DAIL Advisory Board Meeting Minutes
November 10, 2016
Sally Fox Conference Center, Waterbury

ATTENDEES:

Board Members: Linda Berger, Robert Borden, Nancy Breiden, Terry Collins, James Dean, Kim Fitzgerald, Mary Fredette, Joseph Greenwald, Jeanne Hutchins, Nancy Lang, Laura MacDonald, Nancy Metz, Virginia Milkey, Diane Novak, Steve Pouliot, Christine Scott, Beth Stern, Lorraine Wargo

Guests: Janet McCarthy, Matt McMahon, Jill Olson, Marlys Waller

State Employees: Joanne Fleurrey, Camille George, Monica Hutt, Suzanne Leavitt, Dru Roeselle, Megan Tierney-Ward

Review and Approval of Meeting Minutes

Motion to Approve Minutes: October 10, 2016 minutes: Approved: Diane Novak
Seconded: Steve Pouliot

The minutes were approved as amended with the changes from Gini Milkey

I. **Community Profiles and Act 186 Outcomes**
Dru Roeselle, Policy and Planning Staff Assistant, Agency of Human Services

While Con Hogan was Secretary of the Agency of Human Services, he embraced the idea of Results Based Accountability (RBA). RBA is a methodology for thinking and taking action, how to improve organizations and services, how to measure the quality and impact of services. This consists of three factors:

- Outcomes – results that are ideal conditions of the well-being of all Vermonters that groups of stakeholders and partners work together to achieve.
- Indicators – measures for the whole population that help quantify whether we are making progress toward desired outcomes in Vermont. AHS and its community partners look at a set of indicators to help us understand how Vermonters are prospering and where we need to focus our efforts.
- Performance Measures – this is a measure of how well a strategy, program, division, or service system is working to produce results for the people benefiting from the work. These measures help to answer three basic questions:
    1. How much did we do? (effort/quantity)

2. How well did we do it? (quality)
3. Is anyone better off or did we make a difference? (impact)

Beginning in 1995, Community Profiles was put into place. It took RBA to the community level. It set 60 population indicators that helped quantify 10 outcomes. Community Profiles was used to increases access of services at the community level. How to come together and work towards better outcomes together. It empowered the communities. They could take the information gathered around these indicators and see if they were doing better or worse compared to other regions. Regional Partnerships were formed and they used that data to have meaningful conversations.

In 2008, Community Profiles ended and everyone felt the loss of those profiles. Now, AHS has found the resources to revive them. There will be stakeholder workshops throughout the winter to get input on how best to use community profiles. The historical outcomes that AHS was pushing out were the outcomes they felt were most meaningful at the time. AHS defined them and they were then adopted in full by the Legislature and Act 186 was born. The Vermont Legislature codified a commitment to be outcomes-oriented and data-driven in how government sets policy and manages programs.

Act 186 established a set of indicators that were much more flexible than the outcomes. This is the best proxy that can get us the closest read on what is happening around Vermont. These data show us were we need to focus our resources to make improvements. The outcomes set by Act 186 are measurable, but what it cannot do is help us understand the regional disparities. Since our outcomes are difficult to measure – unlike measuring yards of concrete, they are not concrete – it takes several different groups to achieve the needs. Services are provided by many different organizations. State government cannot do it all, we need to include all our community partners to provide the services and to gather the information.

It has been suggested that AHS could use the DAIL Advisory Board as one focus group to find out what kinds of profiles would matter and be useful, and what indicators to measure at a statewide and local level about the well-being of vulnerable adults that could help shape the community profiles. This is an opportunity to redefine how we think about outcomes and well-being. Stakeholder meetings will be scheduled locally in the winter months; and the DAIL Advisory Board will be given the opportunity to participate.

Here is the link to Act 186 information:
http://humanservices.vermont.gov/improving-outcomes-for-vermonters

II. Home Health Agency Designation Regulations Rewrite

Suzanne Leavitt, Assistant Director of the Division of Licensing and Protection and Megan Tierney-Ward, Director of the Adult Services Division

Suzanne Leavitt, Assistant Director of the Division of Licensing and Protection (DLP) and Megan Tierney-Ward, Director of the Adult Services Division (ASD) have been partnering on the rewrite of the Home Health Agency (HHA) Designation Regulations. Suzanne provided a handout with the history of the regulations and the substantive changes. The final version of the new regulations is targeted to be filed with ICAR in January (please note that this may be a moving target!).

Because DAIL has historically collaborated with a limited number of community agencies, we were at risk for anti-trust lawsuits. There needed to be some federal regulation and having a regulatory framework by DAIL is the trade-off for that. Over time we recognized that these rules were not working well for DAIL. Some practices fell under CMS that have stringent oversight for medical services – but not all services were considered medical or a nursing requirement. Our hope is to take the bulk of the Personal Care Attendant (PCA) services out of the mix so that they are not required for nursing oversight or need medical monitoring. PCA needs do not require a nurse to come in every 60 days like medical needs do. The rules are being rewritten to remove that so there is flexibility to provide the right care and remove some stress on the HHA's. If only PCA services are needed, then that can be achieved without using high cost workers to provide the services. There will also be oversight by the state that a PCA is providing these services correctly, background checks will be conducted, training will be verified, and that health and safety practices are being followed.

DAIL's Legal Unit is reviewing that we have clear discharge plans, care plans and appeal rights. These will be the same for any health care agency. If DAIL makes a decision for services that the person does not agree with, that person can first appeal to the Commissioner of DAIL. If they are not satisfied with that decision, they can then appeal to the Human Services Board. The only exception is when there is a safety issue. DAIL's Commissioner's Office does not have authority when Medicare reduces services, so that section of the regulations will have to be changed.

These regulations will not affect non-medical agencies because we do not license those facilities. As for the quality indicators, what the client considers quality of care is considered. The HHAs present performance markers to DAIL, such as falls, transfers to the ER or to a nursing home.

Also, related to the rewrite of the HHA Regulations, Vermont has also been in touch with CMS around conflict free case management. Because Vermont is small and so interweaved, we have asked CMS to weigh in on how we deliver services. We are waiting for their reply.

The Home Health (HH) Regulations do not encompass all rules and procedures that a HHA must follow. The regulations include the services that all HHA's must agree to provide. If an agency is asked to provide a specialized service, such as TBI services, and they do not have the resources to provide it, they can petition to the Commissioner of DAIL for assistance.

The challenges that the HHAs face have changed dramatically. It is a very different world now and these changes are needed. With these changes, if there is ever an increase in a person's level of care,

the HHA can discharge and articulate why they can no longer meet a person's need. A person then can decide to stay at home and get the additional care that they need.

III. Developmental Services State Program Standing Committee (DS SPSC) Input on Developmental Disabilities Regulations

Linda Berger, DAIL Advisory Board

Linda Berger, a member of the DAIL Advisory Board and serves on the Developmental Services State Program Standing Committee (DS SPSC). The DS SPSC was involved in the update to the Developmental Services Regulations, which were discussed at the October DAIL Advisory Board.

Linda shared the comments that the Advisory Board with the DS SPSC. Linda then shared with the Advisory Board the ideas, comments, and suggestions that the DS SPSC had with the DS Regulations:

- There will be video conferencing available at the November DS SPSC meeting
- The committee will submit written changes after the next DS SPSC meeting
- Clarified transportation services – family provided or otherwise – the DD Waiver has some coverage for transportation services
- Wording changed from "fully informed" to "informed" because it is not clear what "fully would mean
- Would like to see protections added if a person is paying privately
- Would like assessments to be uniform
- The word "funding" needs to refer to something and be clarified
- Available funding and programs – want it to be changed to be more categorical because programs come and go
- Family Managed Respite (FMR) – FMR is fairly new in DS, it was established when there was a change to the Children's Personal Care Program (CPCP) that resulted in a new assessment for that program and the need for there to be a new way, other than CPCP, to provide families with some respite support. Children Personal Care had been used as respite, but it should not have been used in this way. There needs to be a definition between FMR and respite.
- Funding amounts – there were specific funding limits in the regulations, it is recommended they be changed to individual needs based on the assessment process. The maximum could be part of the assessment. The language should not limit itself so that they do not have to be revisited every time there needs to be a change. The committee also recommended that there be a change from specific hours/dollars to a broader term.
- Choices of provider – we need to be sure that there are choices within the established system of care due to the geographical challenges in Vermont
- The Role of Designated Agencies (DA's) and Specialized Designated Agencies (SSA's) – there has been use of providers that are not DA's or SSA's. There needs to be training for these providers that DAIL does not oversee or regulate. The concerns are background checks, financial stability, and proper training. There needs to be consistent standards and practices.

- There is a large concern around the Special Care Procedures (SCP's). This is when a registered nurse is required for care. There are inconsistencies around the SCP's. Perhaps DAIL should look to the Board of Professional Regulation.

IV. Conversation with the Commissioner
Monica Caserta Hutt, Commissioner

National Election – In relation to DAIL staff, regardless of how Vermont voted, what is most important is that we have a diverse body of staff and we need to honor and support that diversity. We need to make sure that the work environment supports diversity and differences of opinion. We must model inclusion, not just in our services and mission, where it feels good, but also where it is hardest on a personal level. People change, leadership changes, but our vision and mission does not; that is the message we have sent to staff.

State Election – In Vermont, regardless of party affiliation, we are small enough to know each other and we know that Governor Elect Scott is a good man with good values. The transition is still not entirely clear for exempt positions – DAIL has 6 exempt positions, Commissioner, Deputy Commissioner, General Counsel, two Staff Attorneys, and the Director of the State Unit on Aging. The Staff Attorneys and the Director of the State Unit on Aging, do not seem to be at risk. The Commissioner, Deputy Commissioner and General Counsel could shift. The goal is a smooth transition and it is important to continue to work closely with our staff, community partners, Boards and Committees. Governor Elect Phil Scott's affordability platform may result in a very tight budget process. The current Governor has asked that all legislative reports that are due between now and March, be submitted by December 26th, so deadlines are very tight and the workload for DAIL staff is a bit more intensive right now.

Vocational Rehabilitation Re-Allotment – DAIL is covering cuts in SFY17, but SFY18 is still unknown because the additional funding we were able to secure for SFY17 were one time only. We are staying in touch with our community partners about this.

Facilitated Communication (FC)– The Facilitated Communications Task Force has finalized the guidelines for Facilitated Communications (FC). In the past, funding for assisted typing or FC, has come into question as an allowable expense. The Task Force, at the request of the AHS Secretary created a set of guidelines to address best practices, assessment, training for facilitators to support the practice and ensure that funding remains allowable, not and into the future. This service will not be challenged again. In celebration of that work, DAIL has displayed the work of two young men that use FC and happen to be poets. Their work, pictures and bios are displayed in the Commissioner's Office and in the Developmental Disabilities Services Division. The authors came to see their work displayed. It is an important reminder to all of us that just because someone isn't speaking, it does not mean that they have nothing to say.

Commission on Offenders with Mental Illness – Many Individuals who are incarcerated have concurrent mental health issues. A Commission has been created that is made up of members of the Judicial Bureau, Law Enforcement, Prosecutors, Disability Rights, and the Agency of Human Services. The Commissioner in charged with an assessment of the current system to address mental health issues within correctional facilities, assess the system to keep individuals with mental health issues out of prison and to review the re-entry into community. People with disabilities have both rights and responsibilities; it is important that folks are held accountable appropriately and that we treat people with the right accommodations both in and out of facilities. The Commission is responsible for a legislative report in mid-December.

Highlights of 5 Year Renewal of GC Waiver Negotiation with CMS – The services for the most vulnerable and premium assistance have both been preserved with the waiver renewal. Some of the larger changes are around our Managed Care Organization (MCO) Investments. These include the Vermont State Hospital, room and board at some residential programs, some of our IT works and parts of funding for some residential programs. These investments will need to be phased out over a 5-year period. The fiscal impact over this 5-year period has been calculated at $64 million. There is a federal law that Medicaid will not fund a facility that has over 16 beds and we have, in the past, addressed that by using this waiver. The new waiver terms also change our administrative match rate, so more state dollars will be needed in this area.

V. Board Updates
DAIL Advisory Board members

SASH – SASH has just signed an agreement to replicate the SASH model in Rhode Island.

COVE's Grant – Last month Gini shared with us that COVE had been awarded a grant from the Center for Crime Victim Services to fund COVE to build upon the work it's Senior Medicare Patrol Program. They have just posted an advertisement for a Program Manager of this grant.

Meeting was adjourned