole, there are differences from IDD system. Also culture change is needed in the DD system so using this in developing culture change. Adam says they know many people on SLS do need 24 hour care and are waiting.

Linda Medina ---also wanted to clarify that this is for people who are independent and also can be for people who require 24/7 care but is not 24/7 paid under SLS –many of those folks live with family members who are providing care.

What is expected timeline? Once they get answer from CMS—how long to respond and once they do long before rules are ready and public comment process. Adam does not want to give a date but CMS had 90 days, he thinks they will not ask more questions but they could come back on day 88 with more questions. HCPF goal is to have waiver and rules approved as close together as possible. Want to have them happen as same –waiver and rules as close together as possible.

Corrine—Is there a fact sheet or FYI about SLS and CDASS –where they are right now?

Adam—there is info on the SLS program with all waivers on the HCPF web site.

CONTRACT QUESTION:

Mallory said that Consumer Direct did great job with registry but it is in FMS contract that they each keep a registry, do we need this in the contract?

Curt—would like to think FMS vendors would have the best info –however because it was not being maintained we came up with new way to do it. We are now having hard time populating—is there a way to combine and get this moving?

Kady—would not be comfortable just taking the lists and moving people in but she said she would be willing to take lists and reach out to people to see if they wanted to be on the new registry.

Louise: Thought this was for purpose of cohesive listing of attendants where client/employers can go and to benefit attendants looking for employment. While it is part of contract it would be more divisive to have three separate lists and does not work for the overall registry.

Linda A—not been able to find attendants, gone through care family three times, all left without notice so she is very interested in trying to find attendant, would like info.

Kady said she would send Linda a link and if doing on computer does not work she will help

Maria—issue is more complex than how it is being dealt with, she did try registry and it seems people are putting names out but not responding

Kady—understands it is frustrating to not hear back, one nice feature is they can see what people do or do not respond, she suggests people are clear about descriptions that encourage people to come and work for you—

chapter 6 in manual talks about writing good job description –suggests people review that chapter. Maria did request the chapter in the form and looks forward to receiving this.

OVERALL ANSWER IS THIS DOES NOT NEED TO STAY IN CONTRACT:

IHSS UPDATE

Erica reported that she is working on revamping IHSS rules. She met with committee last Monday. She also created form/FAQ that is included and wants feedback. There have been 19 new agencies in past year! If there are questions or comments on the FAQ document please call her at 303-866 5913. She wants to put this on the web site as a resource.

OPEN FORUM NUMBER 2

Louise—going back to issue of what is DME and what is home modification—she read the definition from the rules.

Liz Wuest asked about CDASS being provided in the community as rule in CDCO manual states it cannot. Rhyann read rules and personal care/health maintenance can be provided in the community. Homemaker services can only be performed in the client home.

Submitted by Julie Reiskin