

**DAIL Advisory Board Meeting Minutes**  
**March 14, 2019**  
**Sally Fox Conference Center, Waterbury**

**ATTENDEES**

**Board Members:** Ruby Baker, Nancy Breiden, Terri Collins, James Coutts, Kim Fitzgerald, Joseph Greenwald, Laura MacDonald, Nick McCardle, Nancy Metz, Diane Novak, Steven Pouliot, Christine Scott, Lorraine Wargo, Marie Zura

**Guests:** Sean Londergan, Dana McMahan, Kara Artus

**State Employees:** Liz Perreault, Camille George, Dylan Frazer, Andre Courcelle, Clare McFadden, Bard Hill, Robin Miller

**Motion to Approve Minutes:** February 14, 2019 minutes: Move to Approve: Nancy Breiden  
Seconded: Steve Pouliot

Abstained: Diane Novak, Lorraine Wargo, Nancy Metz

**Minutes are approved as written.**

**\*Christine Scott is acting chair during this meeting in Jeanne Hutchins' absence.**

**Choices for Care Update**

**Megan Tierney-Ward, Adult Services Director (ASD) Director**

Megan Tierney-Ward, the Director of ASD, shared the Choices for Care (CFC) portion of the DAIL Annual Report with the advisory board. This report is an overview of the CFC program that is covered under Vermont's Global Commitment to Health 1115 Waiver. CFC is a long-term service program that provides consumers with high to highest needs help for personal care, daily living activities and nursing needs. This program serves people who choose to live in a choice of settings (home-based, nursing facility, enhanced residential care home or adult family home) if they are found to be both financially and clinically eligible for the program. ASD has 15 staff members who manage applications and clinical eligibility across the state. The Department of Vermont Health Access (DVHA) has staff that determine the financial eligibility for CFC.

When determining the financial eligibility for CFC High and Highest Needs Group services, a person must meet the criteria for Long Term Care Medicaid and therefore both their income and assets are looked at. A person can maintain a certain level of savings and assets but there are a number of

different formulas used to access a wide variety of financial situations. Again, this is not done in ASD, DVHA has a team of people who determine financial eligibility.

The year, 2018, brought many improvements and achievements to the CFC program:

(The following bullets taken directly from the DAIL Annual Report:

[https://dail.vermont.gov/sites/dail/files/documents/2018\\_Full\\_Annual.pdf](https://dail.vermont.gov/sites/dail/files/documents/2018_Full_Annual.pdf) )

- We implemented a 2% Medicaid rate increase in home-based, Adult Family Care and Enhanced Residential Care (ERC) services July 1, 2018.
- We launched the first National Core Indicators (NCI) for Aging & Disabilities consumer experience survey. (Data will be available January 2019.)
- We received a Scan Foundation Award for Access and Affordability.
- We participated in a year-long state audit of the self-directed personal care services.
- The legislature codified the Choices for Care savings and allocation language in Title 33, Chapter 76

During the year long audit it was found that there had been some overpayment made to providers. After the State Auditor issued his report, ASD closely reviewed the findings which estimated that \$150,000.00 was overpaid and determined that the actual overpayments were \$117,000.00 and is being recouped. While we can always do better, this represents less than 1% of the CFC overall budget. The Federal money will go back to Medicaid and the State of Vermont will absorb the cost from the General Fund.

One main reason for the overpayment was finding that there were some hours that overlapped a person's stay in a facility. A provider can't be paid for hours a person is being cared for in a hospital or nursing home facility since during that time they were not providing services. This particular issue is less about fraudulent behavior and more about not having a more concise way to report hours worked and services rendered. The billing system has been updated to prevent this from happening in the future.

ASD is working on implementing the Electronic Visit Verification system, required by the 21 Century CURES Act, and is in place by 2023. This new system is intended to improve how personal care services are recorded and billed.

At the end of each fiscal year, if there are any savings in the CFC program, up to \$2,000,000.00 is held in what is called savings. This money is set aside to be used for unexpected increase in enrollment to the program. This savings prevents the department from having to freeze enrollment into the program and allows ASD to serve this high-needs population. The savings protects the program from unforeseen financial pressures that can occur in a year. Any savings beyond the 2 million dollars, is reinvested in home-based services. However, in the last two years we have not seen a savings beyond the 2 million.

A legislator has suggested that instead of maintaining the 2-million-dollar savings, to make adjustments at the end of the year during the Budget Adjustment report. If this change were to take place, the statute would have to be re-written and proposed for a vote but not before a healthy debate on its merits. And, because there are never any guarantees that a future legislature will approve a budget adjustment request, this could be risky.

The CFC Moderate Needs Group is for people who are not yet considered nursing home care but could benefit from some more preventive services. There are different financial and clinical eligibility requirements for people in the CFC Moderate Needs Group (MNG). The MNG still has a very long waitlist, but ASD is looking to at least change the regulations to enroll people based on need and not continue to be a first come first serve enrollment. This change will allow the consumers with higher needs to access the assistance that is needed a little faster. ASD is always working to reframe aging in Vermont and using preventive programs and strategies is part of that. In the future the hope is to expand the MNG, it would be an important tool to meeting the goal of prevention.

If you are interested in more information on ASD and the CFC program, or any DAIL program, you can find the DAIL Annual Report online and in the report, you will find multiple hyperlinks and resources to expand on the topic of interest.

[https://dail.vermont.gov/sites/dail/files/documents/2018\\_Full\\_Annual.pdf](https://dail.vermont.gov/sites/dail/files/documents/2018_Full_Annual.pdf)

### **Choices for Care Regulations**

**Megan Tierney-Ward, ASD Director and Stuart Schurr, DAIL General Council**

Both Stuart and Megan have been working with the Medicaid Policy Team to update health care regulation rules that follow the Health Care Administrative Rules (HCAR) format. CFC has had rules in place which were last updated in 2009 and need to be updated to follow the HCAR format with modernized language and a clean up of things that have changed or have become obsolete since the program first began.

Provided to the advisory board was a draft of the updated version of the CFC HCAR. Please review the changes and there will be a time to give formal feedback in the near future (to be announced). Once feedback is received and the changes have been made, there will be a time for the advisory board to review the final version as part of the rule making process.

The changes that are being made during this current review are small, housecleaning type changes. Bigger changes would require an amendment to the waiver. At this time, the goal is to clean up the rules but still work well within the federal terms and conditions that are put forth in Vermont's Global Commitment to Health 1115 Waiver.

A **Choices for Care Regulations Summary – 2019** sheet was provided to the advisory board that provides a summary of draft changes by section and a general timeline of when the draft changes

will be made available for stakeholder input and public input and an expected end date for this process.

Megan would like the DAIL Advisory Board to review the changes and to give your informal feedback. Megan will have Liz Perreault send the clear timeline for feedback within the next few weeks.

There is also a workgroup forming to look at the Independent Living Assessment (ILA) and bridging it with the care plan for people. For example, a person with dementia may need cuing and supervision but not toileting and bathing and yet this person's need is just as high.

### **Follow-up: conflict Free Case Management (CFCM) -Stakeholder Engagement**

**Dylan Frazer (DVHA), Megan Tierney-Ward (ASD), Clare McFadden (DDSD) and Bard Hill (PPAU)**

The CFCM Stakeholder Engagement is in the initial phase. Phase two will include more stakeholder input with deeper conversations when we are closer to a plan. The feedback from the DAIL Advisory Board, when first presented in February was considered and because of the input, the State work group has expanded both the timeline and outreach for the first phase of stakeholder engagement. The revised plan for stakeholder input was reviewed at today's meeting.

The State work group will use the input received from the first phase to start thinking about some more concrete ways to address conflict of interest in each program and will return to the DAIL Advisory Board (and additional groups) for further feedback.

### **Sharing Perspectives: The Meaning of Community**

**Laura McDonald - Advisory Board Member**

The Centers for Medicare & Medicaid Services (CMS) had commissioned self-advocates to come up with the meaning of community. Camille George had sent a white paper written by the Vermont Self-Advocate group to the DAIL Advisory Board that had been mentioned at the February meeting and Laura McDonald wanted to take a moment to discuss the view of the white paper. For Laura, a parent of a daughter who is non-verbal, she found this perspective to be narrow and not speak for all who have developmental disabilities. She felt this document represented those who function at a high level but did not necessarily represent those who function at different levels.

Understanding how diversity should present itself is allowing the opportunity for all types of environments, including housing for those of like abilities to live together and employers who want to specifically employ differently abled persons. These scenarios shouldn't be chastised but supported as a choice and opportunity. Inclusion and independence look different for different people based on what works best for them. Our systems shouldn't turn away from positive, thriving environments.

An advisory board member raised the question if there was a long-term plan, or vision, for Developmental Services. Clare McFadden, Director of DDS, commented that last May there was a retreat with approximately 100 people with families and providers included. At that retreat, Clare had asked what the division should be looking at as priorities for improvement to serving the DS population and gathered the input. As of today, that feedback has not been acted on because the division's focus has been on payment reform. Once that is completed, the focus will return to the long-term vision.

Every 3 years DDS has to do a system of care plan and that is an ideal time to look at the long-term vision and plan. Some questions that will be asked is if the values of the division are changing or shifting. A concern raised by the advisory board is if the payment reform is happening prior to the focus on the long-term goals of the division, that the goals will be payment driven. Clare McFadden was clear that the goals of the division, even during the process of payment reform, is individualized supports, promotion of work and continuing to be person centered. The payment reform that will be developed will continue to match and preserve the positive parts of the system and only change the things that need to be addressed.

### **DS Payment Model Update**

**Clare McFadden, Developmental Disabilities Services Division (DDS)**

DVHA and DDS are working on payment reform to improve the current way that we pay for Developmental Services (DS). One challenge of the current system is that it relies on an old reporting system that didn't have a clear, accountable method for tracking and reporting what services were provided to each individual. The reform initiative is working to achieve a transparent, accountable process while at the same time preserving the strong principles and values in DS. Through this process it became clear that the stakeholder involvement needed to be broadened, and work is on-going to improve that as well.

The payment reform group has 3 sub-groups working on different aspects of the reform. There is the Standardized Assessment Workgroup, Encounter Data Workgroup and Payment Model Workgroup.

The following is text from DDS website describing the three workgroups:

<https://dds.vermont.gov/dds-payment-reform>

**“In November, three new workgroups were added to this effort:**

**Standardized Assessment Workgroup:** This workgroup is focused on the adoption of a uniform, standardized assessment tool for determining what services individuals need. The workgroup will review assessment tool options, considerations of transitioning to a new tool and the process for implementation. More information for the [DDS Payment Reform Standardized Assessment Workgroup](#).

**Payment Model Workgroup:** This workgroup is focused on designing the payment mechanism by which providers are paid to provide services. They will consider payment model options and

implications for providers and people receiving services. They will provide input for planning and implementation of a new payment model. More information for the [DDS Payment Reform Payment Model Workgroup](#)

**[Encounter Data Workgroup](#):** This workgroup is focused on how provider agencies report to the State information about services delivered to individuals. It has been determined that the provider agencies will be reporting services through the Medicaid Management Information System. This workgroup will provide input into the implementation of this new process. More information for the [DDS Payment Reform Encounter Data Workgroup](#)”

### **Commissioner Update**

**Camille George, DAIL Deputy Commissioner**

Camille George, Deputy Commissioner of DAIL, gave updates on behalf of Commissioner Hutt in her absence. Deputy Commissioner George asked if there were any topics that the advisory board would like to hear about. The topic of updating the advisory board on the Pillsbury receivership was raised.

***Pillsbury Facilities:*** Kim Fitzgerald offered that Cathedral Square is providing some assistance to the receiver and that Pillsbury consisted of three residential care and one assisted living facility. Currently there is a temporary receiver in place until the court decides on a permanent receiver. There are five names in the running and they are all out of state companies that do this for a living so are prepared and able to take on the task.

The facilities are still up and running and are in no danger of closing. Eventually the receiver will make a recommendation to the court on whether the facilities should be put up for sale or released back into the hands of the owner. If the owner is unsatisfied with the decision, he can appeal. There is a long road ahead before this concludes.

### ***DAIL Staff Updates:***

Clayton Clark, Director of Division of Licensing and Protection (DLP), has resigned from his position. He will step down as of March 29, 2019. While DAIL searches for a replacement, Joe Nusbaum, Director of Adult Protective Services within DLP, will serve as Interim Director of DLP.

David Sagi, a long-time DAIL employee and an ADA expert who came to the advisory board several months ago to discuss accessibility to properties, has passed away. He was a remarkable person who worked for many years in the area of accessibility beginning with work at Vermont Center for Independent Living.

### ***Community Partner News:***

Sarah Launderville, the Director of Vermont Center for Independent Living, has suffered a loss. Her husband passed away last Monday. Advisory Board members were asked to keep Sarah and her family in their thoughts.

**SFY 20 DAIL Proposed Budget:** The DAIL SFY 20 Proposed Budget continues to move along. The SFY 19 Budget Adjustment is still waiting for final approval. The 2020 Budget has not moved out of the House yet. *Post Script: Since this meeting, the SFY 19 Budget Adjustment has passed.*

**Older Vermonter's Act Working Group:** The Older Vermonter's Act Working Group's last meeting finalized a workgroup framework on how to frame recommendations: financial security, optimal health and wellness, transportation and housing design. The group's focus is to find where the gaps are and work on bridging those gaps.

**Money Follows the Person Program:** Money Follows the Person program has been funded for an additional five years. Now our staff will recharge after having wound down to provide supports for this program.

**Meeting Adjourned: 1:58**

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