

DAIL Advisory Board Meeting Minutes

January 14, 2016

Comfort Inn, Berlin, VT

ATTENDEES:

Board Members Linda Berger, Robert Borden, Nancy Brieden, Peter Cobb, Nancy Metz, Gini Milkey, Diane Novak, John Pierce, Steve Pouliot, Beth Stern

Guests: Donna Sutton Fay

State Employees: Joanne Fleurrey, Camille George, Roy Gerstenberger, Monica Hutt, Sara Lane, Clare McFadden

Motion to Approve Minutes: December 10, 2014 minutes Approved: Steve Pouliot
Seconded: Nancy Metz

Review and Approval of Meeting Minutes

I. DOL Companionship Rule Update

Sara Lane, Adult Services Division (ASD) and Clare McFadden, Developmental Disabilities Services Division (DDSD) - (via phone)

Clare McFadden gave the DDSD's update on the implementation of the DOL Rule. The letters that were sent to employers neglected to have information on how to obtain a translated version of the letter. This has been corrected and new translated letters have been sent out. In December, a DDSD staff person and ARIS staff met with over 100 providers for training on the rule. ARIS is planning additional training for employers. Information on the rule can be found on the ARIS website. Any changes and other key information to pay attention to are highlighted as well. The initial letter outlined how to request additional funds; and DDSD is working on this process. A draft of this process should be going out next week (week of January 18th).

DDSD has requested information from ARIS on how much overtime (OT) is being paid. DDSD will be sending these reports out to the agencies so they can see who is a high user of OT so that they can work with the employer on how to better manage their funds. The amount of OT is continually decreasing. This shows that employers are better managing their budgets. As the information on this rule reaches more people, the hope is that the decrease in OT continues. One theme that came up during these trainings was about how to get clarification and where to refer people for additional information. The employer should be making their own choices about their OT, not an outside person or an employee. We do not have any information on how many employers are claiming OT, but that information can be obtained from ARIS. The request for additional funding is not the same as a variance, each have a different process. Requests for additional funding must meet the criteria. For example, if a person is at risk of institutionalization or harm, this would meet the criteria for additional funding. Employers continue to work on how to schedule their workers or how to find additional support to reduce OT. The concern was raised whether OT is decreasing because of rescheduling/additional supports or if an employer is actually going without services. There is no way of knowing this for sure as there are several reasons that could differ from week to week. For example, whether the companionship exemption

applies can change from pay period to pay period depending on the nature of the work that the employee is performing.

The information from ARIS can be shared with the DAIL Advisory Board. Board members agreed that it is important to see the impact the DOL Rule is having. More information can be found here:

<http://www.arissolutions.org/links/>

Sara Lane provided the update on the how the US DOL rule is impacting the Attendant Services Program (ASP) and Choices for Care (CFC). They are working on making programmatic changes to CFC and ASP. Changes to the program and variance information have been sent out to providers. Three training sessions by ASD and ARIS have been scheduled for CFC case managers. The training will also be provided to all nurses who work with ASP participants. The case managers will be responsible with the initial assistance to employers if needed. ARIS Solutions will also be available for technical assistance. DAIL – ASD met with the ASP advisory committee and received positive feedback on the changes. The ability to set wages was one benefit. ASD is brainstorming ways to get information to people that do not have case managers. They will meet with VCIL on the changes as they are a good avenue to get the information out to the people. Translations of information are being worked on and ASD is having the information posted to their website.

The target implementation date is March 27, 2016. In the meantime, ARIS is working to update their software. Those attending the DAIL Advisory Board meeting mentioned that the blame for this rule is not all on the US DOL. While it was US DOL that issued the rule, DAIL had the choice to add additional funds due to this rule, but chose not to at this time. There is concern that this target date is tight as the trainings are just happening. Sara confirmed that the implementation date can be flexible. (post note: The date is now set for April 10, 2016)

The training will include reviewing updates on the Independent Living Assessment (ILA), electronic service plan, and help determining what a person's budget should be. Nothing is being changed as far as how a person is assessed. The trainings will be recorded and posted on the website for folks that are not able to attend or to refer back. Vermont Legal Aid met with ASD employees on how the service plan will no longer be available and will now only be electronic. In the past the hours were authorized via a written, paper service plan. The written service plan will now be included in the electronic format. Legal is looking into the adequacy of this type of plan and electronic sign off of the plan.

II. State Health Insurance Assistance Program (SHIP) Update and United Health Care Termination Medicare Advantage Plan

Donna Sutton Fay, Statewide SHIP Director

Donna met with the DAIL Advisory Board to talk about the SHIP program and the termination of United Health Care's Medicare Advantage plans that took place last fall.

There have been several changes in SHIP recently. In the past, the federal funding came to DAIL and DAIL would subcontract with Northeast Kingdom Council on Aging. That has now changed. DAIL now subcontracts with the Vermont Association of Area Agencies on Aging (V4A). V4A contracts with each of the 5 Area Agencies on Aging (AAA) for SHIP. There is eight (8) SHIP staff statewide, this includes Donna, and each AAA has a Regional Coordinator. Almost all staff work part-time. The federal funding has been reduced significantly over the last few years.

The focus of SHIP work is 1) outreach and education; and 2) enrollment assistance for Medicare beneficiaries. SHIP does outreach to other agencies and groups that provide services to Medicare beneficiaries, including pharmacists, hospitals, social workers, and home health agencies.

The grant year is unique – it is from April to March. Last year SHIP helped over 13,000 Medicare beneficiaries. SHIP helps most people over the phone. Open enrollment is the busiest time—October 15 thru December 7. Then, after open enrollment SHIP is very busy with questions beneficiaries have with the new plans. Some feel that this program is under publicized. Volunteers are very hard to find and with SHIP staff already understaffed, finding the time to recruit and train a volunteer program is difficult. The reporting associated with this program is very time consuming. There is another program called Senior Medicare Patrol (SMP) that is managed by COVE; and the SMP works with the SHIP.

Termination of United Health Care's Medicare Advantage Plan: Medicare Advantage plans are private plans that people can elect to sign up for to get their Medicare benefits. These plans have to cover the same things as Medicare and follow the same rules. But, they can offer additional services and different copay amounts – this would depend on what the person needs for services.

Five hundred and fifty (550) people were affected by the termination of the United Health Care Medicare Advantage plans on December 31, all in Lamoille and Washington Counties. If beneficiaries did nothing when their plan terminated they were automatically switched back to Medicare A and B. They still have until the end of February to make any changes. Anecdotally, it seemed that most people chose to go back to Medicare A and B. Donna thinks part of this reason for this is that Central Vermont Medical Center is not affiliated with United Health Care, so these beneficiaries had additional out-of-pocket expenses. The Advantage Plans that terminated did not have prescription coverage, so the affected beneficiaries who were already enrolled in a Part D prescription drug plan.

People can request help with Medicare by the Senior Helpline at 800-642-5119 to reach the SHIP program.

III. Conversation with the Commissioner

Monica Hutt, Commissioner of DAIL

Budget Adjustment Act (BAA)

During, the first session of the BAA testimony, DAIL's portion was handled at the Agency of Human Services (AHS) level as DAIL only had housekeeping items. We were then called in to report on the Choices of Care (CFC) carryforward. DAIL is mandated to carryforward any unspent funds. A second budget adjustment item was the return of DCF funds to DCF. Traditionally, DCF parks funds in DAIL for children that are in DCF custody and who are also are in need of developmental services. It was decided that it was easier to give DAIL a pot of money at the beginning of the fiscal year than to try to transfer funds during the year. The CFC carryforward this year was about \$2.1 million. Of that, DAIL already used \$1.2 million to address moderate needs in home health, adult days and the AAA. We are also mandated to keep 1% of the CFC budget in reserve to address Moderate Needs Group (MNG) services. The funds given to the AAA's, home health and adult days this year is not a guarantee as this commitment came from carryforward. Our continued budget pressure is moderate needs and this was made very clear in our budget submission.

The Governor's Budget Address is scheduled for January 21st and once that is given we can share our more specific budget issues. The Budget Address and the link to budget documents will be shared with the DAIL Advisory Board.

Stakeholder Meetings

DAIL recently participated in two stakeholder meetings: One co-sponsored by DAIL and the Department of Mental Health (DMH) in collaboration with Vermont Care Partners which focused on mental health and developmental disabilities, and another meeting sponsored by DAIL that focused on Aging and Disabilities. Themes were found in the meetings. DAIL can bring the notes from the Aging and Disabilities session to a future meeting to share what the discussion generated. How do we move forward? Is there change in the air? Not necessarily, what we were most energized about were the creative ideas. We could pick a couple of these ideas to move forward with to bring about improvement. The way to look at change is as a positive and not a negative way that causes anxiety or fear. Discussion needs to start and to not be afraid to address things that we – DAIL and outside agencies – have been doing and maybe not have to do anymore. We need to look at how programs are working. Are they working well and achieving their initial goals? There are ways to change that don't have to create fear. The members of the DAIL Advisory Board would be energized to get these ideas and feel that they are having a significant impact and making changes.

Elder Awareness Day

Jackie Majoros has been the leader in trying to shape a day that would show what it is like to be an older Vermonter today. This will be held at the State House on January 27th. *(Post note: this date has been changed to February 11)*. The group is working with Representative Pugh to change the dynamic from aging as a problem to aging as an advantage. It has been noticed that there is not a lot of focus at the legislative level on aging. We need to think about not only what providers do for elders, but what elders do for Vermont. One of the outcomes that we would like to see is the creation of an elder caucus of current legislators so that what good does come from this day won't get lost. COVE is working on collecting numbers that show the number of senior volunteers. Of the \$8.9 million dollars that volunteers save, what portion of that are elders? Beth Stern shared a story of having a graph showing the demographics of Vermont and how a legislator looked at it and said "We need to focus on the younger population" that way they would stay and take care of the seniors. A shift in this thinking is definitely needed.

The narratives that we have at these meetings are so important. And the information that we know exists needs to make it to Montpelier. Yes, there are Medicaid dollars spent providing services, but at some point they are given back when people return to work and start paying taxes. Also, the value of unpaid family caregivers and how much they contribute is enormous. Our programs would not be as effective as they are if it were not for the family caregivers. We can look into the National Family Caregivers Alliance to find the numbers of family caregivers.

Disability Day at the Legislature is March 23rd. it will focus on the work done in the community. The Developmental Disabilities Services Annual report is due on January 15th and will be posted on the website once it has been submitted.

1115 Global Commitment Waiver Comprehensive Quality Strategy

AHS submitted its Comprehensive Quality Services (CQS) Plan for instead of a transition plan since Vermont has the 1115 Global Commitment Waiver. The State has received a written response from CMS. This will be posted as well as the State's response to it. No state had their transition or work plan accepted on the first submission. One of the things that is clear by their response is that the branch that governs the 1115 rule is a different branch that governs the Home and Community Based Services (HCBS) branch. It will be important to clarify the regulatory frameworks that govern Vermont's waiver and to ensure that CMS is consistent in its approach to reviewing our proposed approach. CFC was our beginning program and the strategy will be to similarly approach TBI and Developmental Services. One of the questions from CMS concerned our work plan. We have already done about 90% of what they are requesting.

Conflict free case management under person-centered care is one of the tenants of the HCBS rule. This is not necessarily black and white. CMS gives states some flexibility on how they respond. Vermont is a bit behind in providing guidance to our AAA's.

The next step in this process is to complete a provider assessment that will be completed by the providers themselves. This assessment will focus on settings and person-centered care. One mechanism to analyze these assessments may be another round of Stakeholder meetings. On-site visits were highly recommended by advisory board meeting attendees. DAIL will work with our ASD Director to provide a summary of how the provider self-assessments will be validated.

Developmental Services is the next division that will be going through this exercise – creating a work plan and completing assessments. This gives us an opportunity to look at the quality of the services we provide. We are trying to enhance existing settings as opposed to transitioning folks to different ones. The State of Vermont does not have to orchestrate how everything happens related to assessment and implementation of any necessary changes. We want everyone to be included, to reflect on the questions, to say how they feel. One thing DAIL has struggled with is getting people that are receiving services to provide input – this will be a great opportunity to do this. One possibility is to contact case managers, AAA's and others to encourage people to participate in these surveys. DAIL gets good response to the consumer perception survey and the residential care survey. Both are conducted by phone.

Achieving a Better Life (ABLE) Taskforce

This taskforce was created to lay out implementation for a Tax free savings account for individuals with disabilities in Vermont. These accounts exist in other states. This account has a different role than the special needs trust. ABLE had to wait for the IRS to post their rules. It got a lot of feedback nationally to the things that were problematic. The second hold up to this was that the Senate attached something to their budget that takes out the residency requirement for ABLE accounts. Vermont may not have the population to keep fees down. There is pressure to keep moving forward so that we don't lose out on the potential for savings and asset development that these accounts offer. Testimony will be taking place Tuesday, January 19th.

State of the State Address

This year we had high hopes that there would be a mention of elders or people with disabilities. The Governor's office was working very closely on this, but at the last minute it did not happen. We are still

working with the Governor's Office on some issues around hiring of individuals with disabilities and mature workforce initiatives.

All Payer Model

The All Payer Model moves us towards a more global budget with the idea that if there is a global budget for other services that are not medical – long term services – we would not have the incentive to order more tests and more types of care and just provide better services. It should mean that there is not a charge for every service – there would be one amount for everything.

Having an Accountable Care Organization (ACO) really only works if there are adequate funds in the long term care system to start. DAIL's role is to continue to speak to long term services and supports and the needs of individuals and the organizations that provide the services. Ideally, the potential saving will be inclusive of all providers. Recently there was an agreement that SIM would invest in funding a readiness assessment for the Designated Agencies. The fear is that the larger hospitals eat up all the savings. Vermont has three current ACOs and hospitals are smart enough that when you talk about reducing costs you have to be sure there are services in place after being admitted. There is a belief that long term care will not be included but that there is still room for integration. Since long term care services and supports are the reason money is being saved – some of the savings should be passed on. It should not be exclusively to physicians since for some people, their services are received in other ways. The message to CMS should be that you cannot leave out the LTSS providers. Advisory Board members requested more discussion on the APM at a future meeting.

IV. Supported Decision Making

Roy Gerstenberger, Developmental Disabilities Services Division Director

Roy started his presentation with the background of why Supported Decision Making (SDM) is a topic of discussion nationally and internationally. The concept of SDM is of high importance as it is in our Constitution to make our own decisions. If you were to have self-determination, you would have a voice – person-centered thinking – in all of our services. We adhere to the concept of “nothing about us without us.” We need to figure out how to make the information about a decision accessible and once this is true, that the person has the supports to make their decisions. Getting support in our life is part of all of us. Not just for people with disabilities, it is something we all need.

Barriers for people with disabilities have been broken down by people, families and advocates when it comes to education and community based settings. And there is still much work going on in the US to get these services to everyone that is qualified to receive them. We, the State of Vermont, get calls on a regular basis on how to shut down sheltered workshops. DAIL staff is being called upon to act as consultants in other states of the US. We set a model for the rest of the country.

SDM is similar as it is a long process. And, just because a certain population is at the table doesn't mean it is being done. SDM also makes room for options as far as guardianship. Our laws are well written and well set to accommodate SDM and what can we, in Vermont, offer as a robust alternative for guardianship. We find many times that people are referred to guardianship and we find out later that it wasn't necessary. It is hard to reverse guardianship once it has been established. In studying decision making – it is one of those things changes over time – your capacity to make decisions changes as you grow and mature. The point is to ask how we can support people in making decisions and what that means. This is not just relative to people with cognitive disabilities; it impacts elders and others, too; when

we are ill and/or need support at difficult times. As with employment and learning, we actually need to start early in defining who children are at that stage and where they want to be as adults. We need to start imbedding these ideas early. We need to work with school systems about making people/kids aware that they are going to be their own decision makers.

What decisions have you made in the last 12 months? How did you go about it? Decision making is a complex process – if you have done any of these (ask friends, get referrals) then you have been part of supported decision making. People with developmental disabilities make choices in much the same way - with the help of a trusted family member or friend. What we need to do is to help surround people with developmental disabilities with these tools and strategies. It is a method to empower people. Working with court systems so that they are aware that it exists is also part of the process. Due to historic biases in our country most people who experience disability in this country exercise fewer rights than a person that has committed a felony. There are only 14 states like Vermont that have created full community based services and closed institutions.

SDM aligns closely with our values in Vermont. In SDM we engage the person to make the final decision and create intentional circles of support to explore the complexities of decision about their lives. SDM has received increased attention nationally as a result of publicity surrounding Jenny Hatch. She is a person whose parents were appointed as guardians and she wanted to live on her own outside of a group home where her parents determined she was to receive the best support. She found an attorney and sued her own parents. Her attorney is now working with an organization that helps supports states that want to go to SDM. Attorney Martinis is coming to a conference at Killington on June 9 sponsored by VT Care Partners. There are a couple things we would like to do over the coming year – create Vermont SDM Task Force that would serve to outline a broad set of strategies to imbed support for SDM across all sectors of the state. Participants would include representatives from education, legal, and the State of Vermont government. They hope to have Jenny Hatch’s attorney stay an extra day and help facilitate the first meeting of this committee on June 10. VT Legal Aid is working on putting together some guidelines for attorneys on SDM.

We need to work together to develop effective and practical tools that can be used universally to acknowledge the decision making capacity and power of all people. We need to go beyond simply checking off the box on whether or not a person needs guardianship. The myths around intellectual disabilities impede on people’s rights and making their own decisions. Maybe it could be only on one aspect – say financially – to have support. And they are fine in other areas. Clinicians even have biases. They need to be educated as well as the medical community.

Federal Medicaid dollars that are tagged for people living in a home or a community cannot be used to pay for a place where you live in a 30 bed facility, where you have no choice, no privacy, this is not a home. When you can decide when you eat, who you visit with, what your decorations are – then it is a home.

V. Updates from the Deputy Commissioner

Camille George, Deputy Commissioner of DAIL

Waterbury Move

Future DAIL Advisory Board meetings will be held in Waterbury – but only after all technology is in place in the public area conference rooms. We will send out dates of who is moving when in the near future.

Staffing Update

Adult Protective Services: Joe Nusbaum is the new Assistant Director of our Adult Protective Services Unit. He begins his new role in early February. He is currently working in Voc Rehab with grants and supported employment.

Office of Public Guardian: There are two OPG positions under recruitment, one in St. Albans and the other in the Burlington area. In addition, Dave Ramos has been hired as an OPG Regional Supervisor. He is based in Rutland.

Money Follows the Person: MFP is recruiting for a Transition Coordinator.

Traumatic Brain Injury Program

As of January 4th, the TBI program has moved from DDSD to ASD. This is beneficial to the program and to the program manager, Andre Courcelle. The right supports are already in place for this program in ASD.

Developmental Disabilities Services System of Care Plan

Every 3 years we develop a System of Care Plan for Developmental Services (SOCP). Since the current System of Care was written, legislation was passed requiring certain parts of the plan to go through the legislative rule making process. This will be our first time doing this with the SOCP and will mean that our plan development process will begin much sooner than in previous years. The DS State Program Standing Committee will play a key role in the development of the new SOCP. Input will also be sought from the DAIL Advisory Board and other stakeholders.

VI. Board Updates

H.238 that proposes a tax credit for making a house safe and accessible is moving through the legislative process. It was introduced last year. It allows for people to age in their own homes while still be accessible and safe and is income sensitive. There is a companion bill in the Senate with no number assigned, yet.

Meeting was adjourned