DAIL Advisory Board Meeting Minutes
May 12, 2016
Sally Fox Conference Center, Waterbury

ATTENDEES:

Board Members: Linda Berger, Robert Borden, Nancy Breiden, Peter Cobb, James Coutts, Nick McCardle, Nancy Metz, Virginia Milkey, John Pierce, Steven Pouliot, Beth Stern

Guests: Charles Becker, Jim Caffrey, Ethan Latour, Hannah Schwartz, Onat Sanchez-Schwartz and additional visitors from Heartbeet Life Sharing

State Employees: Pam Cota, Joanne Fleurrey, Camille George, Roy Gerstenberger, Monica Hutt, Suzanne Leavitt, Megan Tierney-Ward

Motion to Approve Minutes: April 14th minutes: Approved: Steve Pouliot
Seconded: Nancy Breiden

Review and Approval of Meeting Minutes: The minutes were approved as drafted.

I. **Conversation with the Commissioner**
Monica Caserta Hutt, Commissioner

Adult Protective Services (APS) – The APS Subcommittee of the DAIL Advisory Board will be soliciting feedback from stakeholders and constituents on their experience with APS. The information gleaned will help APS and the subcommittee to work together to improve the program. The session will be held on May 24th from 1:00-3:00 at the Waterbury State Office Complex. This session is open to the public and there is an opportunity for written comment as well.

SFY2017 Budget – Now that the Legislative session has ended, DAIL is now conducting an analysis of the Budget Bill – comparing what was proposed to what happened, and what was added and/or changed. In the General Administration appropriation there were no changes and it was approved as submitted. The DAIL Grants appropriation, which includes programming, had no reductions and two additions.

Newsline: One of the additions was $24,000 for the Newsline service. The money is a fee paid to the National Federation of the Blind that provides this phone service. This telephonic service provides access to national and local news outlets for those that are print challenged. Being print challenged goes beyond being blind and visually impaired, it touches the elder population and others, as well. Newsline was initially included in H.870 An act relating to telecommunications. The funds for the service were hoped to be imbedded in the Public Services Universal Services Funds. It is now base

funding in the DAIL budget, meaning it is not one-time funding. The DAIL Division for the Blind and Visually Impaired (DBVI) are working on creating a contract to buy the service. Once in place, we will be working with libraries and other entities on promoting this service. Having the usage data will help DAIL defend this budget item going forward. Commissioner Hutt will be looking into how to sign up for the Newsline service.

Independent Direct Support Providers: In anticipation of a new collective bargaining agreement (CBA), funds were also added to the DAIL Budget to increase the hourly rate for independent support workers. These funds are spread across grants, Developmental Services and Choice for Care. Deputy Commissioner George will follow up to provide details of the CBA in terms of new rates to be paid to these workers. (*Post script: Please note that details of the rates cannot be provided until the CBA is finalized. Once it is, DAIL will be able to provide additional details*.)

DBVI: There were no changes to the Governor's recommended budget for DBVI.

Division of Vocational Rehabilitation: Vocational Rehabilitation (VR) did not ask for any additional funding and no changes were made.

Designated Agencies and Specialized Services Agencies (DAs and SSAs): There was a rate increase approved for the DAs and SSAs for developmental disabilities services, mental health and substance abuse treatment. DAIL received $2.7 million for the increase in rates for the DAs and SSAs. The Department of Mental Health received this amount, as well and the Department of Health received $300,000.

Traumatic Brain Injury: The Traumatic Brain Injury grants had no changes and there were not any in the final budget.

Choices for Care: Choices for Care: The increase DAIL asked for in the Choices for Care appropriation to cover the caseload increase was approved as well as an increase to the base funding for the Moderate Needs Group (MNG) to continue an investment that was made to the MNG in SFY 16 with one-time "savings." In addition, there is a small increase for certain rates in CFC, effective September 1, 2016. These increased funds were included with an increase to the Department for Children and Families (DCF) for group homes and are currently within the AHS Central Office. The funds will be distributed to DAIL upon the determination of the appropriate amounts to transfer. Language was also included in the Budget Bill defining Choices for Care "savings." The language calls for a one percent of SFY 16 total CFC expenditures (about $2.3 million) to function as a reserve in the event of a fiscal need to freeze MNG enrollment. After that, the first priority for the use of any "savings" from the long-term care appropriation after the needs of all individuals meeting the terms and conditions of the waiver have been met shall be given to home and community-based services (HCBS). "Savings" shall either be one-time investments or shall be used in ways that are sustainable into the future. "Savings" may also be used for quality improvement purposes in nursing homes, but not to increase nursing home rates. (Sec. E.308 of the Budget Bill).

Older Americans Act: Vermont is also on track to receive more money under the Older Americans Act (OAA), but this has not yet been confirmed. There is now a wait list for home delivered meals for seniors in some areas of the state. This speaks to an unmet need that can be dealt with. (*Post Script: The OAA Reauthorization included the authorization of funding, but the actual appropriation happens through the budgeting process and there is no guarantee that the amount authorized is what will eventually be appropriated.*)

Choices for Care Eligibility: There are still delays in determining eligibility for the Choice for Care program. Delays are not usually related to the clinical eligibility piece that is managed by DAIL, but with the financial eligibility piece that is managed within the Department of Vermont Health Access (DVHA) Health Access Eligibility Unit (HAEU). DAIL has been working with community partners at the Vermont Association of Area Agencies on Aging (V4A) meetings on coming up with creative ideas on how to get the eligibility assistance funded. The Aging and Disabilities Resource Connections (ADRC) conducted a regional pilot program for eligibility assistance that worked well. There has been a focus on developing IT solutions to expedite the eligibility process – the Medicaid Management Information Systems (MMIS). It has also been noted that documentation has been submitted more accurately, but there is understaffing in the state to process it.

Legislative Synopsis – Commissioner Hutt went through DAIL-focused bills and gave a status update:

- H.112 - An act relating to access to financial information in adult protective services investigations - passed and signed
- H.868 An act relating to miscellaneous economic development provisions (included Medicaid for Working People with Disabilities and ABLE) - passed both bodies
- S.40 -An act relating to the creation of a Vulnerable Adult Fatality Review Team – passed both bodies. This is an important part of assessing our own system of care. Similar teams already exist for other vulnerable populations.
- S.66 - An act relating to persons who are deaf, DeafBlind, or hard of hearing – passed both bodies. The bill is to create an advisory council for this population. The original bill was "child" focused, the final bill is a more global focus. The council will consist of 4 subcommittees that will be focus on different age populations
- S.176 - An act relating to disclosure of compliance with accessibility standards in the sale of residential construction – passed both bodies. This bill underwent significant changes. The language does not include any tax credits for home owners that make their home more accessible. The Senate Finance Committee was very concerned about the potential cost. The language of S.24 stated when a home was built, the builder had to state that accessibility was built at the outset. This language was substituted into S.176.
- S.196 - An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes – did not get through the House.
- H.812 - An act relating to implementing an all-payer model and oversight of accountable care organizations – passed both bodies

- S.256 - An act relating to extending the moratorium on home health agency certificates of need – passed both bodies
- S.107 - An act relating to the Agency of Health Care Administration - ended up in the Budget Bill for a study. The study will look at how to transform and align policy. The $450,000 was appropriated for the re-organization of AHS, but it is not known where this money ended up.
- There is a need to look at exempt positions and eliminate enough to cover $500,000 across state government. Exempt positions are appointed by the Governor. DAIL has six (6) exempt positions – Commissioner, Deputy Commissioner, three (3) attorneys and the Older Americans Act Unit Director (currently held by Dave Yacovone). DAIL's attorneys provide a different and important function that the attorney's at the Assistant Attorney General's Office. DAIL's attorneys provide legal advice and not litigation.

DAIL Employment Engagement Survey – We received the statewide results and are awaiting a department analysis from Human Resources. These results will be shared at a future Board meeting.

AHS Strategic Plan – Reading the plan and our cross-walk to it, made some realize, again, what a broad population that DAIL serves and that this may actually make DAIL vulnerable. When does DAIL feel compromised to do what we need to do given the inherent trouble there could be? And how can this be brought in front of the Legislature, make them realize this vulnerability and in turn provide more money? Money to do what is needed to be done without putting the department at risk. Is it time for DAIL to go out into the community and talk to other agencies that are doing the same things were are? Meeting with municipalities and/or the Vermont League of Cities and Towns to help break down silos within the community may be one way.

II. Advisory Board Member Updates

S.20 - An act relating to establishing and regulating dental therapists – passed this year. The accreditation process for the dental therapists can now begin. It may take 3-4 years to implement this service.

S.176 - An act relating to disclosure of compliance with accessibility standards in the sale of residential construction – will be reintroduced next year. In the meantime, we will learn from other states that are already doing this and use the Vermont Center for Independent Living (VCIL) Home Access Program experience.

III. Division of Licensing and Protection – Survey and Certification (S&C)

Suzanne Leavitt, Assistant Director of S&C, Pam Cota, Licensing Chief

The Division of Licensing and Protection (DLP) consists of two sections - Adult Protective Services (APS) and Survey and Certification (S&C). S&C is a Center for Medicare and Medicaid Services (CMS)

designated agency and conducts surveys to assure that health care facilities are in compliance with Federal and State rules. S&C licenses all state long term care facilities as well.

S&C is made up of the following staff – Assistant Director, Licensing Chief, Nurse Surveyor-Complaint Coordinator, three (3) administrative positions and fourteen (14) District Nurse Surveyors. All staff, with the exception of the administrative staff, are also nurses. The surveyors inspect facilities every one or every three years – depending on the type of facility. They also go out and survey a facility if a complaint has been made. Health care entities or organizations can be deemed accredited if they have met a certain level of care. CMS has an agreement with the Joint Commission on Accreditation, so we do not survey these facilities unless CMS has asked us. If a complaint has been made about one of these types of facilities, we would need authorization from CMS to do the investigation. Long Term Care facilities with at least a minimum of three (3) unrelated people need to be licensed by S&C.

On site surveys for any state licensed facility receive a standard survey once every two years. Nursing homes are federally certified. As stated before, many complaints require an investigation. Facilities are required to self-report incidents as well. On-site surveys include observation, interviews and record reviews. If any deficiency (ies) is found a deficiency statement is issued. The facility then has to submit a Plan of Correction (POC) within ten days stating how the deficiency (ies) will be corrected and how they will be prevented from occurring again. Depending on the harm level, a follow-up survey will take place. Unless the deficiency is purely a paper issue – an example of this is lack of background check information – the surveys occur on-site. An on-site survey will ensure that the POC has been implemented and the facility is back into compliance. If this survey finds that the POC has failed to correct the deficiency, enforcement action begins. Enforcement ranges from administrative penalties, banned admissions to revoking license. License revocation has not happened on many occasions. Typically, facilities and providers are quite good about coming back into compliance with no enforcement action needed. There is also an appeal process in place for any enforcement action.

The vast majority of enforcement actions are monetary. This is a per/bed, per/day fee that ends once the facility is back in compliance. Ending the fines is determined by a second follow up visit by S&C. The completion date on the POC is the date that the fines end. If it is found that the POC has not corrected the situation, the fines continue and further action is considered. Funds collected by these fines are put into the General Fund, not directly back into DAIL's budget.

Besides the findings compiled during a survey, complaints can be received by S&C by residents, family members, friends or a self-report from the facility. The complaints can be called, faxed or emailed into the division. Thousands of complaints are received per year; many are duplications of the same complaint. The systems that we have in place work. Enforcement is not always needed. The standards and criteria as developed based on statute. Federal ones are given to us by CMS. Each state has their own standards and can vary greatly from state-to-state. As for POC's, we use the federal guidelines to determine our state guidelines.

After the S&C informational presentation, there was a follow up discussion around receivership. The Cota's Hospitality Home (CHH) situation was discussed and questions were answered. It was noted that there could be consequences for the staff of CHH that walked off the job or resigned. There can be an APS complaint filed for causing hardship. Since the current receivership statute does not address the whole problem, DAIL will be putting together a Request for Proposal (RFP) to review the Receivership statute. This review will include analysis and suggestions.

S&C will be rewriting the Home Health regulations this summer and will be back sometime in the fall to present the material.

IV. Centers for Medicare and Medicaid Services (CMS) Home and Community Based (HCBS) Rules Update

Megan Tierney-Ward, Director of Adult Services Division and Roy Gerstenberger, Director of Developmental Disabilities Services Division

Adult Services Division

Our home and community-based services (HCBS) have been undergoing a review to be sure the federal rules are being applied and the requirements are being met by our programs. A systematic work plan was created and submitted to CMS by DAIL's Adult Services Division (ASD). Facility assessments have been completed. Now ASD is looking at the assessments and the work plan and using programmatic tools to come into compliance. A handout was provided that showed what requirements applied to the following settings – Adult Family Care, Adult Day, Home-Based Case Management. ASD highlighted which requirements need to be strengthened.

ASD has set up a series of meetings with the provider groups on how best to improve their strengths in each area. During these meetings they also talk about any other areas that the provider would like to improve upon. The Agency of Human Services (AHS) is working with DAIL, the Department of Mental Health (DMH) and consultants to create a provider self-assessment that would be administered by the state. Once results are received, the state will review and then ask a sample of the providers for a plan on how they will come into compliance or strengthen an area.

The Developmental Disabilities Services Division (DDSD)

DDSD has completed the process of comparing the federal settings, case management and person centered planning requirements with Vermont's existing rules and regulations. DDSD has developed a work plan similar to the one ASD submitted to CMS prior. Developmental Services will be working with a transition advisory committee to develop an approach for conflict-free case management. We will also be working with providers using settings that are identified by CMS as those that are likely to isolate people. One of those is Heartbeet in the town of Hardwick. DDSD staff and Heartbeet staff have met and will create a roadmap to move forward with a proposal to CMS that will involve

heightened scrutiny. We understand that individuals want to use their HCBS funds to pay the costs of living there. Overall, DDSD has seven areas where rules need to be strengthened. The handout provided outlined these areas.

Meeting was adjourned