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## **Developmental Disabilities Medicaid Waiver Re-Write**

### **Background:**

New Mexico opted to close institutions for persons with developmental disabilities and provide services to them within our communities. Due to this decision, members of the “Jackson” class have lived, worked and recreated successfully, along with others with developmental disabilities served in community settings throughout the State.

Our existing Developmental Disability Medicaid Waiver (DDMW) program has been nationally recognized for the quality and effectiveness of the array of services delivered. One example, according to the Braddock Report, ranks the effectiveness of New Mexico’s Supported Employment services in the top 10 in the nation.

Due to changes that will be implemented, through both the Department of Health (DOH) and the Human Services Department (HSD), our quality service system is at risk. Services to some individuals, especially those with significant needs, are being reduced or eliminated. Rate reductions are being proposed for some essential services, placing additional burdens on an already overburdened provider system. The rate reductions will force some providers to exclude high need individuals from receiving services from their agencies, eliminate certain services, reduce their workforce, or go out of business.

One of the problems with the DDMW rewrite is that the State is attempting to institute an entirely new method of determining the supports that an individual needs without disclosing the basis for those changes. Additionally, the State is committed to cutting reimbursement rates without thought to the true costs of delivering services and the impact that these reductions will have on individuals receiving services or the provider community. Revised service standards will result in increased unfunded mandates and further jeopardizing an agency’s financial status. Modified service packages will result in the reduction or elimination of needed, essential services. Changing regulations heightens the complexity of the service system and creates an unfriendly environment for all stakeholders.

Changing any one part of the service system will have a profound effect on persons receiving services and the provider network. Attempting to change all components simultaneously means that no one, including the State, has any idea of the consequences these revisions will make. Our fear is that there will be negative outcomes for individuals receiving services.

ADDACP wants to continue the dialogue with the State on changes to the service system, in a meaningful, respectful and productive manner. Input previously provided has been minimally incorporated into the new system and most of our recommendations have been ignored.

**Impact on Providers:**

Revisions to DDMW services will place providers in precarious financial situations that will affect the quality and availability of the services they provide and place some individuals in situations where their health and safety will be compromised.

- Reductions in work force, increasing the State's unemployment rolls, and the need for financial assistance and benefits from the State for laid off employees;
- Reductions in pay and reductions or elimination of benefits currently provided to employees;
- Increased staff turnover rates;
- Increased staff overtime;
- Discontinuation of services to high need individuals;
- Elimination of certain services currently provided;
- Increases in unfunded mandates that will increase the financial hardship providers currently face;
- The need to further supplement the cost of care with outside funding sources garnered through fundraising, grant writing, tribal funds, etc.; however, other funding sources have become increasingly difficult to obtain due to the State's economic condition;
- The further imposition of a medical model of care instead of a community based model, due to increased regulations, policies and service standards;
- Increases in the number of agencies that go out of business.

It's important to note that provider agencies have gone out of business within the past 10 years due to financial and quality assurance challenges. Although the costs of services continue to rise, reimbursement rates have decreased. Yet, the demand for high quality services remains. These problems will be exacerbated if the proposed rate structure goes into effect.

Some agencies that have served their communities for 40+ years will no longer have the ability to provide some of the crucial services needed. Outside agencies will come in to pick up the slack, but they may not be ingrained in, or committed to, those communities. And, we know from past experience that these agencies come and go.

**Revisions to the Developmental Disability Service System:****Human Services Department's Mission Statement:**

HSD has revised their mission statement away from promoting health to eliminating the need for services.

- HSD's Previous Mission Statement:

"The mission of the New Mexico medical assistance Division (MAD) is to maximize the health status of HSD/MAD program eligible individuals by furnishing payment for quality health services at levels comparable to private health plans."

- HSD's New Mission Statement:

"To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependence on public assistance.

### Supports Intensity Scale:

The Departments have chosen a new assessment tool, the Supports Intensity Scale (SIS), for determining the level of care for individuals receiving DDMW services. Application of the new assessment tool has been problematic, especially for high need individuals.

- The SIS was designed by the American Association on Intellectual and Developmental Disabilities (AAIDD) to determine the level of supports that individuals need, based on their strengths and abilities. The SIS was NOT designed as a resource allocation model, as it will be implemented in New Mexico's DDMW service system;
- The Human Services Research Institute (HSRI), an out of state company that developed the service packages, and Burns and Associates (B&A), the company that conducted the rate "study", have stated:  
 "...it is advisable to delay implementing the new resource allocation model until the standardized assessment tool has been administered across the entire population...The assessments must be administered properly so the funding application is built on a solid platform of consistent data... Accuracy and reliability must be assured. This requires reviewing data for completeness, internal consistency and possible error patterns".

These excerpts were taken from written statements to the State of North Dakota. This advice has been totally ignored by HSD and DOH;

- Training was not provided to individuals, families, guardians and agency staff on the administration of the SIS; this has led to scoring errors;
- Currently, there are no formal processes in place, with established timelines, to appeal assessment scores and/or service packages;
- DOH has established an internal review committee that will determine whether or not individuals requesting a reassessment can receive one;
- Some SIS scores, especially for individuals with high needs, do not correctly reflect their needs resulting in the reduction or elimination of critical services that are necessary to ensure their health and safety. Some persons needing 24 hour care, 7 days a week will receive only 15 hours of support per week, based on the results of their SIS and the new service packages developed;
- There is a lack of transparency in the evaluation process; individuals, families and providers are denied access to the actual, documented scores;
- HSD's proposed regulations require that individuals will be responsible for repayment of the costs of their care if the appeal process rules against them;
- It appears that future SIS assessments may be conducted by Ascend Management, an out of state corporation, that is soliciting professional interviewers through Craig's list, which offers used mattresses, appliances, etc. for sale.

### Rate "Study":

A rate "study" was conducted by Burns and Associates (B&A), an out of state firm. The process utilized was not a true study, but a rate "survey".

- DDMW providers received 2 rate reductions, in the past 10 years, that were detrimental to the service system:

- Currently, reimbursements for services are, at a minimum, 32% behind inflation;
- The seemingly high cost of the service system is NOT due to provider reimbursement rates;
- The rate “study” contractor acted in an unprofessional manner and continuously disparaged and dismissed input given by providers and other experts;
- The rate survey was conducted using the current service system and service standards. However, the proposed rates, based on the current system, will be applied to a new service system, thus invalidating the rate survey;
- Some of the cost data submitted by providers was completely ignored;
- All data submitted was never validated;
- Minimal guidance was provided to agency staff on completing the survey;
- Cost data provided does not support rate reductions;
- Some reimbursements are proposed to be reduced by as much as 40%, such as in Supported Employment;
- Supported Living services are currently based on an expectation of 24 hours a day, 7 days a week; the service is funded at 178 hours a week, 340 days a year. Proposed rates for the new service model, Customized Community Living, have the same 24/7 expectation, but the rate is based on only 139 hours a week, leaving persons at risk and/or forcing residential providers to deliver services without additional compensation;
- Rates to administer Family Living services are reduced by 14% and rates for Substitute Care (similar to Respite services) were also reduced. However, the stipend paid to families remains the same.
- The proposed rates do not support the costs of individualized care, but support services in congregate settings;
- Based on the rate survey, proposed rates do not support program overhead, productivity, employee overtime and benefits, adequate salaries, transportation, etc., and are not reflective of the true costs of providing quality services.

#### **Service Standards, Policies and Regulations:**

- Service standards increased from 70 pages in 2003, to 241 pages, due to revisions made to the service system;
- Unfunded mandates will increase, without increases in reimbursement rates. Nurses, Direct Care Professionals, Program Administrators, etc., will now have even more responsibilities without the funding to support their increased activities and expectations;
- Training requirements for Direct Care staff have increased and are more onerous;
- Technical assistance on the revisions has not been available to providers;
- Regional provider trainings on the new system were confusing and unproductive; most questions asked could not be answered or were responded to with “we’re still working on that”;
- The changes in the service system have amplified the adversarial nature of the system, making it extremely difficult and expensive for providers to comply with all existing and new mandates and continue to ensure quality.

**Service Packages:**

Providers must ensure an individual's health, safety and welfare. Service reductions will place individuals, particularly those with high needs, at risk.

- Day services are currently provided at 30 hours, per week; the revised service package will only allow between 10 to 25 hours, per week, with an unrealistic reliance on natural supports which do not exist for most individuals. This will place some individuals unattended, in potentially dangerous situations or force residential providers to provide additional hours of care, without compensation;
- Revisions to Supported Employment services do not support the needs of individuals in the work force; the times that staff are needed are unpredictable and the revisions do not allow for flexibility;
- Demands on Nursing services have increased and have become more prescriptive based on a medical, institutional model of care, which is not appropriate for a community based system;

**Recommendations:**

Due to the revisions in the DDMW service system, providers will assume greater risk and liability since the health and safety of some individuals cannot be assured due to the new assessment tool, reductions in service packages, increases in unfunded mandates and reductions in reimbursement rates for services provided.

- Funding should be made available for a Transition Coach to assist individuals that will face reduced service hours or the elimination of services current received. Additional staff are necessary to ensure a successful transition and the health, safety and welfare of the individuals affected by changes to their service plans;
- Recognize Supported Employment services as a separate component and not a Day service;
- Maintain the current service model for Day services at 30 hours per week, with no reductions in the hours a person currently receives;
- Eliminate the Head Nurse designation from the service standards, the mandatory case load provision and on call status;
- Increase the rate for Substitute Care so providers can afford to continue providing this service to individuals receiving Family Based services;
- Give providers access to SIS results so providers can plan for services provided;
- Publish final rates so providers can determine if they can continue serving individuals currently receiving services from their agencies, make decisions on which services to maintain or eliminate, or have the ability to decide whether or not they can continue providing services or go out of business.

**ADDCP**

**A STATE WIDE ORGANIZATION OF COMMUNITY BASED PROVIDERS THAT DELIVER AN ARRAY OF QUALITY SERVICE OPTIONS TO CHILDREN, WITH OR AT RISK OF DEVELOPMENTAL DELAYS, AND CHILDREN AND ADULTS WITH DEVELOPMENTAL DISABILITIES**

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