

DAIL Advisory Board Meeting Minutes
May 11, 2017
Sally Fox Conference Center, Waterbury

ATTENDEES:

Board Members: Linda Berger, Robert Borden, Nancy Breiden, Terry Collins, James Dean, Kim Fitzgerald, Matthew Fitzgerald, Mary Fredette, Joseph Greenwald, Jeanne Hutchins, Nancy Metz, Virginia Milkey, Diane Novak, Judy Peterson, John Pierce, Steven Pouliot, Laura McDonald and Martha Richardson.

Guests: Kristen Murphy, Susan Aranoff, Marlys Waller, Sean Londergan, Janet Hunt, Jill Olson

State Employees: Monica Hutt, Camille George, Liz Perreault, Roy Gerstenberger, Clare McFadden, Stuart Schurr, Monica White, Bill Kelly

Review and Approval of April Meeting Minutes:

Page 8, paragraph 1 under the COVE heading; change Medicaid to Medicare.

Page 7, paragraph 1 under S.133, need clarification needed from Commissioner Hutt to explain the difference between geriatric psychiatric population and geriatric forensic population.

Page 8, under COVE, Ginny Milkey will rewrite and clarify the section on COVE.

Kim Fitzgerald was present on the phone for part of the meeting and should be marked as such.

Motion to Approve Minutes: 4/13/17 minutes:

Approved: Steven Pouliot

Seconded: Differed

Minutes are not passed until amendments are made and reviewed at the next meeting, June 8.

Robert Borden called the meeting to order at 10:39.

Summary of SFY 18 Budget

Bill Kelly, Financial Director

Commissioner Hutt introduced the budget topic and stated that since the budget has yet to pass, Mr. Kelly came to speak about where DAIL stood currently and the issues that are coming up. The House and Senate are in conference committee working on the budget bill. We will be able to give a better update next month, not necessarily around the numbers because they really won't change, but the

many things that get added in the narrative that are not budget related. We will want to go through that piece of it.

Mr. Kelly had previously gone over the Governor's recommendation for VR cuts and the Federal re-allotment that DAIL did not receive (note that Vermont received some reallotment funds but not nearly as much as we had in previous recent years). DAIL did get an increase in Developmental Services (DS) and Choices for Care (CFC) for caseload and a small increase in the DBVI budget to address our inability to continue billing Federal Section 110 dollars for homemaker services. The VR reduction was the only reduction we had to present as part of our budget testimony. Compared to what was proposed, nothing much else has changed. As it currently stands, the home and community-based providers in the CFC program have an increase of 2%; however, we aren't clear if that is a rate increase, which is what we hope, or an allocation.

Currently, in the language of the Budget Bill, statewide there may be an allocation of 5 million-dollar savings in the General Fund (GF) and AHS potentially will be asked to save 3-4 million dollars of that. Through our programs in DS and CFC, 90 % of our budget is funded through Medicaid. Over the course of many years, the Federal participation to Medicaid continually drops. That participation is now just over 50%. This means that the potential 4 million dollars in GF that may need to be saved could be more like an 8 million-dollar decrease to our budget if the Agency took it all as a cut in Medicaid. This scenario is not likely to happen.

Commissioner Hutt stated when we talk about the increases for CFC, the services we are talking about are: Home Health Agencies, Area Agencies on Aging, Adult Day and Enhanced Residential Care. Our DS system is comprised of service providers from Designated Agencies (DA) and Specialized Services Agencies (SSA). Choices for Care and DS are the two big areas we serve and both are on the budget for caseload increases. In our conversations with the legislature, we continually advocate for caseload dollars to serve individuals and support our providers. The legislature is willing to hear how to keep those providers stable since the State does not deliver those services, but partners with community providers. It is a conversation that we need to keep having; however, we don't want to exhaust the topic to the point it is no longer heard.

Considering proposed changes to Medicaid at the Federal level, Commissioner Hutt clarified whether the Medicaid program would continue in its current way or does it sunset by saying that in fact, it does not sunset. We have a Section 1115 Global Commitment for Health Medicaid Waiver for all Medicaid services in Vermont. However, the interpretation can change and it could potentially have an impact, but nothing has been said to date that there will be any big changes for Vermont from the Federal Government. The Vermont Legislature wanted to leave session early in May in order to come back in October for a special session to react to the Federal changes (in Medicaid, but also in other areas of funding) but it has yet to happen.

At the Federal level, new health care legislation has been passed in the House, but not the Senate and we are not sure what the Senate will do. It is anticipated that it will take several months and

there are likely to be changes. The current proposal would fund Medicaid as a block grant, which we already work within with the Global Commitment Waiver.

Summary of the SFY 18 Legislation and Legislative Reports

Monica White, Director of Operations

Monica White brought and shared the bills of interest to DAIL that have passed and where things stood at this time. Currently, the legislature is still in session and could potentially revisit and change the language but that is not likely.

H.265 was the only bill that was promoted by DAIL as we needed to make changes to the current State Long Term Care Ombudsman legislation in order to come into compliance with new Federal ombudsman regulations. We did have to make some changes to the bill along the way, but the bill was passed. In addition to the ombudsman language, the bill will allow for civil action in cases where property was obtained through exploitation of a vulnerable adult.

H.201 extends the allowable stay time at a shelter for children. It was asked what the definition of “child” is and can the parent stay? The bill speaks to children who are runaways so a parent would not be present in this case. H.508 addresses adverse childhood experiences and there is a work group to that is looking at a number of studies to identify what would be beneficial as a whole with regard to childhood trauma. Anyone who is interested should contact Monica Hutt.

S.133 looks at mental health care and care coordination. The intention is to shore up the mental health system, but then that touches on other systems, such as DS. There was originally some funding included in the bill, but that has now been moved to the Budget Bill. Among other things, it will require three reports.

There has been some prior work done through the SIM grant to develop the Vermont Model of Care and Medicaid Pathways work to begin to look at service delivery and payment reform. The SIM grant is ending in June and the Medicaid Pathways meetings concluded this winter. There was no mandate to include people effected by lack of services. They were not included in the conversation in long term services. As work around health care delivery reform continues under the new administration, it is important for the State to ensure that people are involved and engaged. It is thought that AHS will be responsible for the Pathways funding model, however we don't know yet if AHS will be pulling the data together or just doing the report. DAIL will keep advisory board members informed.

Robert Borden spoke about his concern of the overlap with State Licensing and the Agency of Education (AOE) and the requirements that are being required of the SLPs (Speech, Language Pathologists). With the new requirements, if you work in a school you will be required to be a licensed teacher and licensed as an SLP. This should be changed to ease the burden.

S.100 is a bill that would tack on fees to Hotels and Motels to fund affordable housing. This bill did not pass.

S.135 the Economic Development Bill addresses a retirement plan that would be a public retirement option. The state would manage a 401k for the public and State Treasurer Beth Pearce is very open to any feedback. Most people do not have a retirement plan and Social Security will not be enough. With this option, all would have the opportunity to save for retirement. In thinking about the 5-6 thousand employers who recruit, hire and train their own care providers that DAIL represents, we need to pay attention to this part of the bill. The Federal Government has stopped cities from doing this and they are attempting to stop states as well. However, Vermont is protected from this interference because of the unique language this bill uses, according to Kirsten Murphy. Under a voluntary option, we did get sick leave and pregnancy accommodations for Vermonters.

Thoughts on the marijuana bill: Matthew Fitzgerald cautions that the consideration to pass the bill is driven by the potential revenue it will generate.

Vermont ranks 43 in a poll (1 being the least abused and 50 being the most) in substance abuse which is almost double the national rate. Chronic and binge drinking is the worse and the over age 65 data is alarming. Commissioner Hutt will be talking to the Department of Health (VDH) about the importance of publicly recognizing this problem so the public can be aware of the disturbing numbers. Along with the substance abuse comes a high rate of suicide and falls. According to Gini Milkey, the death from falls are measured differently in Vermont versus other states that make our numbers look worse than they are in comparison. These statistics come from our score cards.

Part of S.133 addresses some of the barriers to services. However, Charles Gurney who focuses on elder substance use and is in a shared position with VDH Alcohol and Drug Abuse Programs (ADAP) and DAIL has come up with some solutions and ways to getting certain waivers included in Vermont's All Payer Model (APM) that could help address some of the issues. As we look at the barriers it would be beneficial for him to testify to the legislature on this matter to put forth his strategies. Charles will be invited to our next advisory board meeting.

Substance use disorders seem to be affecting all sectors of the Vermont population. Linda Berger shared that schools are dealing with the same issues and are coordinating between AOE and VDH to administer the Youth Risk Survey to try and understand the extent of use in our youth. Interestingly, there is a bias that people with developmental disabilities don't use substances; however, studies in Europe show otherwise.

Conversation with the Commissioner

Monica Hutt, Commissioner of DAIL

Building Stronger Connections: Camille and Monica believe DAIL is at another time of growth with slightly different thoughts on the issues facing DAIL today. It is felt that building a stronger relationship between the DAIL Advisory Board and some of the other key boards, commissions and advisory groups with which DAIL is involved would help to inform and strengthen our work. Examples of some of the key groups include: the Traumatic Brain Injury Advisory Committee, the Governor's Commission on Alzheimer's Disease and Related Disorders and the State Independent Living Council. We can also share our thoughts with the other organizations and boards and in turn it would make us all more effective.

Martha Richardson who is the chair of Governor's Commission on Alzheimer's Disease and Related Disorders (ARD) would love to share thoughts and ideas with other groups.

The Medicaid Exchange Advisory Board (MEAB) is a very important advisory group that is a combination of two committees that joined into one advisory board. It was noted that long-term services and supports needs a representative on this group and the group as a whole appears to be struggling with creating and maintain a solid structure. While the Department of Health Access (DVHA) staffs this committee, this may also be a group that we would want to build a stronger tie.

The way the DAIL Advisory Board is different than most is that our level of conversation is more topical since this body is to be informed of all perspectives and hearing from people who can and do go deeper can offer a different perspective. Robert Borden's question is what does that look like? How would they present to the board and how does it benefit Commissioner Hutt? Commissioner Hutt is very committed to this group and feels the more that can be filtered in, the better educated we are to make decisions. The thought is to link the various groups together so feedback is more comprehensive.

Nancy Breiden suggested structuring the format for presenters, possibly requesting the speaker to present a specific topic from their perspective. By letting them know what we need would lead to a more productive meeting. Nancy will share what she uses from another board.

With the revamped DAIL website on the horizon, there was discussion on how sharing information can be easier and better. Some thoughts to have access to handouts and materials on the web so it is shared information and it isn't just received but sought as well. It would be great to have an email letting the board know that the information was available for them to access on the web or a direct link versus having email attachments that may be difficult to access.

DAIL will send out a list of Governors Boards and Commissions DAIL covers to board members. Linda Berger and Martha Richardson will present what is going on with the boards they are involved in at a future meeting.

Quick Update on Centers for Medicare and Medicaid Home and Community Based Rules

Roy Gerstenberger

Roy Gerstenberger presented an update on the status of coming into compliance with the Centers for Medicare and Medicaid Services (CMS) Home and Community-Based Services rules. One sticking point is the definition of what is “home and what is community?” The funding from CMS is to help people who live in their home and community. There are new rules around the freedom of the people receiving care.

Surveys went out to DS providers this month. We still need to survey the people who receive services. In preparation for those surveys, we will have 12 people training on how to carry out the assessment interview process using a nationally validated model. They will be credentialed this summer then out interviewing and gathering information thereafter.

The CMS did send out a memo extending the deadline for compliance to 2022. The previous deadline was going to be particularly challenging for the many states that still have large institutions. Vermont should almost be there by 2019, giving us more time to come into compliance and to work out any issues that may arise.

In DS, the shared living model is relied on heavily with a person living in the home of a contracted provider. Long term providers are currently working under the old rules and we did not have to go in and change things yet.

The new rules will provide a typical expectation of a setting that we all have for ourselves using the ideals, common courtesies and compromises that are needed when living within a community.

The farmstead model is currently in deep transition. CMS will allow for them to continue if they submit and pass under “heightened scrutiny”. If everything is going well for the residents, like at Heartbeet Lifesharing in Hardwick, CMS will come and decide if in fact it is an appropriate setting.

Megan Tierney-Ward, Director of the Adult Services Division (ASD), passed on the following update around work in CFC to come into compliance with the CMS HCBS Rules:

The provider assessment just went out. The next step is to evaluate the response in May and then plan for the participant survey. Both of these items are addressed in ASD’s work plan. ASD has created a section on its website for the HCBS regulations for people who are interested:

<http://asd.vermont.gov/special-projects/federal-hcbs>.

Another CMS requirement is around conflict free case management. Where CFC is concerned, CMS has been approached by the State of Vermont with a plea that this is how we do things and we do it well (Choices for Care). We have the AAA and VNAs to provide case management and we spoke of how we work and address choice in the CFC program.

Update on Developmental Services Regulations and System of Care Plan

Stuart Schurr, General Counsel and Clare McFadden, Assistant Director, DDS

The current State System of Care Plan (“Plan”) is set to expire on June 30, 2017, and, as required by the Developmental Disabilities Act (“DD Act”), a new 3-year Plan must be adopted. 18 V.S.A. § 8725 requires that certain categories of the Plan be adopted through rulemaking. The Department has proposed to incorporate those categories into the existing *Regulations Implementing the Developmental Disabilities Act of 1996* (“Regulations”). The final proposed rule has been submitted to the Legislative Committee on Administrative Rules (LCAR).

Prior to filing the proposed amendment to the *Regulations*, the Department shared its draft with the State Program Standing Committee, which subsequently submitted a number of recommended changes. These recommendations were reviewed by DAIL staff and many of them were incorporated into the proposed rule, which was then filed with the Secretary of State. After this filing, public hearings were held and written comments were submitted. Based upon this feedback, additional revisions were made before the final proposed rule was submitted to LCAR.

When LCAR met to consider the final proposed rule, several stakeholders expressed concerns. As a result, DAIL offered to meet with these stakeholders and to schedule a third public hearing (followed by an extended comment period) to afford the public an additional opportunity to comment on the proposed rule. The third hearing is scheduled for May 22, and the deadline for submitting written comments is May 30. In response to the feedback provided by the stakeholders, DAIL identified the additional changes it would be willing to make and prepared a chart reflecting those proposed changes. It should be noted that the stakeholders raised approximately 10-15 areas of concern, and the Department addressed about 95% of them.

The Department will strike the section on grievances and appeals that is contained in the proposed final rule and will reinstate the grievance and appeals provisions currently in rule. In order to comply with new federal regulations governing grievances and appeals, however, the Department will be proposing changes to that section at a later date. Another area of concern raised by the stakeholders involved the absence of language addressing the limitations on services. The Department had concluded that limitations need not be addressed in the *Regulations*, as they do not fall within any of the four categories listed in 18 V.S.A. § 8725. Limitations will, however, be addressed in the Plan. Stakeholders also expressed the importance of one-time funding and that these funds must be guaranteed.

In order to continue the above work on the *Regulations*, the State Program Standing Committee voted to extend the current Plan to September 30. The Commissioner will inform both Senator Ayer and Representative Pugh of this decision.

Board Member Perspective

Jeanne Hutchins

Jeanne turned 60 this year and comes to Vermont from Michigan. She graduated in 2006 with a Masters from Saint Michael's College and has worked for 15 years at UVMMC and at the Center on Aging at UVM for 8 years. She worked on the PACE initiative and has been a part of SASH from the beginning.

She has had her in-laws and her mother live with her over the years and found that Vermont is much better than other states she had to work with concerning elder services and programs.

In her current role at the Center on Aging at UVM and at UVM Medical Center, she oversees a fellowship that pays a stipend to students who are pursuing a medical degree or advanced nursing degree to work with elders in the SASH program.

Board Member Updates

- COVE's next summit is May 24, in Chittenden from 9:30-12:00
- Next Friday, May 19, Reframing Aging
- June 6, Northeast Kingdom Savvy Seniors are at an Adult Day and state office building in St. Johnsbury
- The Jiggety Jog Fundraiser is coming up and is on the VNA website
- Cathedral Square Corporation is trying to raise money to purchase the property of the former Vermont Respite House

Meeting was adjourned: 1:55