

***Developmental Disabilities Services
State Program Standing Committee (SPSC)
October 15, 2015
Comfort Inn, Berlin***

Attendees:

Members: Nicole LeBlanc, Bethany Drum, Theresa Wood, Rachel Colby, Max Barrows, Susan Yuan, Anne Bakeman, Barbara Prine

Visitors: Cathy Hull, Marlys Waller, Bart Mair, Colin Provencher, Mr. Goldberg (Max's assistant), Kara Artus, Karen Schwartz, Karen Topper, Carol Boucher

State Employees: Clare McFadden, June Bascom, Lisa Parro

Introductions, Review Agenda, Approve September Minutes

The September 17th meeting minutes were reviewed. Max made a motion to accept the minutes; Nicole seconded, and the acceptance of the meeting minutes was passed.

The SPSC meeting schedule for 2016 was sent to the SPSC members.

SPSC Co-Chair Appointment, Membership Replacement

An e-mail was sent to the SPSC reminding members that a new Co-Chair will be voted on during the October meeting and to let Lisa know if anyone was interested in the position. The people who were recommended as a possible co-chair have all declined. Theresa is willing to remain as Co-Chair if she can get assistance from the other SPSC members with work that arises in between meetings, such as writing correspondence. The SPSC members agreed to assist 'behind the scenes' if Theresa remains as Co-Chair.

Barbara nominated Theresa Wood as Co-Chair, Nicole seconded the motion. Theresa was thanked for the work she has done and appreciation was given for her agreement to remain as Co-Chair. The motion was passed.

DDSD Updates

Department of Labor (DOL) Rule

The new Department of Labor (DOL) Homecare Rule, which went into effect Tuesday of this week, requires employers to pay minimum wage to workers who provide direct care, and if the worker works over 40 hours a week, overtime pay is required. If the worker meets the definition of companion (20% or less of the time being spent on personal care), they are exempt from this rule. Most (but not all) of the workers in the DDSD system are not likely to meet the

companion definition, so overtime pay will often be required. Domestic, live-in workers could be exempt, and respite workers who work with children in Department of Children and Family Services (DCF) custody are exempt from this rule. The rule allows paying a daily respite rate, if the worker is working a 24 hours shift and 8 hours is excluded for sleep; however, if the person is called to work, payment is required. If the worker has less than 5 hours sleep, the entire amount needs to be paid.

Individuals are being asked to work within their existing budgets. If additional funding is necessary because of having to pay overtime, the individual can contact the agency to request the additional funding. Additional funding may be provided if a person runs out of funding due to paying overtime and the lack of service puts the person at risk of serious harm or in a situation that may require them to become institutionalized. Discretionary funding is being considered for the funding source for these cases; however, this decision has not been finalized. It will depend on the availability of funds. DAIL is working out the details to the variance process. If ongoing additional funding is necessary, the usual funding process would be followed.

This is the first pay period under the rule. ARIS will automatically pay overtime unless 'exempt' is written across the top of the timesheet. DAIL is working hard to get the information about the rule clarified, and is working to set up trainings for agencies to help employers understand the requirements of the rule. DAIL is sending letters to all the employers, through ARIS, which provides information on the DOL Rule and links to resources, and is working ARIS to enable them to provide technical assistance. DOL has set up multiple webinars.

The rule went into effect October 13th; however, the Federal DOL has said they will not initiate enforcement during a 30 day window (until November 13th) while systems are being established. As long as the state is trying to enforce the new rule, DOL will use discretion about enforcement until the end of the year; however, at the beginning of the year, DOL will fully enforce the new rule.

The data about the number of people being affected by the new rule is still be analyzed and has not yet been determined.

Separate from the DOL Rule, but with an impact on caseload funding, the minimum wage rate is going to go up each January for the next 3 years. This impacts the minimum amount to be paid for daily respite.

DOL Rule updates will remain on the monthly SPSC meeting agenda. A copy of the DOL memo that was sent to employers will be sent to the SPSC.

National Core Indicators Survey

DDSD will continue to participate in the National Core Indicator Survey. There will be two surveys completed again this year: adult consumer survey and staff stability survey. Interviews for the consumer survey will be conducted at each of the designated agencies and specialized services agencies (except for GMSS) starting in October. The staff stability survey data will be provided for CY 2015. Both surveys will be completed with data submitted to NCI by June 30, 2016.

The data from the National Core Indicator Survey completed last year, and the staff stability survey of the staff at the agencies that was completed, is expected to be available in January 2016.

Retirement Incentives

The Secretary of Administration offered a retirement incentive to state employees. There were about 250 state employees, statewide, who accepted the incentive. There were only two employees in DDS/D who accepted the incentive; however, there are other employees in DAIL who accepted the incentive as well. Some employees were approved to work a few months longer.

The two employees in DDS/D were from the Office of Public Guardian (OPG) program, and it is unknown if DAIL will be able to recruit to fill these positions as the State administration will only allow 25% of all positions vacated by the incentive to be refilled. DDS/D will wait to hear about the recruitment for positions to determine how this may affect OPG.

Traumatic Brain Injury (TBI) Program

DAIL is considering moving the Traumatic Brain Injury (TBI) program out of the Developmental Disability Service Division (DDS/D) into the Adult Services Division (ASD), as the TBI program includes a lot of work and collaboration on rehabilitation and long term care with the Choices for Care (CFC) program, which is under ASD. The CFC program will be able to provide additional support to the TBI program. Andre Courcelle, the TBI program manager, is supportive of this move.

The SPSC did not have any concerns about moving the TBI program into ASD.

Yesterday at the annual TBI conference, Andre Courcelle received the 'Professional of the Year' award. This award recognized Andre's commitment to the people we serve and his ability to manage the TBI program effectively, including a renewed focus on effective rehabilitation and transition.

DDS/D Director

Roy Gerstenberger, the new DDS/D Director, will begin work on 10/26. The DS Directors have a retreat in November so Roy will not be meeting with them until December; and he will be attending the NASDDDS conference so he will not be able to make the SPSC meeting in November. DDS/D is considering setting up a meet and greet day, if the SPSC would like to meet Roy before December. Waiting until December is acceptable for the SPSC as it will allow Roy some time to get established; however, if a meet and greet is set up, it is likely some SPSC members will attend.

Family Supports – Susan Yuan and Anne Bakeman

Families have been, and continue to be, the largest provider of services. About 25% of families provide care at home for their sons/daughters who are over the age of 60, but are stressed and stretched thin. This is why family supports were written into the DD Act. Good family support

is a springboard for good life as an adult. Stipends for families have not occurred in Vermont, except in family flexible funding.

A new population to consider under family supports is parents with disabilities. The rights for parents with disabilities are increasing nationally. Another new area of support is support for these families to successfully raise their children.

Vermont does not have good data about parents with disabilities. At a conference Susan attended, it was stated that there is a category in the data collected on foster care children which is called 'inability to cope' and the definition of this category is a parent with a disability. Vermont had the largest number of foster care children cases with this as the sole reason. Susan spoke with the Department of Children and Family Services who stated that children were never removed from the home based solely on a parent with a disability. Susan will try to get a copy of the checklist that is used when a child goes into foster care, and will explore further if those statistics show a problem in Vermont.

After investigating a complaint, the Federal Department of Health and Human Services and the Department of Justice found discrimination in a child welfare case in Massachusetts where a parent had a disability. This finding is considered to extend the Americans with Disabilities Act protections to parenting. Health and Human Services, Department of Justice, and the Administration on Community Living are working on this issue, and issued guidance to child welfare systems around the country on how to work with parents with disabilities.

As advocates, Anne and Susan encourage the SPSC to speak about parents with disabilities with organizations to get this issue in their annual plans and to be addressed at hearings. Barbara is providing training to the DCF staff on ADA and may be able to follow up on this issue as well. Julie feels the lack of outreach is where the system is breaking down. June will research how this may be added into the DAIL Annual Report.

Anne posed a few questions for members to consider:

- What kinds of supports should be available for families whose adult sons/daughters with disabilities live with them?
- How do we assure that adults with disabilities who live with their families are choosing to live in this situation, and that it is the family's choice as well?
- How can we support families to "let go" to the extent that the adult son or daughter with a disability chooses?

(June recommended that 'families' include siblings and grandparents.)

Anne made a motion that the SPSC recommend that DAIL collect information on parents with disabilities and the types of support they have; and request that information be obtained through the department survey on families with adult children. Susan seconded this motion and the motion passed.

Theresa suggested that there should be further discussion about support, transitioning, and independence. Family Supports will be added to next month's agenda for further discussion.

Proposed Facility in Northeast Kingdom - Carol Boucher

Northeast Kingdom Human Services is proposing the design of a secure residential facility which will address the backlog of people in need of a secure residential facility due to displacement of the State Psychiatric Hospital from Tropical Storm Irene. This would be a facility for individuals who are stabilized, do not require hospital level of care and are ready to be discharged, but continue to need a secure residential facility and treatment. It would be a combination of voluntary admissions and individuals who are mandated to be at the facility. The proposed facility would be built in Essex County, Bloomfield, and serve Caledonia, Essex, and Northeast Kingdom Counties. The proposal includes an educational center and a primary care center at the facility as well, and would cost \$495,000 per person (less than the current state hospital rate.)

The State is aware there is a need for another facility, in addition to the new one built in Middlesex, and a Request for Proposal (RFP) was issued by the Department of Mental Health (DMH.) Information for the RFP is due in November. Northeast Kingdom Human Services is meeting with several advocacy groups to get feedback on the proposal. Staffing the facility has been a common question from the groups, given the remote rural location proposed.

There were mixed feelings from the SPSC about this proposal. Some members felt it was similar to Brandon Training School while others felt it was necessary to help prevent individuals from having to be handcuffed to beds and live in emergency rooms and hospitals, or remain incarcerated due to inadequate resources for individuals to be discharged. The need of another facility was questioned as the current facility remains underutilized and there are community settings that cost less, as well as the issue of community inclusion.

Additional information will be available after DMH receives the responses for the RFP.

Group Community Supports

Group community supports needs to be addressed in the System of Care (SOC) plan for 2017; what it should look like and whether it should be funded. The discussions for group community supports is just beginning, and reviewing the HCBS rules will be necessary.

Some initial comments from the SPSC members included: Group and congregate day settings is a way to try to solve staffing issues; it is a place for people to gather and do things with friends; if staffing is not available, the community supports have to cancel, which leads to some unhappy families; it should be 'drop in' not 'drop off'; it is difficult to retain staff; and GMSA has been rallying to prevent newer facilities to be established.

The Group Community Supports discussion was moved to the December meeting - what should they be, and what needs to be done to achieve this.

SPSC Updates and Announcements

Theresa has been in contact with Kyle Moriarty. At this time, he is resigning from the SPSC. The nominating committee (Max, Connie and Barb) will need to convene to review possible candidates for a replacement.

GMSA held their 2nd Youth Summit for students with disabilities who are transitioning from high school to adulthood. The summit included workshops on confidence and self-advocacy, and discussed challenges. Students from Burlington, Mt. Mansfield, Winooski, Colchester, Milton, and South Burlington schools were in attendance.

Senator Sanders is interested in learning more about developmental disabilities.

GMSA participated in webinar with an advocate from the organization GLBT (an initialism that stands for lesbian, gay, bisexual, and transgender) about the inclusion of people with disabilities who are gay, lesbian or bisexual.

There will likely not be an update to the State System of Care Plan (SOCP) this year because parts of the SOCP need to move into a regulation. The work for this transition has not yet been done.

Bethany held a bake sale to raise money for the Randolph Fire Department, whose building burnt last month. She raised \$195.00. If people want to donate items to the Fire Department, they may contact the Town Manager's Office and speak with Mel Adams. June suggested the State Surplus as a place to obtain inexpensive office equipment.

Legislature requires the treatment of Autism to be covered under Medicaid and private insurance. The Department of Vermont Health Access (DVHA) has developed a package under the State Plan; however, once this is under the State Plan, it can no longer be covered under the waiver and an application for coverage needs to be submitted to DVHA.

Max and Nicole were part of a panel at the National Autism Conference, which discussed the passage of a recent law requiring minimum wage to be paid to everyone, including people with disabilities.

GMSA has a gala fundraiser at the Capitol Plaza in Montpelier on November 14th. Nicole will send the SPSC some additional information.