

1. *H.119: An Act relating to the classification of employees and independent contractors:* This bill proposes to establish a common definition of “independent contractor” for the workers’ compensation and unemployment insurance statutes. DAIL is monitoring this bill due to the possible impact on people who self, family or surrogate manage services as well as contracted home providers who hire independent direct support providers who are paid by ARIS.

H.221: An act relating to an income tax deduction for home modifications required by a disability or physical hardship: This bill proposes to create a State income tax deduction to mitigate the expense of home modifications required due to a disability or physical hardship. The deduction is for a percentage of the expense or \$9,000.00, whichever is less. The percentage of the deduction that may be taken varies depending on the income of the person claiming the deduction. Advisory Board member John Pierce would be the one to talk more about this. So far, DAIL has not seen a lot of movement on this bill.

H.236: An act relating to funding the Vermont Traumatic Brain Injury Fund: This bill proposes to create a funding mechanism for the Vermont Traumatic Brain Injury Fund established in 33 V.S.A. 7801 by increasing surcharges for moving violations. This or similar bills have been introduced during many sessions, but have not progressed in recent years.

H.265: An act relating to the State Long-Term Care Ombudsman: This bill proposes to update the Vermont Long-Term Care Ombudsman statute to conform to the new federal regulations for State Long Term Care Ombudsman Programs funded under the Older Americans Act. DAIL is working to move this forward.

H.283: An act relating to protecting against financial exploitation of vulnerable adults: This bill proposes to create legal protections to limit the effects of a vulnerable adult’s exposure to financial exploitation. This will help vulnerable adults who transfer home and other real property and putting in some protections so that they don’t end up losing everything. The bill involves improvident transfers and proposes to require that an attorney be involved to make sure that the vulnerable adult is protected was a suggestion that was brought into the conversation. It was suggested this might be a good topic for a future DAIL Advisory Board meeting.

H.284: An act relating to the increasing Medicaid rates for home-and community-based service providers: This bill proposes to require annual inflationary increases to Medicaid reimbursement rates for home-and community-based services (HCBS) providers. Currently right now, only nursing homes receive statutory increases (within the Division of Rate setting guidelines and limitations) and this bill is intended to put HCBS services on par with nursing homes. On the surface this seems logical and reasonable, but further information is needed about the financial implications and logistics and work involved in implementing it as introduced. That said, there is a lot of energy at the legislature about care providers and ongoing conversations and we raise these topics every time we testify so as to keep them in mind.

Where Choices for Care is concerned, there is a unique structure where there has been a reduction in the utilization of nursing homes and that results in money as being saved. However, over the past few months there has been a spike in the utilization of nursing homes and hoping to see it eventually smooth itself back out. However not many people taking this into consideration.

There should be an option for those who want to stay at home vs. nursing home which ultimately provides freedom of choice. Money is part of the issue but not the only issue – there needs to be training, programs and other resources to support those who want to go back into the community for these transitions to be successful.

There have been cases where nursing homes will not admit people due to the nature of their disabilities, particularly those with psychiatric disabilities, and the need to ensure the health and safety not only of the applicant, but other residents and staff as well. So, we need to look at money, training, programs and other resources across the entire system.

Because of Vermont's aging demographics we need to be planning and constantly evaluating what resources we will need and whether we have enough and the right type of resources to meet the need. Commissioner Hutt will be presenting at the University of Vermont (UVM) Gerontology Symposium coming up and looking that the numbers of seniors and what will be different from the seniors today vs. those ten years from now.

In late April or early May should see a new improved version of "Shaping the Future". There should be a discussion of what the future will look like. This will be a topic for discussion at a future DAIL Advisory Board meeting.

Mental Health Legislation: DAIL is included in a new bill (no number yet) focused on mental health which aims to balance available resources with the following policy goals: ensure that vulnerable Vermonters are safe and protected; that systems are maintained to assist Vermonters in moving out of poverty; ensure that the General Assembly addresses problems and removes barriers that can lead to even greater costs to the state and to ensure that all Vermonters who have mental health needs will have access to services and supports that will enable them to attain their highest level of independence and realize their potential. This will be discussed in more detail at next month's meeting.

Vermont's Sick Leave Law & Plan for Implementation for Independent Direct Support Workers

Jason Richardson, Sherry Thrall and Jennifer Garabedian from ARIS Solutions joined the meeting by phone to be part of this discussion.

Act 69 which was passed last year requires that certain Vermonters receive paid sick leave. The statute is complicated and over the past year, DAIL has been meeting with the Department of Labor, AHS partners and ARIS Solutions (the organization that assists home providers, individuals, families and surrogates who recruit, hire and train their own support workers) to figure out how to comply with the law in the best way that makes sense.

On or before November 15, 2017 the Commissioner of Labor and the Secretary of Commerce and Community Development shall develop and implement a program to provide employers that have five or fewer employees who are employed for an average of no less than 30 hours per week during a year with assistance related to the development of time off policies and business plans necessary to implement the requirements of the law.

To comply, ARIS will need to compute estimated costs, have a system in place to calculate the accrual of sick leave, track it and report it. The system will also need to be able to address requests for sick leave that exceed the amount accrued, approve the rate of sick leave pay and report payments as taxable income. The approach must be manageable for employers and employees, manageable for ARIS and financially sound for the publicly funded programs that provide the funding used to pay Independent Direct Support Workers.

Accrual will begin with ARIS as of January 1, 2018, but will not be able to use until January 1, 2019, i.e. no requests for sick leave usage before this time will be approved.

As defined by the law, individuals who are eligible will be those who are at least 18 years of age and employed by a specific employer and paid via ARIS within the year, defined as twelve months from the start of employment, for at least 21 weeks (was paid for hours worked in at least 21 separate calendar weeks with the twelve-month period).

As defined by the law individuals who are NOT eligible will be those who are under age 18; individuals who are employed by an employer for 20 weeks or fewer in a twelve-month period and individuals who are not paid through ARIS for a volume of work that meets the criteria for sick leave eligibility.

Because of the time sensitivity (November 2017) for the software portion to be designed and up and running as of January 1, 2018. DAIL is meeting with ARIS to discuss options that comply with the law, are feasible for ARIS, and can be managed by employers and employees. DAIL is bringing this to the advisory board for their input about how to best go about doing this. It was decided that there might be a brief update on progress at the April meeting and then the May meeting would be targeted to present options for further input from the advisory board. This is a time sensitive project and it should be noted that we are not the only ones dealing with this, this impacts many employers and employees. It is unclear how many employers do not already provide sick leave benefits that meet the minimum requirements of the law.

Choices for Care – Moderate Needs Group

Megan Tierney-Ward, Director of the Adult Services Division, presented information on the Choices for Care Moderate Needs Group (MNG). The purpose was to provide history, facts and challenges regarding MNG for the advisory board members to be informed prior to a future discussion or work group about ways to improve the program.

- Two handouts were used in the presentation: “Choices for Care Moderate Needs At-A-Glance” and “Choices for Care Moderate Needs Group Summary”
- Megan summarized the history, data, program eligibility, services and facts provided on the two handouts.
- Megan explained how the program started in 2005 using State General Funds from homemaker and adult day programs as match to the federal funds. The goal of adding MNG to the Choices for Care program was to:
 - Obtain Medicaid match to serve more people
 - Add case management services
 - Expand financial eligibility
 - To provide “preventative” services in the hope that this would delay or prevent the need for more costly, higher levels of care.

- Though the State was not able to pay for research to determine whether MNG services delays or prevents people from needing a higher level of care, the state did increase participation by over 300% since 2005.
- Some key challenges include:
 - MNG is not an entitlement and is limited by funds appropriated by the legislature.
 - Funding is subject to annual ups and downs due to the budget process and legislative language.
 - Funds are distributed to provider agencies via funding formulas within a state fiscal year with no carry forward of unspent funds.
 - Funds are hard to “manage to the penny” and require that providers over or under spend.
 - MNG case management is limited to 12 hours per calendar year and requires frequent variance requests when a person needs more assistance.
 - The program is high in administrative work for the amount of funds provided per person.
 - The provider wait lists (especially for homemaker services) is unavoidable due to the very broad eligibility standards
 - Providers of homemaker and adult day bill fee-for-service style in 15 minute increments.
 - Sometimes purchasing items for people using flex funds creates a “cash flow” problem for some Area Agencies on Aging when the bill needs to be paid before a Medicaid claim is submitted.
 - Home health agencies report that the homemaker reimbursement rate is “too low” which make is hard to find staff, especially when the agency must pay the added expense of travel time to and from homes, as well as mileage reimbursement.
 - ARIS solutions just increased their rate from \$35/month to \$60/month as a vendor of payroll services reducing the amount of MNG flex funds available to people for paying self-directed workers.
 - The legislature often creates instructions to DAIL in how CFC savings and MNG funds can be appropriated.

Advisory board members were asked to consider participation in a workgroup to evaluate and recommend changes to the MNG program.

Beth Stern would like the discussion on the MNG to include the challenges she mentioned in regard to Moderate Needs Flex funds, which are: unexpected and uncommunicated increase in ARIS administrative rates and an immediate need for changing the way that the program is administered in regard to payment and ability to carry forward monies.

Several members of the advisory board plus a couple of other individuals volunteered to serve on a smaller work group to examine MNG more closely and then report back to the full advisory board.

Role of the Advisory Board (continued discussion)

Robert Borden has asked all advisory board members to find a way in which to best utilize them. Today there have been some interesting areas of conversation in which we are being asked to help, so we will; but to what capacity? How do you see yourself helping in each of these areas being asked of us? Do you want small groups, open ended discussions, homework, do you need more information?

Serving on the DAIL Advisory Board – Matthew Fitzgerald

Matthew looks at himself as a consumer, with the aging process it is inevitable with a wider spectrum in Vermont and how others wish to live independently with the power to live and with the understanding that you are not a victim. He has a daughter who is non-verbal, but when people give her the chance you will find that she can communicate and there is more going on than some might think. His wife works for Vermont Family Network and that is how he was introduced to DAIL. His wife's frustrations are the same as many others - the needs are there, but the money is not. Matthew is also a veteran and business owner.

Matthew was given the opportunity to speak at a program through UVM to discuss his experience, but not only his; the experiences of his daughter as well as his father's experience.

Even though his surgery was successful, like any other person in the world who is to say that you won't get on I-89 and get side swiped and have your world turned upside down again. The variable is there.

Matthew spoke of his neighbor: the wife has dementia and the husband is battling cancer and he is worried about taking care of her. He feels for this couple as he has been on the receiving end of a comparable situation. This is where we are at and this what we are dealing with.

Matthew is very appreciative of being appointed to this advisory board and being a voice for those who don't have one or one that is limited. He appreciates the fact that those who are involved in the higher levels and must always speak for those who cannot speak for themselves.

Wrap Up & DAIL Advisory Board Member Updates

Kim Fitzgerald has a meeting tomorrow about hopefully a new facility to be open. She hopes that it will be as successful as the VNA Respite House in Colchester. When that was being planned people were asking if there was a real need for it and now everyone is excited about the way it has turned out.

Meeting was adjourned at: 1:55PM