

STATEWIDE PLANNING AND POLICY COUNCIL

# ANNUAL REPORT

TO THE GOVERNOR

JUNE 15, 2016

# 2015 Statewide Planning and Policy Council Recommendations

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## LEGACY RECOMMENDATIONS FROM 2014

1. **The SPPC recommends** that DIDD continue to execute its role as outlined in the Memorandum of Understanding (MOU) between Vocational Rehabilitation, DIDD, et al. The SPPC is very interested in what is discussed during the meetings. The SPPC requests an update from DIDD on the Employment First initiative.

**Response:** The Department appreciates the Council's interest in the Employment First initiative. The DIDD liaison will coordinate with the DIDD Director of Employment to ensure an update is provided to the Council.

2. **The SPPC recommends** that DIDD request that HB0106/SB0117 "Protection of Volunteer-Insured Drivers of the Elderly (PROVIDE) Act be amended to include protection of volunteer-insured drivers of people with disabilities.

**Response:** HB0106/SB0117 was passed in the 2015 session of the 109th General Assembly. The legislative liaison will present the proposed idea to the Commissioner's Office for DIDD's 2017 legislative packet. The legislative packet will be for the 110th General Assembly convening in January 2017.

3. **The SPPC recommends** that TennCare amend the definition of "transportation" in the proposed ECF CHOICES Waiver to be written to include a wide variety of transportation options, including but not limited to: public buses, taxis, Uber, and/or paying friends/neighbors a stipend to provide transportation.

**Response:** Thank you for this recommendation which we also received through the public input process on Amendment #27. The service definition of transportation in ECF CHOICES does not specify the mode(s) of transportation to be utilized, nor does it prohibit any mode(s) of transportation. In addition to a more "traditional" option to purchase transportation from a waiver provider, participants can participate in

consumer direction of transportation and manage a monthly transportation budget, with flexibility to purchase services that represent the most efficient use of their budget.

4. **The SPPC recommends** that DIDD, in collaboration with TennCare, improve the rates structure to address the current staffing crisis, which can be a barrier to individuals receiving approved services. The SPPC recommend that TennCare and DIDD develop a rate methodology that will support paying direct support professionals a competitive wage to address the staffing crisis and to improve staff recruitment and retention for the present waivers and the 1115 waiver.

**Response:** DIDD is extremely concerned about changes in the labor market that have made it increasingly difficult for people to be retained and recruited to work as Direct Support Professionals (DSPs). The current wages that are available to direct support staff within the existing rates that are paid for DIDD services provided through the Statewide, Comprehensive Aggregate Capped (CAC), and Self Determination waivers are not keeping pace with wage inflation in the labor market in Tennessee and across the nation. On December 1, 2015, Commissioner Payne expressed this concern in a public budget hearing with Governor Bill Haslam.

DIDD is very pleased that Governor Haslam has included \$6,950,300 in combined state and federal dollars to fund a rate increase, valued at 1 percent of all DIDD home and community based waiver funded services, in his revised fiscal year 2016-2017 budget presented to the Legislature. Senate Bill 2653, called the General Appropriations Act, passed the General Assembly on April 14th and ratified this rate increase proposal. This additional money will fund new rates for services allowing for increased DSP pay and these new rates would be effective for specific services provided on July 1, 2016, and for the entire state fiscal year. The funding for this rate increase is non-recurring and subject to an effort by the Haslam Administration and several state departments, including DIDD, to review all of the rates paid by Tennessee for medical and other social services. This study will yield information and context for Governor Haslam when he considers the issue of DIDD provider rates in development of his fiscal year 2017-2018 budget plan. DIDD will continue to value the critical role Direct Support Professionals play in our system of supports for people with disabilities in the weeks, months, and years ahead.

While this funding in the 2016-2017 budget will provide short-term relief, TennCare also intends to make more comprehensive adjustments to the reimbursement methodology for waiver services beginning in FY 2018. A thoughtful approach that aligns reimbursement with the needs of people supported with quality outcomes, while allowing staffing flexibility (removing required staffing ratios), will help to ensure that we are making the most efficient use of the state's resources. In addition, TennCare has kicked off a comprehensive workforce development initiative. This includes the development of a comprehensive competency-based workforce development program for deployment through secondary, vocational-technical, trade schools, community colleges, and 4-year institutions, offering portable, stackable credentials and college credit toward certificate and/or degree program, combined with a credentialing registry for individuals paid to deliver LTSS. The new program will provide an education path for direct support professionals, with opportunity to both learn and earn by acquiring shorter term, stackable credentials with clear labor market value that are recognized and portable across service settings. It will also provide a career path for direct support professionals, as they continue to build competencies to access more advanced jobs and higher wages. TennCare will be using a learning management system, but also a relationship management system, where each person has a coach, as well as mentors to help them be successful. A registry for search by people, families, and providers and matching based on needs/interests of a person needing support will help to align competencies with member needs and interests, improving the overall experience for persons supported.

5. **The SPPC recommends** that DIDD facilitate a state roundtable discussion on the topic of the staffing crisis among direct support professionals, not only in DIDD provider agencies, but other similar caregiving industries. The purpose will be to articulate possible solutions, and initiate a process of moving this to a level where meaningful action can occur.

**Response:** The Department requests the Council develop and convene a multi-disciplinary committee to examine the staffing crisis among direct support professionals working in the field of long term services and supports (e.g., ID, DD, elderly and disabled). The Department requests the Council submit a Committee charter to include the Committee's mission,

membership, goals and key milestones for review and comment prior to the first Committee meeting.

6. **The SPPC recommends** that the DIDD Family Support Program continue in the provision of flexible, family-friendly, cost-effective supports for individuals with disabilities who may have no other options for support services through current or future programs operated through DIDD or TennCare.

**Response:** The Department is committed to the continued operation of the DIDD Family Support Program.

7. **The SPPC recommends** that DIDD move forward with hiring a specialist in services and supports for individuals with DD other than ID, as approved in the current budget.

**Response:** This position is currently with DIDD Office of Human Resources and should be posted and hired by June 30, 2016.

8. **The SPPC recommends** that DIDD explore providing technical assistance to providers of Facility Based Day Services to facilitate compliance with the CMS Final Rule on Home and Community Based Services. Even though there may be limited funds from the federal government, there may be other contributors available over time.

**Response:** The Department is working in collaboration with TennCare to initiate a Heightened Scrutiny review that will engage each provider operating a program in a setting considered to have the qualities of an institution or the effect of segregating persons supported from the broader community. As part of this review process, agencies will be given the opportunity to either demonstrate compliance with the requirements indicated in the Centers for Medicare and Medicaid Services (CMS) Final Rule or to work collaboratively with the Department and TennCare to amend Transition Plan activities to reach compliance.

9. **The SPPC recommends** that DIDD strengthen the Protection from Harm (PFH) system by implementing qualitative data analysis of abuse, neglect,

mistreatment and exploitation (A/N/M/E) incidents; improving training for people receiving services and supports (e.g., recognizing and self-reporting A/N/M/E); and improving training for direct support professionals (e.g., prevention of A/N/M/E, stress management, systems approach to preventing A/N/M/E).

**It is recommended that DIDD continue** the Prevention of Harm Workgroup that is now meeting. It would be beneficial to expand the committee to include a family member and an active self-advocate or two. This committee should continue to be progressive in its vision and seek to find ways to eliminate all acts of abuse, neglect and mistreatment throughout the service delivery system and to, as much as possible, finally eradicate it from the lives of people. DIDD does have a system that reviews qualitative data, as well as a mechanism to identify agencies that demonstrate weaknesses in key PFH indicators. DIDD also has a process by which technical assistance by subject matter experts with proven credentials may be made available to all providers within the network at no cost to the provider.

**It is recommended that DIDD, TennCare and the provider community can work together to plan** and execute an anti-abuse, anti-neglect and anti-mistreatment strategy that can thwart people from being harmed or placed at risk. In the same way there are campaigns against smoking, drinking and driving, a campaign should be initiated to stop abuse, neglect and mistreatment before it ever happens.

**Response:** DIDD agrees with the recommendation and, over the past year, had already begun implementing many of the individual recommendations.

Under an initiative already implemented, DIDD has begun a program of making videos of people supported who have previously reported A/N/E and took part in the investigatory process who have agreed to serve as self-advocates. At this point, 5 videos have been recorded and others have been scheduled. The plan is to show these videos at focus groups across the state and incorporate into DIDD trainings, as well as place on the DIDD website.

DIDD also recognizes the importance of training Direct Support Professionals (DSPs) and is in the process of creating a DSP Handbook to help DSPs better understand the Protection from Harm system, including: reporting, the investigatory process, and how to help prevent incidents of A/N/E. In addition, DIDD has undertaken a project to upgrade and improve its PFH

training in Relias to make the training more interactive and visual by incorporating videos and photos to provide more realistic and practical training.

The Prevention of Harm Workgroup meets quarterly and is comprised of several members of DIDD's top management, including: the Commissioner, and executive leadership from four residential providers, and two support coordination companies. DIDD has invited a person supported/self-advocate to attend the meetings, but the person has not yet been able to do so because of a transition and logistical issues. This person will continue to be invited to attend these meetings, and the workgroup will also consider inviting a family member to join the group, as well as another person supported.

This recommendation will be taken under advisement, and DIDD will work with our TennCare Partners to further look into this recommendation.

10. **The SPPC recommends** that DIDD in collaboration with TennCare pursue amendments to the Nurse Practice Act to allow Direct Support Professionals (DSPs) to perform certain physician-ordered tasks, which are currently only allowed to be performed by a licensed nurse. Tasks under consideration for review may include, but not be limited to: oxygen administration, blood sugar level checks, insulin pens, nebulizers, and C-Pap machines.

**Response:** Nurse delegation legislation that would have addressed this recommendation was proposed by AARP during the 2016 legislative session, however, the legislation was not passed. The AARP felt strongly that such tasks could be completed by a DSP with RN oversight, and is open to continuing this dialogue to develop a strategy that would afford such opportunities in the future.

11. **The SPPC recommends** re-evaluation and clarification of the role, membership, training, responsibilities, and procedures of the Human Rights Committee (HRC) in reviewing psychotropic medications.

**Response:** DIDD is re-evaluating the purpose and the role of the Human Rights Committee (HRC) and member expectations and training, as well as revising the related requirements in the Provider Manual. These changes may result in changes in the frequency and type of psychotropic medication

reviews by the HRC. Among the areas needing most improvement in the Basic Assurances Review was related to individual rights. Eliminating or Reducing HRC reviews of psychotropic medications may be counterproductive to the goals of ensuring people are making informed and involved in decisions regarding their healthcare. CQL® Basic Assurances Factor 5 – Best Possible Health includes indicators for people (5e) receiving medications and treatments safely and effectively, which includes the review of medications and treatments at specified intervals. Nonetheless, there may be ways to reduce the requirements for HRC reviews, while simultaneously ensuring that people are informed and involved in their healthcare. DIDD will explore how this might be accomplished as it evaluates and revises its procedures.

In November of 2015, DIDD launched Psycho-Pharmacological Review Teams. This resources was negotiated as an integral part of the Clover Bottom/Greene Valley Developmental Centers Exit Plan as a way to assist HRC and Circle of Support (COS) members when they became concerned about a medication regimen containing multiple psychotropic medications. Criteria for referral to these teams, comprised of both clinical professionals and stakeholders, including self-advocates and other persons supported, was refined to include aggressive indicators of potential misuse of psychotropic medications within the population receiving services through our waiver program. One primary criteria for referral is the prescription of four (4) or more Psychotropic medications. Outreach efforts have been made to increase awareness with both State and local HRCs as to the presence of these teams.

# 2015 RECOMMENDATIONS

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1. **The SPPC recommends** that DIDD in collaboration with TennCare establish adequate access to and provision of mental health services for people with intellectual disabilities. There is potential to address the concerns of the lack of mental health services for people in crisis with other State and private agencies, such as the Department of Mental Health and Substance Abuse Services, in a collaborative effort to define the problem statewide and to seek viable solutions. The SPPC suggests that the DIDD approach the Governor's office to request a task force to place emphasis on this growing problem urgently.

**Response:** Resource Tennessee is a workgroup chaired by Dr. Bruce Davis to address mental health resource needs across the state. This workgroup has been successful in improving the availability and appropriateness of mental health services. As a result of their advocacy, many new services are being implemented in Tennessee, including Intensive Behavior Residential Services, crisis and stabilization services, and therapeutic respite. All of these services have improved the mental health service landscape. This group is continuing its work to foster the development of more resources for people with mental health concerns, such as outpatient psychiatric and counseling services. Drs. Thomas Cheetham and Bruce Davis are also working hand-in-hand with the SPPC to make inpatient psychiatric services more available and ensure hospitals are operating in accordance with the Americans with Disabilities Act.

2. **The SPPC recommends** that the DIDD review and reexamine the Title 33-5-601 authority for the SPPC to ensure stakeholder involvement as systems shift wherever services are provided, whether through managed care organizations (MCO) or DIDD.

**Response:** This re-examination will be completed by the Policy and Innovations Team, and an interpretation and action step will be presented to the SPPC during their late summer meeting.

3. **The SPPC recommends** the appointment of a special committee charged to examine and determine whether supported decision-making can be

implemented as an alternative to conservatorship for people with intellectual disabilities.

**Response:** DIDD recognizes the value of exploring whether supported decision-making might be an option in Tennessee. Preliminary work to look into this question has begun already. As creation of a separate committee might contribute to siloing and duplication of efforts, DIDD would like to take the SPPC's recommendation under advisement.

4. **The SPPC recommends** that DIDD play an active role in instilling the values of person-centeredness in service provision to individuals with ID who are supported in both private and public Intermediate Care Facilities (ICFs/ID).

**Response:** The federal ICF/IID regulations guiding the certification for Medicaid funding for the private and state-operated intermediate care facilities for individuals with intellectual disabilities (ICF/IID) are outcome-oriented supporting the values of person-centeredness. These regulations were initially aligned with the person-centered outcomes in the early 1990s by staff in the Centers for Medicare and Medicaid Services (CMS) in Baltimore, MD. These federal staff persons had worked in positions within the Council of Leadership and Supports prior to joining CMS. Federal revisions to the guidelines for the ICF/IID regulations in April 2015 continued to emphasize how the regulations can support person-centeredness.

All the DIDD ICF/IID surveyors and the Tennessee Department of Health/Health Care Facilities ICF/IID surveyors have had specialized training from CMS trainers in how to survey to this expectation. DIDD ICF/IID survey operations also received specialized training from H & W Solutions, a nationally recognized entity that provides consultation and specialized training for ICF/IID surveyors. Catherine Hayes, who is the leader of H & W Solutions, worked previously with the Council of Leadership and Supports and in a management role at CMS.

DIDD has also provided training each year to the private and state-operated ICF/IID providers on the ICF/IID regulations and demonstrated how they link to person-centeredness. Moreover, the state-operated ICF/IID providers have adopted an internal quality monitoring tool that incorporates the person-centered outcomes as indicators of quality service. Within these indicators, fundamental ICF/IID regulations that also support person-

centeredness have also been incorporated. The results of these internal audits are reviewed by management at each provider. Additionally, the DIDD department on certification and person-centeredness also offers training to all the ICF/IID private and state-operated providers.

5. **The SPPC recommends** that DIDD play an active role in establishing eligibility criteria and the intake process for people enrolling in the ECF CHOICES Waiver that addresses people on the DIDD Waiver Waiting List for current waivers and people with DD other than ID who have not previously been eligible for the DIDD Waiver Waiting List.

**Response:** DIDD is working in conjunction with TennCare and the MCOs to remain an active role in assisting people to enroll in the waivers and to review their eligibility.

6. **The SPPC recommends** that DIDD in collaboration with TennCare develop a model for Day Services that is independent of the setting in which the service is delivered and implement a single rate for Day Services which would include transportation. Thus, there would be one Day Service instead of separating each service by type, e.g., community based, facility based, in home (CB/FB/IH). Supported employment would be a separate service. The option for 7 days per week for Day Services to be provided would continue.

**Response:** DIDD has shared this recommendation with TennCare, and it will be revisited after the roll-out of ECF Choices so that the Day Services need can be re-evaluated after people have the opportunity to access additional Day Services through ECF Choices.

7. **The SPPC recommends** that the DIDD complete activities of planning and calculation that will lend to the outcome of a 3 to 5 year strategic plan for the Department of Intellectual and Developmental Disabilities. It is recommended that the activities begin with the inclusion of the CQL plan for continued accreditation and work from there. To be clear, the SPPC would suggest a set of outcomes and objectives that go beyond the Customer Focused Government goals. The SPPC requests regular updates on the Department's strategic plan.

**Response:** The Basic Assurance Plan (Accreditation) has been approved. This plan is a living document that will focus on system changes for the next 3

years. This will be an ongoing process that will impact the lives of people supported by examining the following: rights protection and promotion; natural support networks; best possible health; dignity and respect; protection from abuse, neglect, mistreatment, and exploitation; safe environments; positive services and supports; continuity and personal security; and staff resources and supports.

8. **The SPPC recommends** DIDD collaborate with the SPPC in developing a position statement on Cultural Recognition and Quality Improvement.

**Response:** DIDD has an established Office of Civil Rights charged with ensuring departmental compliance with all civil rights laws and policies, etc. DIDD does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, disability, color, or national origin in the admission to, participation in or receipt of the services and benefits of any of its programs and activities, whether carried out by DIDD directly or any entity with whom DIDD arranges to carry out its programs and/or services.

DIDD's Office of Civil Rights also monitors via Title VI for compliance regarding Limited English Proficiency as well as diversity of minority and beneficiary representation in our service delivery system, on boards, and on committees.

DIDD recognizes the need for continuous quality improvement in service provision. Its Quality Management System includes oversight for areas such as service access, support planning, safety, rights, respect, dignity, health, choice, provider qualifications and financial accountability. Regular monitoring of these areas is conducted by DIDD for all contracted providers; providers are offered assistance with areas where they have challenges in their operations. Providers are required to conduct their own self-assessments and to develop quality improvement plans based on the results of those assessments.