

**DAIL Advisory Board Meeting Minutes**  
**September 12, 2019**  
**Sally Fox Conference Center, Waterbury**

**ATTENDEES**

**Board Members:** Ruby Baker, Robert Borden, Nancy Breiden, Kim Fitzgerald, Matthew Fitzgerald, Ken Gagne, Joseph Greenwald, Jeanne Hutchins, Frances Keeler, Laura MacDonald, Nick McCardle, Michelle Monroe, Diane Novak, Steven Pouliot, Christine Scott, Lorraine Wargo, Marie Zura

**Guests:** Becky Lewandoski, Christopher Davey, Sean Londergan, Jane Catton, Dustin Matton, Toby Howe

**State Employees:** Megan Tierney-Ward, Liz Perreault, Kirsten Murphy, Camille George, Angela McMann, Dylan Frazer, Clare McFadden, Bard Hill, Angela Smith-Dieng

**Motion to Approve Minutes:** July 11, 2019: Move to Approve: Steve Pouliot  
Seconded: Lorraine Wargo

**Minutes are approved as written.**

**Conflict Free Case Management:**

Dylan Frazer (DVHA), Clare McFadden (DDSD) and Angela Smith-Dieng (ASD)

Dylan Frazer is the Policy Advisor from the Department of Vermont Health Access (DVHA). He reported to the DAIL Advisory Board that on January 16, 2014, the Center for Medicare and Medicaid Services (CMS) issued requirements for home and community-based services (HCBS,) in all states, to come into compliance with the rule for conflict free case management as soon as possible. Since the rule has been in effect since 2014, Vermont is currently operating out of compliance. However, the State has not yet been put on a corrective action plan by CMS.

The CMS rule outlines person-centered planning practices and ensures that people receive services in the most integrated setting of their choice. The rule also defines what it means to live in a home and community setting and promotes community participation. These are goals that Vermont already works to provide individuals but the part of the rule that Vermont doesn't fully comply with is having case management and direct service provided by separate entities. This lack of compliance is based on the structure that Vermont has been working under for many years and doesn't necessarily indicate that there is biased case management but because of this current structure, there is a significant potential for it.

CMS is requiring all states to separate the work of case management and direct service for the following reasons:

- To avoid automatic self-referral; when the case manager refers to the agency they work for without offering a different agency that can provide the same services.
- To ensure quality oversight by having a level of objectivity in order to fairly assess performance of staff.
- To avoid steering. An example of steering is when a case manager makes a decision what a next step should be based on what they know is available without considering the best option for the individual in front of them.
- To separate the direct service duties from the assessment process and service option counseling.

This winter, the State executed phase one which evaluated where potential conflicts currently exist in HCBS. Stakeholder groups were provided information and asked for feedback. Once the feedback was received, the comments were summarized and ideas to address the conflict were drafted. Feedback included both concerns and positive feedback regarding the current case management system. A summary of comments are available here: [VT HCBS Conflict of Interest website](#).

Some of the stakeholder's suggested solutions to avoid conflict of interest case management were:

- To hire independent assessors outside of the agency to complete the needs assessment.
- Make information about all available options more readily available. Have transparency.
- Develop quality ratings of providers so individuals and families can compare options.
- Enhance training for case managers so they understand the full range of available options.
- Have separate discussions about money and services.
- Appeal rights should be explained to individuals and families regularly.

CMS highlighted 3 of the most rural states to illustrate that being a rural state is not an excuse for not meeting the requirement of separation of case management and direct service. They showcased Wyoming, South Dakota and Alaska. Two of the three states came into full compliance. However, Alaska did have 4 out of 5 providers granted exceptions based on a language barrier and the extreme, rural nature of Alaska.

New Hampshire, who is similar in many ways to Vermont, is currently on a corrective action plan with CMS and must comply by 7/1/2022. In New Hampshire, the rural providers have been allowed to be 30% conflicted but still had to meet the lowest bar possible of requirements. Once the plan is fully developed, New Hampshire will still have to obtain approval from CMS. This process would be the same for Vermont if the state opts to ask for an exception.

Phase II of this process is to find the right solution for the state to provide conflict free case management to individuals and to look at some other protections against conflict. For each of the programs; Choices for Care, Traumatic Brain Injury and Developmental Services there is a scoring matrix for stage-1 proposals and stage-2 proposals to mitigate potential for conflict of interest in

HCBS programs. The individual program's options and the criteria to score these options can be found here: [VT HCBS Conflict of Interest website](#)

The potential solutions include:

1. Separation by State: Case managers work for a different organization from direct serves providers.
2. Separation by Local Agencies/Providers: Case managers work for a different organization from service providers.
3. Status quo with more choice and special protections: Individuals can choose between having independent case management or case management that remains with their direct service provider.
4. Status quo with special protections: Keep everything the same but add special protections to ensure choice.

The advisory board gave feedback about some initial thoughts and questions about the process thus far.

- Marie Zura expressed that there should be provider involvement in the creation of the proposals, so people have more buy-in and aren't just reacting to suggested proposals. Also, Marie questioned where the funding would come from to implement the changes in the system.
- If option 1 is chosen and a request for proposals is sent out would that fall under a Certificate of Need (CON)? This would not fall under the CON process.
- What would the requirements and training be for a person to become an independent case manager? There would have to be a certification process and oversight of independent case managers.
- When a solution is chosen, could it be different between each program? That is possible, but the goal is to align as closely as possible. Currently, the structures are different between programs.
- What is the percentage today where people have the same case manager and direct service provider? For CFC that percentage is approximately 50%.
- If a person needed a waiver, each individual would have to apply for one. This is where the 30% conflicted could potentially come in.
- The Transition II program had to find independent case managers and they had a difficult time finding them.
- If independent case managers are hired, there has to be protections and oversight as well as licensure and training in order to become a case manager.
- There must be ongoing options counseling and check-ins.
- CFC doesn't show the layered case manager option in the matrix because that is the status quo already.

- We have to understand the economy of scale and do a request for information (RFI) to find that information out. However, we have to understand that we have to work with the information these questions bring.
- Recognize the community level impact in order to preserve the agencies and possibly reorganize.
- Some states have a top down approach by telling agencies that they have to find a solution to this problem by a certain date with a description of how compliance can be achieved. One option is a business separation of the agency and they would then fall into compliance. There has to be checks and balances.
- At one time, CFC did have case management separate from direct services, but it is now combined.
- Vermont has very diverse regions- option 1 would likely be fought tooth and nail while option 2 would be better accepted by agencies because it would be less disruptive.

Of the proposals presented, what is the groups preference? Because this is a lot of information to take in, the board felt it better to digest the information and respond thoughtfully to the survey monkey. Survey monkey links here for each program:

- 1) [FEEDBACK for Developmental Services Program solutions - SURVEY MONKEY](#)
- 2) [FEEDBACK for Choices for Care Program solutions - SURVEY MONKEY](#)
- 3) [FEEDBACK for Traumatic Brain Injury Program solutions - SURVEY MONKEY](#)

How comfortable are people with the state doing an RFI about independent case management? A reason not to do an RFI would be because it is difficult to clearly define what you are looking for. It would be better to be very certain in what information you are seeking and not just “go fishing”. It was suggested that a clear description of what the definition is be brought to the advisory board for review.

As we move further through this process DAIL would like to have an opinion from this group.

The timeline is as follows:

Public input from February 2019 – January 2020

Prepare proposals from early 2020 – Spring 2020

Engage CMS in the Spring of 2020

Planning and public notice will occur well in advance of implementation date

Implementation by 2022. This depends on impact, planning and CMS

#### **Conversation with the Commissioner:**

Acting Commissioner Camille George

#### **Leadership Transition:**

There have been some leadership changes within the agency. Al Gobeille left as AHS Secretary this spring. Since that time, Martha Maksym has been Acting AHS Secretary, moving from her role as AHS

Deputy Secretary. This summer, Monica Hutt, DAIL Commissioner was asked to step in as AHS Acting Deputy Secretary, Camille George has moved to Acting DAIL Commissioner, Megan Tierney-Ward is now Acting DAIL Deputy Commissioner and Angela Smith-Dieng stepped into the Adult Services Division Director role. There has been a blending of responsibilities and everyone is working to make this temporary transition smooth. Currently, we do not have a timeline for how long this transition will last. The agency is waiting for the Governor to appoint the next AHS Secretary and once that happens, positions can adjust accordingly. During this transition, if you have contacted DAIL and haven't received a prompt response, please reach out again.

**Electronic Visitation Verification:**

There has been continued work on the Electronic Visit Verification (EVV) system to coordinate the state system with the system that home health agencies are already using.

**Filling DAIL Advisory Board Positions:**

DAIL recently sent out a request for DAIL Advisory Board applications to fill the upcoming vacant spots that will open when member's terms end at the end of November. We have received several applications that we will be sending to the Governor's office with recommendations.

Once the new appointments are made, DAIL will coordinate an orientation to the DAIL Advisory Board and we will include Michelle Monroe since she is a new member and we haven't done an orientation with her yet.

**Sunset Advisory Commission Testimony:**

Acting Commissioner George and Acting Deputy Commissioner Tierney-Ward testified to the Sunsetting Board and Commissions Committee at the legislature. All active DAIL boards are very engaged stakeholders and are very productive. DAIL leadership is thankful to have productive boards and to have a variety of voices at the table. One thing that was brought up at testimony is how our boards share expertise. We will discuss at a future meeting having liaisons from the various DAIL boards that can share information.

**Long-Term Care Ombudsman:**

In October we DAIL will go over the Long-Term Care Ombudsman conflict of interest report.

**Advisory Board Member Updates:**

Kim Fitzgerald – The Juniper House breaks ground on September 26 which is located on the former Champlain College property in Burlington. Also, the Memory Care at Allen Brook is full with a huge waiting list and it's been open for two years.

Steve Pouliot – Vermont Association for the Blind and Visually Impaired had a very successful fundraising event, Dancing with Vermont Stars. The goal was to sell 600 tickets and they sold 700. There has been an uptick in referrals to the agency from the exposure too.

The Alzheimer's Walk at Shelburne Museum is this weekend and if you want to participate, you can sign up on the day of the walk.

Michelle Monroe – Multiple Sclerosis Society will have a walk in April.

**Meeting was adjourned: 1:58**