

WV Developmental Disabilities Council  
Comments on WV's Waiver Transition Plan Application – 2<sup>nd</sup> version  
July 13, 2016

The WV DD Council appreciates this opportunity to comment on the Bureau for Medical Services' (BMS) Statewide Transition Plan (STP) for the three Waiver programs. The Council's comments will specifically address the I/DD Waiver program portions of the Plan.

**Public Input**

In December, 2014 the DD Council recommended that more thought be given to find ways to solicit public input, as well as to keep stakeholders informed throughout the process. Unfortunately, there did not seem to be any changes made in the way stakeholders were informed that this second version of the STP was available for public comment.

The BMS reported that an announcement had been placed in a local paper; that providers were given the information and asked to post it as well as have case managers share it with the people they serve; and that it was posted to the BMS webpage. This resulted in an even smaller turnout than attended the December 15, 2014 forum. One parent was the only person in the room who was not affiliated with an interested advocacy organization, and only three interested advocacy organizations were in attendance.

While placing an ad in one state newspaper may meet a requirement for public advertisement, it is not a good method for advising people that an agency is seeking comment on a Plan within a 30 day timeframe.

Providers are under no obligation, apparently, to make copies and distribute information to individuals they serve. The Council has found that even many case managers are not aware of information sent through agency contacts.

Even if one looked at the BMS' webpage on a daily basis, there was no indication that this document was out for public comment. It was not listed under "News and Announcements" on the front page, as one might expect. Instead, one must scroll to the bottom of the front page to "Home and Community Based Programs," click on "Medicaid Waiver Programs," and then scroll to the bottom third of that page. Still, nothing stands out to alert one that there is a new document. One would have had to know the Plan was out for comment in order to

know to go to the BMS website to find, read, and comment on it, and it is easy to miss when one is specifically looking for it.

Other states around the country have held regional public forums in order to gather input. WV's BMS offered no regional opportunities despite the fact that our State is predominately rural and that it is difficult for people to travel to meetings in Charleston.

No methods of participating by phone were offered.

The methods for soliciting meaningful public input were insufficient this time as they were in December, 2014.

### Assessment

**Action Item 1.** It was good to see the *WV Regulatory Report* posted to the BMS website.

**Action Items 2, 3, and 4.** What means will be used to continuously survey agencies, individuals and families regarding settings in which services are provided? New agencies will be formed, services will change, and individuals will move in and out of a variety of services after the end dates listed.

**Action Item 5.** Despite the concerns listed re: Action Items 2, 3, and 4, it would seem appropriate to share information already known from the surveys on the website. There does not appear to be a space developed for this information.

### Remedial Actions

**Bullet 2. Outreach and Education.** The completion date given is 7/31/16 for providing training to individuals and family members on new settings requirements, which was added as a result of the Council's previous comment on training needed for those receiving services. What training has been provided to individuals and families, and in what form has it been provided? The Council is unaware that any such training has been developed and provided to date.

**Bullet 4. Outreach and Education.** What progress has been made on the webinar series one year into the process?

**Bullet 5. Outreach and Education.** What fact sheets have been developed at this point in time? FAQs are only seen by provider agencies, what fact sheets

have been developed at this point, and with whom have they been shared? “Ongoing” is not an appropriate end date for this action item in its entirety. Some parts, such as fact sheets, should already be developed.

**Bullet 7. Outreach and Education.** Training on rights, protections, person-centered thinking, and community inclusion should also be provided to families and individuals who receive services. The Council is aware of an IDD Waiver QIA Council workgroup which is assisting in the development of training on abuse/neglect/exploitation and another workgroup addressing performance indicators. Other QIA Council workgroups are to be developed around data sets, direct care ethics, service coordination conflict of interest and member rights/confidentiality. What progress has been made on developing training on person-centered thinking or community inclusion?

**Bullet 9. Outreach and Education.** The end date for updating Member Handbooks to strengthen person centered HCBS requirements should be a known date rather than on-going, since the requirements are known.

**Bullet 13. Policies and Procedures.** There should be an end date for modifying regulations so that providers and others know whether or not they are being met.

**Bullet 16. Provider Remediation.** While it is understandable that monitoring for compliance will be ongoing, the development of a Plan to manage non-compliance and how it will be connected to the quality improvement system should have a completion date. Since sites are currently being assessed and required to develop plans for compliance, this bullet should already be completed.

**Bullet 18. Provider Remediation.** What steps have been taken to develop a housing strategic plan thus far? What are the criteria and the parameters being used? The Council does not see this as “provider remediation” except in the broadest sense. It is more appropriately a “State systems” issue.

**Bullet 19. Provider Remediation.** Who constitutes the “stakeholder group?” The development of a product – a toolkit – should have an end date rather than “ongoing.”

**Bullet 20. Provider Remediation.** Is there a date by which this requirement must be met, rather than “ongoing?”

**Bullet 22. Provider Remediation-Non-Residential.** On December 18, 2014, the Council asked as to whether the State’s Developmental Disabilities Division might have a role to play in the transition process. The response was, “The Division of Intellectual and Developmental Disabilities does not manage waivers and thus would not be involved in the implementation of the Transition Plan or the HCBS Final Rule.” It is the Council’s opinion that the active involvement by the Bureau of Behavioral Health and Health Facilities Division of Intellectual and Developmental Disabilities is critical to the success of the Transition Plan. The WV Developmental Disabilities Council is listed on the Plan as a responsible agency relative to this action item. While the Council does not operate or regulate services, nor manage waivers either, it remains committed to providing recommendations and other assistance to the Bureau for Medical Services and other responsible parties concerning this plan.

It was good to see the reference to *Employment First* in the Transition Plan. That philosophy and approach would help hundreds of people served through the I/DD Waiver. The State needs to adopt policy and methods, including funding strategies, to make the employment of people with intellectual and developmental disabilities a reality. The STP would be stronger if it included steps to implement *Employment First* principles and other strategies to increase the likelihood that Waiver participants would gain employment.

What progress has been made in the past year in regard to the development of strategies for moving away from congregate day time settings (employment or otherwise)? This area would also benefit from the development of a strategic plan (similar to housing in Bullet 18), and is also a State systems issue, not just a Provider Remediation issue.

**Bullet 26. Provider Remediation.** The start date listed for this action item is later than the listed end date.

### **Public Input, Stakeholder Engagement and Oversight**

**Action Item 2.** What communication strategy has been developed for ongoing communication on the implementation of the transition plan? To date, the only communication the Council is aware of is the information provided at quarterly IDDW QIA meetings. Communication to those most affected by the changes, the participants and their families, has not been seen. Please see earlier

comments in this document that indicate the Council's concern that communication has, for the most part, been poor or non-existent.

**Action Item 4.** The start date for reaching out to individuals, families, and organizations that represent these groups is listed as 10/20/14. The Council is not aware of any such engagement.

**Action Item 5.** A link to *CMS Fact Sheets on Home and Community Based Services* is included on the BMS website. No identifiable information is given to alert a viewer scanning the page that this link contains "materials related to settings and person-centered planning." This does not appear to constitute a genuine approach to get or sustain stakeholder engagement.

**Action Item 6.** Experience to date has shown that this action item is minimally met. The collection and summarization of information shared through FAQs only reach provider organizations. There appears to be no method for sharing this information with other stakeholders, particularly families and individuals who use Waiver services.

**Action Item 7.** The beginning date for convening "a cross-disability workgroup to identify solutions for compliance that represents all stakeholders, including individuals, families, advocates and providers, among others" is listed as 6/1/15. The Council is unaware of the makeup of this group and its status.

**Action Item 9.** Who are external stakeholders?

The Council is pleased to see more detail has been added to this second version of the State's Transition Plan. However, the "ongoing" end dates are, in many instances, troubling. It is understood that monitoring to ensure compliance will be an ongoing function, much as it is now. In our opinion, to ensure the system as a whole transitions in a timely fashion to compliance with the new HCBS requirements, most, if not all, action items should have a final end date.

The Council staff have been in receipt of the comments offered by the West Virginia Advocates (WVA) on this state-wide transition plan. The Council concurs with the points made by the WVA.

The Council remains fully committed to aiding the responsible State parties in achieving the intent of the HCBS rule.