

Bi-Monthly Provider Call  
November 2, 2017

A provider call was held on November 2, 2017. Presenters on the call included Julie Foster Hagan, OCDD Deputy Assistant Secretary; Stanley Bordelon, OCDD Legal; Daniel Buco with Statistical Resources, Inc. (SRI), Jeannathan Anderson, OCDD ROW Program Manager, and Kim Kennedy, OCDD NOW Program Manager. Providers were reminded to submit questions two weeks before the bi-monthly provider call to [OCDD-HCBS@LA.GOV](mailto:OCDD-HCBS@LA.GOV). Provider calls are conducted every other month (January, March, May, July, September, and November) on the first Thursday of the month from 9:00am-11:00am. Questions not received two weeks in advance will be answered on the following provider call. Answers to provider questions, links to websites discussed, and other documents are posted at the link below by clicking on the word "here" in the Monthly Provider Calls and Upcoming Provider Events section of the webpage.

Provider Bi-Monthly Meetings Web link: <http://dhh.louisiana.gov/index.cfm/page/1921>

**Program Office Update – Julie Foster Hagan**

- New OCDD Staff
  - Cheryl Dickerson (previously with CAHSD) – Program Manager for Support Coordination (previously Janae Burr, been vacant for some time)
  - Melissa Bayham (previously with LRS) – Program Manager for Provider Support (previously Christy Johnson, been vacant for some time)
  - Anita Lewis (previously with OCDD RFSR project) – Program Manager for Children’s Choice waiver (previously Tanya Murphy who has been detailed to Director of Regional Operations formerly held by Herman Bignar who has been detailed to Program Manager 4 position)
- OCDD Stakeholder Engagement – opportunities for engagement at many levels
  - OCDD Core Advisory Stakeholder Group (self-advocates, family members, advocacy organizations, and provider representatives) – all major initiatives are vetted with this group for feedback
  - DD State Advisory Committee / Regional Advisory Committee (contact LGE if interested)
  - Louisiana Developmental Disabilities Council – quarterly meetings; open to public; all LDH offices and others provide updates
  - Support Coordination Executive Director Meetings

- Bi-Monthly Provider calls
- Provider Visits (contact Lawana James at Lawana.James@la.gov)
- Attend/present at provider association meetings and Partners in Policy Making
- “workgroups” / “committees” established as needed; will announce any new workgroup on provider call should you be interested in participating; when participate in committee / workgroup, open to all feedback but goal is to have committee / workgroup “own” the final product / recommendation
- Tiered Waiver
  - Public comment period had closed and responses are being drafted – anyone who sent in formal comment will receive response from Medicaid / OCDD; these must be summarized and included in submission of waiver amendment to CMS; goal to submit to CMS by next week
  - Reminder: tiered waiver changes for this amendment will not have impact for people currently receiving waiver services (except extends age to “age out” of Children’s choice), no change to rate structure or services – changes focused around how “new” waiver slots are allocated to folks by offering the most appropriate waiver and changing from a first come first served basis to a prioritized allocation
  - Next steps:
    - Target implementation by February 2018 but requires CMS approval before begin new process
    - Training for all stakeholders on changes with tiered waiver (pending CMS approval)
    - Update waiver manuals and policies related to tiered waiver changes (pending CMS approval)
    - Still have goal to move to consolidated waiver by 2020, but have several “parking lot” issues that we will be working on once we have allocation process approved
      - Aligning employment services and definitions across all adult waivers
      - Ensuring community integration is incentivized in service packages
      - Will have to be “budget neutral” within the waiver; even if accurate, cannot use projection of decreased hospitalizations for savings, must be budget neutral within same program
      - Will be engaging stakeholder feedback, including provider, SC, and LGE feedback on needed changes – more to come in next call; priority at this time is implementation of this first phase
- Request for Services Registry Project

- On target to screen all people able to contact on RFSR by January 2018
- Consistently showing 15% of people screened are in "urgent" or "emergent" categories, and upon approval of CMS, these are the folks who will receive waiver offers first based on RFSR date; "urgent" and "emergent" are not tied directly to level of support needs (complex medical / behavioral) but to many factors in person's life that impact ability to remain living in community (caregivers, home setting, etc.)
- Once CMS approves tiered waiver, there will be only one DD Request for Services Registry; persons will keep their protected dates from current registry they are on
  
- Employment Initiative
  - Office of Disability Employment Policy selected Louisiana to be a "Vision Quest state" for employment and Louisiana will receive technical assistance and training under the Employment First State Leadership Mentoring Program for FY 2018. The focus of this technical assistance will be on school to work transition and WIOA implementation.
    - This initiative is being led by Governor's Office of Disability Affairs, and OCDD is partnering with other organizations (LRS, LSU, etc. on this initiative).
  - Several training / sharing opportunities being planned as we continue to work towards compliance with HCBS settings. If interested in technical assistance, contact your LGE.
  - Continuing to work with SRI on best approach to Pathway to Employment form to be able to more accurately track people who have competitive employment.
  
- ROW Pilot for people transitioning from ICF/DD facilities
  - Offers made to all 800 plus folks in ICF/DD facilities and on the RFSR
  - Still only about 15 people who are moving to ROW
  - Plan to re-visit how offers made (ex. Make to 3 people living together who could move to shared support and still get 24 hour / 7 day per week staffing in shared manner early next year
  
- ROW Transition for people in OAAS waivers with OCDD SOA
  - Approximately 260 people with OCDD SOA who are in OAAS CCW or ADHC waiver
  - Will be transitioning when POC expires from CCW or ADHC to ROW (Feb 2018 – Feb 2019), beginning with planning meetings now
  - If PCA provider and not currently enrolled in ROW, may want to consider / contact LGE for additional information about ROW

- Training and educational webinars regarding “what is ROW” (services available, etc) are being planned at recommendation of stakeholder groups
- ICF/DD Programmatic Unit
  - In process of completing satisfaction surveys to gather baseline data with random sample of residents in ICF/DD facilities
  - State-wide training on handbook / expectations for quality and programmatic operations to be held in December
  - Offering of training modules on “core areas” identified by stakeholders to begin in January 2018 (ex. person centered planning, meaningful activities, positive behavior supports)
  - If interested in partnering with unit on pilot for technical assistance, please contact Michael Kelly at [Michael.Kelly@la.gov](mailto:Michael.Kelly@la.gov) or Herman Bignar at [Herman.Bignar@la.gov](mailto:Herman.Bignar@la.gov)
- Early Steps Improvement Project
  - Working on practice improvements in the following areas: family assessment, service delivery supports family priorities, and team-based practice supports
  - Awareness level training will be provided state-wide that will support improvement in these areas as part of the professional development process by December

### **Medical Consent Law – Stanley Bordelon**

A physician may refuse to provide medical treatment to an individual, if in the physician’s professional judgment, the individual lacks the capacity to provide informed consent.

What are the steps to obtain informed consent from or provide informed consent for individuals served in the Home and Community Based system?

1. Treating physician must recommend surgery or medical treatment. You should always have documentation of the treating physician’s recommendation.
2. CEO of provider organization gives informed consent when the adult does not have capacity to give consent and there is no other person authorized by law to give consent. (La. R.S. 40:1159.9).
3. CEO must document the following steps: (La. R.S. 40:1159.9)
  - a. Reasonable efforts to contact parent, family member, guardian of resident have failed;
  - b. Record does not contain name of parent, family member, or guardian.
4. In addition to the above two steps, doctors are required to do the following, which CEOs may wish to document as well (La. R.S. 1159.4):

- a. Check on the Secretary of State's Living Will Registry for an advance directive;
  - b. Contact any known physician who provided treatment within the past 180 days to verify that no relative is on file;
  - c. Contact any known facility in which the patient resided within the past 180 days to verify that no relative is on file.
5. Consent for medical treatment: (La. R.S. 40:1159.9)
- a. Must be in writing;
  - b. Be by voluntary signature, marking, or electronic signature;
  - c. Disclose nature and purpose of procedure;
  - d. Disclose the known risks associated with the procedure;
  - e. Acknowledge that questions were satisfactorily answered.
6. Although a physician determines that a patient does not have capacity to give informed consent, CEO may evaluate separately by talking to the patient.
- a. A diagnosis of DD does not mean informed consent cannot be given (La. R.S. 28:454.3)
  - b. Capacity is fluid. An individual may have capacity one day and lack capacity the next. (La. R.S. 28:454.3)
  - c. If resident can express consent, could resident designate an adult friend? (La. R.S. 40:1159.4). Could resident participate in IDT and with IDT choose an individual who will give informed consent for patient?
7. Remember: No one, other than the individual himself/herself, can ever give informed consent for procedures involving abortion and sterilization.

Additional questions submitted after call:

1. Would the IDT have to meet first, to discuss choosing a representative, before the CEO of a provider agency gets involved?

Response:

No, actually the law provides that medical decision making for someone who does not have a surrogate and is unable to give informed consent falls to the CEO of the facility. (La. R.S. 40:1159.9). I suggested that before making a decision for a person whom the doctor has deemed unable to give consent to do his or her own assessment of that person. If the CEO determines that the person does have capacity to give informed medical consent, then perhaps the IDT could be convened to work with the person to appoint a surrogate. In suggesting this, I am not giving legal advice independently or on behalf of OCDD or LDH, but merely pointing out a possible way to have the patient involved with medical decision making. The provider should seek legal advice from its own legal counsel.

2. Are there any protections offered in the law which would safeguard provider agencies, or any other individual who signs the medical consent in good faith, from legal action as a result of an adverse outcome during or after a procedure?

Response:

Not explicitly. La. R.S. 40:1159.4 provides criminal and civil immunity to hospitals, health care facilities, physicians, and health care providers who act in good faith based on the representations of a person authorized to give informed consent. This statute contemplates coverage to the health care facility or provider giving medical services and not acting in the role of surrogate. One possible argument is that the provider agency is covered in that it is a healthcare provider who is seeking medical treatment for the individual. Another possible argument is that surrogacy is akin to a relationship of agency. As such, the agent has a defense against damages to the principal when the agent fulfills his duties with prudence and diligence. Again, in suggesting these two possibilities, I am not giving legal advice independently or on behalf of OCDD or LDH. The provider should seek legal advice from its own legal counsel.

3. Part of the law (40:1299.58 A.2) states that, "For a resident of a state supervised extended family living program, or a recipient of service from a state-operated supported living program..." Wouldn't this section apply for a NOW Supported Living consumer if the IDT team cannot reach an agreement or a representative is unwilling to sign off on the consent?

Response:

First, R.S. 40:1299.58 was redesignated to R.S. 40:1159.9. Yes, I think it would be fair to say that this section would apply to a NOW Supported Living participant. However, I think any questions about this should be addressed to the provider's legal counsel.

### **LaSRS and Electronic Visit Verification – Daniel Buco**

- LaSRS is now checking for a DSW working more than 16 hours in a 24 hour period versus midnight to midnight. Providers are given an FYI for the first 5 instances before blocking. FYI notices started November 1, 2017.
- LaSRS now checks for DSWs who have findings on the DSW registry. Providers will be notified in LaSRS if a possible match occurs. SRI will block any services provided by an employee on the exclusion lists if there is a direct SSN match. Providers are still responsible for performing checks on the DSW registry, OIG Exclusion, Louisiana

Adverse Actions list and SAM. The checks being performed by LaSRS are based on the SSN entered by the provider which has not been validated by LaSRS.

- The requirement to move from LaSRS is being phased in. Regions 1 & 10 were the most recent to be transitioned. If you have any questions regarding the transition from LAST to LaSRS, please contact SRI at [lasrs@statres.com](mailto:lasrs@statres.com). SRI can assist with transferring employees from training to production databases or vice versa.
- Mapping is now available in LaSRS to help providers monitor where DSWs clock in and out. This is a tool that can be used by providers. It is recommended that you look at it periodically. There are three markers on the map with different meanings:
  - Green – Margin of error less than 500 feet. Low margin of error, high degree of accuracy.
  - Yellow – Margin of error, less than one mile
  - Red – Rural areas, not as accurate. Not able to utilize to determine accuracy of location for clock in/out.
- A new LaSRS manual was added to the LaSRS website today with updated information.
- Training is being held on Tuesdays and Thursdays. If you need to register your administrative staff, you can registers online "register.statres.com".
- An Accounts Receivable Reconciliation report is now available in LaSRS that will tell you where you have overbilled and under billed.

## **ROW – Jeannathan Anderson**

OCDD is currently engaged in preparing to transition OAAS Community Choices Waiver participants who have an OCDD Statement of Approval (SOA) to the ROW. OAAS will no longer provide waiver services to participants that have an OCDD SOA. Those individuals must access an OCDD waiver.

The following primary changes to the current ROW waiver application were submitted to and approved by CMS:

- Priority Group #1 was created for individual s currently receiving OAAS CCW / ADHC services.
- Adult Day Health Care (which is different from Adult Day Care in OCDD waivers) was added as a service in the ROW for continuity purposes.

Letters have been sent out to all individuals affected and those on the OAAS waiting list. Individuals on the OAAS waiting list will be transitioned to the OCDD waiting list.

The process for transition is as follows:

- OCDD will begin transitioning OAAS participants whose plan of care expires in February 2018. Planning is already occurring for these individuals. As an individual's plan of care comes up for renewal, he/she will be transitioned to the ROW. All transitions are expected to be completed by the end of 2018.
- If a provider is currently providing PCA services through the OAAS CCW to a transitioning participant, OCDD will add the subspecialty type for ROW automatically, so the PCA provider does not need to take any action. The PAS service will transition to the Community Living Services which is the PCA service in the ROW and is billed in 15 minute increments like the PAS service.
- There is another service available to the participant transitioning to the ROW, which is the Companion Care Support which allows the DSW to live as a roommate with the participant. This service must be managed by a HCBS provider and is billed as a per diem (\$39.58/day). This service cannot be provided by a spouse, legally responsible relative, or authorized representative.
- Auto enrolling for ROW services for OAAS providers has been completed. Providers who were added to the ROW subspecialty in this way were notified via memo. This means that the provider can accept any ROW participant who selects them as a provider. If a provider needs technical assistance, OCDD will be hosting webinars specific to the ROW.
  - Note: Provider does not need to submit the FOC update to add the ROW subspecialty.
- Individuals affected have received letters. OAAS has asked the current OAAS support coordinator to take the SRI packet and hand deliver it to the individual.

### **Documentation – Kim Kennedy**

A question was asked by providers to Health Standards: Does the DSW need a separate progress note for day and night services, or can one progress note for the shift be written that covers both day and night services?

Response: According to Health Standards:

"The only thing HSS regulations say about progress notes is that there must be current progress notes in the client's home. Surveyors will look to see if there is documentation to show that services are being provided in accordance with the plan of care. There is no requirement that there be some distinction between day and night services. If a provider is told this by HSS staff, please contact Terry Cooper at [Terry.Cooper@LA.Gov](mailto:Terry.Cooper@LA.Gov)."

Reminder for Progress Notes/Service Logs for OCDD services.

- Name of Recipient
- Name of employee providing the service – **requires a signature.** If signature is not legible, must ALSO print name of employee
- Date of service contact
- Start and stop time of service contact
- Place of service contact
- Purpose of service contact
  - Personal outcomes addressed
  - Other issues addressed (doctor visits, incidents, etc.)
- Prepared daily
- Remain in the home until turned in to the provider office.

**NEXT CALL is January 4, 2018 at 9am. This will be a live broadcast, not a conference call.**

**NEED AGENDA ITEMS for January broadcast by December 22, 2017**

**Send agenda items to [OCDD-HCBS@LA.GOV](mailto:OCDD-HCBS@LA.GOV)**