

From the Commissioner's Desk

July 23, 2014

My Life, My Community!

July 2014 Update

Charged with building a more robust, sustainable community system of supports for individuals with intellectual and/or developmental disabilities (ID/DD), DBHDS and its partners have made substantial progress this past year. The goal is the development of new waivers, which not only provide the financial resources, but also provide a framework to unify Virginia's system of services for individuals with ID/DD into a single, community-based system. We are well into the process of determining how to combine three waivers which will affect the lives of thousands of individuals. Human Services Research Institute (HSRI), our expert advisor, has advised to Commonwealth to consider two needs-based waivers referred to as a:

- **Comprehensive waiver** which provides more intense services, which require more oversight, rules/regs as individuals' needs increase, and
- **Supports waiver** which provides supplemental services that allow an individual to live independently or with family/friends.

Stakeholder subcommittees were formed that collectively involved over 100 individuals, the majority of whom are volunteers. DBHDS designed a decision process that took an average of five hours to work through to a single recommendation. Therefore, the recommendations detailed below have been vetted, discussed, revised, and analyzed. These areas include service eligibility, waiting list management, and support coordination/case management. The recommendations of the subcommittees will now be considered by the Waiver Design Advisory Committee (WDAC). That group's recommendations will be relayed to DBHDS and DMAS to flesh out the services, attach rates, and determine the structure. Once again, broad-based stakeholder meetings will be held prior to submission.

Initial Proposals

Eligibility Subcommittee

The *eligibility subcommittee* recommends a single eligibility criterion for the two new waivers. They also recommend the adoption of a functional definition of DD modeled on the **Administration on Intellectual and Developmental Disabilities** [114 Stat. 1684 Public Law 106-402-Oct. 30, 2000] definition, which the reader may find at the end of this update.* Basically, this definition ties very closely to the move to a needs-based waiver. It also removes issues that have arisen around whether one has or does not have a significant intellectual disability.

With the broader diagnostic criterion allowed by using the AIDD definition, the committee recommends changes to the current functional assessment tool. An amalgam of the best parts of level of care tools from other states was developed and reviewed by the Eligibility Subcommittee. Further edits will be made and the result piloted to ensure efficacy.

Case Management Subcommittee

To accomplish the merger of the public (ID/DS waivers) and private (DD waiver) case management systems the *case management subcommittee* recommends that the Commonwealth move to:

- Establish the Community Services Boards (CSBs) as the single point of entry for both new waivers (comprehensive and supports).
- Require (via the Performance Contract) CSBs to contract with private case management providers to offer individuals on either waiver their choice of case management provider.

Waiting List Subcommittee

The *waiting list subcommittee* recommends:

- One set of criteria for the new ID/DD waivers; no separate waiting lists for comprehensive vs. supports waiver; and design the two waivers to allow movement between them as necessary (i.e., as individuals' needs change). Once in a waiver, no more waiting to get needed services.
- A system of regional (3 – 7 regions) slot assignment based on urgency of need (vs. a chronological basis) is recommended. Regional committees would review the scored needs of those on the waiting list when a slot is available. This will enable a wider perspective of addressing needs until we can eliminate waiting lists.
- A transitional and fair process to align management of the waiting lists by:
 - Providing those on the existing DD waiver chronological waiting list the option to move to the needs-based list or to stay on the current chronological list with one opportunity to revisit the choice within one year of the initial decision
 - Placing all newly screened individuals (regardless of diagnosis) on the needs-based list
 - Ensuring that a percentage of all newly created slots go towards reducing the chronological list until its census is zero, at which time it will be permanently closed.

The Commonwealth recognizes that we are still triaging resources. Therefore, the Waiting List Subcommittee recommends changes (**in bold**) to the urgent needs criteria with the following additions:

- **The applicant is 55 years of age or older;**
- **There is a clear risk (e.g., reports made) for the applicant of abuse, neglect, or exploitation or the individual has been determined by APS/CPS to have been abused, neglected or exploited;**
- **There is a risk to the health or safety of the applicant, primary caregiver, or other person living in the home due to either of the following conditions:**
 - (1) **The applicant's behavior or behaviors present a risk to himself or others that cannot be effectively managed by the primary caregiver or unpaid provider even with generic or specialized support arranged or provided by the CSB/BHA; or**
- **The individual lives in an institutional setting and has a viable discharge plan in place.**

Provider Advisory Subcommittee

The Provider Advisory Committee assisted Burns and Associates (HSRI's subcontractor) in developing a survey that was disseminated to providers to help B&A develop a rate methodology to set or adjust rates in the new waivers. There was great provider and CSB participation that will provide the data to design and cost out services. A report is due by the end of August to match up rates with proposed/existing services.

Services Array Subcommittee

The Services Array Subcommittee is currently working on defining services for the new waivers and their definitions. Their work will continue through the summer.

In summary, the subcommittee recommendations reinforce Virginia's commitment to supporting people with the least amount of intrusion into the daily lives of individuals and their families. While still only proposals at this point, the promise of the above recommendations lies in realizing that supports, rules, and regulations can be developed to promote a healthy, meaningful community life for all. We are all in this to make a difference.

Comments regarding the proposed recommendations may be submitted to:

MyLifeMyCommunity@dbhds.virginia.gov.

Required Transition Plan for Waivers

As part of CMS's Home and Community Based Services Final Rule, issued earlier this year, they are requiring a "transition plan" be submitted with each state's next waiver renewal or amendment. DBHDS and DMAS are in the process of developing this plan, a draft version of which will be posted for public comment on the DBHDS website in mid-July. Also there will be a webinar scheduled for the week of August 11th regarding the draft plan in order to receive more stakeholder input. Please continue to check the DBHDS website for updates: www.dbhds.virginia.gov.

*Proposed DD Definition of Eligibility

"The term 'developmental disability' means a severe, chronic disability of an individual that:

- *Is attributable to a mental or physical impairment or combination of mental and physical impairments [not to include mental illness];*
- *Is manifested before the individual attains age 22;*
- *Is likely to continue indefinitely;*
- *Results in substantial functional limitations in 3 or more of the following areas of major life activity:*
 - *Self-care*
 - *Receptive and expressive language*
 - *Learning*
 - *Mobility*
 - *Self-direction*

- *Capacity for independent living*
 - *Economic self-sufficiency; and*
- *Reflects the individual's need for a combination and sequence of special interdisciplinary or generic services, individualized supports or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated."*

Debra Ferguson, Ph.D.

Commissioner

Virginia Department of Behavioral Health & Developmental Services