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DD REIMBURSEMENT SYSTEM ISSUES

Awhile back (October/November 2013) MACDS-SA convened a work group of our members to discuss the DD rate system. We agreed to focus on the system itself - how available funds are distributed and services provided - rather than whether the funding was adequate. The goal was to determine the best way to distribute whatever level of funding was available. It was understood that the level of funding is very important but is a legislative issue, while the rate system is a DDP issue.

In the discussion that followed we focused on two features of the current system that seem to be causing significant difficulties for the businesses that deliver HCBS services for those with developmental disabilities in Montana and that impede their ability to support and assist consumers and their families. We made recommendations that the group believed would help alleviate at least some of the concerns regarding those two system issues:

Issue One
Staff Ratio Computation Methodology and Reporting Requirements

The current reimbursement system is built on the assumption that a minimum amount of staff time must be allocated to meet each consumers needs as part of the process of providing them with a particular service. When the service being delivered is to a single consumer (e.g. case management) and requires a one-to-one staff ratio the process of computing and meeting the staffing requirement is fairly straight forward. However for congregate services (e.g. group residential and congregate work) the process is more complex and the purpose of the ratios is less clear, especially in light of the way in which staffing requirements have historically been computed. Concerns include:

- When group services are delivered the minimum staffing requirements that have been established for each individual in the group that is being served (e.g. residents of a group home) are totaled and the total needs of the group then becomes the staffing requirement for that service environment (e.g. group home). The requirement is a

global one and there is no requirement that an individual identified as having a need for a high number of staff hours actually receives them.

- The degree to which these ratios represent each consumers actual need is questionable given the fact that when the current reimbursement system was established many agencies report that they were instructed by DDP to "estimate" staff ratios for individuals, using their own subjective criteria and based on the money they had available, with little or no direction from DDP. By "backing into" individual staff ratios the new system in essence preserved some of the inequities and inconsistencies of the reimbursement system it replaced.
- Up until fairly recently, when new individuals were screened into services the process of backing into ratios continued as the various agencies that were being offered the chance to serve a consumer had to "back into" staffing ratios for each of their services based on the total amount of money available in the slot that had been vacated. *Note: CMS took the position that the screening process is not allowable and a new process is in place that fills vacancies on a statewide basis.*
- While from a distance DDPs system appears to be based on individual need, the loose and inconsistent methods used to establish required staffing ratios mean that two individuals with exactly the same needs can and do have dramatically different staffing requirements and budgets depending on by whom, where and when their staffing requirements and budgets were established.

Although it is not inappropriate for human service programs to include minimum staff ratio requirements in contracts for the services - as a quality assurance measure, the DDP reimbursement system uses it as a reimbursement mechanism. They require that agencies report all of the hours that were actually worked by direct care staff during each billing period each time they submit an invoice for the services they have provided. *If they fail to meet the staffing requirements that are built into DDP's AWACS system their payments for the period in question are adjusted downward based on a formula that includes a vacancy factor.* DDP's current system mandates that businesses have an exact number of workers at a pre-determined place, at a pre-determined time with little room for flexibility and discretion based on the realities of life and the service provider's assessment of the current situation and without any consideration of work force issues being experienced all over the state in recruiting, retaining and scheduling direct care workers due to Montana's full employment and in the case of DD services, due also to low pay. The problem is compounded by the fact that there were no uniform standards on which the staffing requirements are based and no consistent process for setting them. The system seems to place a higher value on ensuring that an arbitrarily established number of direct care staff are present than it does on what those workers are doing with the consumers they assist and support. It also fails to recognize the day to day variations in service consumers' need for support. This system does not assure the quality of the services being provided and ties the hands of providers who need some flexibility in how they staff and provide services.

Recommendation: We recognize that having sufficient direct care staff to appropriately assist and support consumers is a key element of the services they deliver. However many of them are rightfully concerned that the way in which the current DDP reimbursement system incorporates and uses staffing data is administratively burdensome, inefficient, punitive and, more importantly, does little or nothing to ensure the delivery of high quality services to consumers.

DPHHS should consider contracting with a reputable consultant to design a system with input from providers and stakeholders that:

- ✓ pays for group residential and congregate work services (and other appropriate services) based on a daily rate. The daily rate would be based on a reliable assessment process and could include tiers for clients meeting identified "levels" of needs. Rates would not change based on staffing reports.
- ✓ replaces the current staffing component with a quality assurance system. The QA system could include minimum staffing guidelines as well as a quarterly staffing report requirement. The new reports will document actual hours worked by direct care staff for each of the services they provide. The proposal could also include a formal process for setting and evaluating staffing requirements/expectations for each service as well as a process for conducting periodic audits of the reports and applying a reasonable set of sanctions when businesses consistently fall short of reasonable staffing standards.

Issue Two
Service Plan Amendment Process

Every adult consumer - or family of a child with a developmental disability - who receives services funded through DDP has an Individual Service Plan (ISP) or Individual Family Services Plan (IFSP) that is developed through a Person Centered Planning process. The process of developing the plan is directed by a case manager, or in the case of children age 0-21 and their families, a Family Support Specialist (FSS). Obviously, in a Person Centered Planning process the needs, values and aspirations of consumers and their families are the main focus of the planning, evaluation and decision making process that produces the ISP/IFSP.

The IPS/IFSP defines the itemized list of individual services the consumer/family will receive. The plan's services are identified and agreed to by the members of the consumer's planning team and, most importantly, the consumer and the family. For adults there is no further external review and approval of the Individual Service Plan. However, in the case of children, after the IFSP is developed it must be reviewed and approved by DDP. Since DDP did not directly participate in the Person Centered Planning Process that produced the plan, by necessity any review would have to be at a higher level.

If the needs or preferences of the consumer or family change during the time period in which the plan is in effect the plan must be amended. Proposed changes to the plan must be approved by the consumer/ family and the other members of the planning team. *If the team agrees to the proposed change a formal amendment to the plan must be submitted to DDP for review and approval prior to implementation, regardless of the size or the magnitude of the change or its lack of potential to negatively impact the consumer or family.* In cases where the services a consumer receives are limited in number, their needs are stable, and service utilization is predictable, the amendment process is not a problem – because there are no amendments. However when the service plan includes a wider variety of services, the utilization of those services is less predictable, and the consumer and/or family's needs change frequently – as is often the case in a child's IFSP - the likelihood of the need for a plan amendment increases dramatically.

We believe that the current process that DDP uses to amend an ISP/IFSP is unnecessarily complex, administratively burdensome, inconsistently implemented and may actually discourage teams from developing a truly Person Centered Plan. The DDP staff person charged with reviewing and approving a proposed amendment may never have met, and may know little about, the consumer and their family. They did not participate in the planning team meeting nor do they have access to the detailed give and take and discussion that led team members to believe that an amendment to the plan is warranted. Given the situation it should surprise no one that the amendment approval process seems to be inconsistently applied across the state. In some regions of the state amendment approval seems to be perfunctory. In other regions there seems to be much more scrutiny and second guessing. In all cases the amendment process involves a great deal of work, time and delay without a clear purpose - especially in light of the fact that the people who know the situation best (planning team) have already agreed the proposed changes need to occur. While the focus of our discussions was on the impact on family services, problems with an unnecessarily complex amendment process appear to exist in all services. There is also understandable concern that the new supported employment service definitions will increase the need for plan amendments. Given the time, work and delay associated with processing amendments it is easy to envision planning teams avoiding them by keeping plans as simple and straight forward as possible in order to avoid the need for a possible amendment down the road. While this kind of survival strategy is understandable, it does not lead to dynamic person-centered plans for consumers and families.

Finally, it is oddly ironic that DDP's current contract/service planning processes seem to have replicated one of the chief problems associated with the cost-based contracting system that it replaced – the need for a large number of administratively complex and time consuming amendments, the purpose and value of which were unclear.

Recommendation: We recognize that DDP has a legitimate interest in being aware of, and perhaps even signing off on, *significant changes* that are made to ISPs and IFSPs, especially when the change in question has the potential to do serious harm to the consumer or their family. However it appears the

current amendment process is more complex, more time consuming and more work than is necessary to provide DDP with their required level of oversight.

DPHHS should consider researching and developing, with input from providers and stakeholders, a new amendment process that is more efficient and effective and more responsive to the changing needs of consumers. The proposed amendment process should include a set of objective criteria that defines a "significant plan change" and limits the need for DDP prior approval to significant amendments only. The criteria could include a dollar threshold and/or rules about very specific types of service changes. Amendments must still require the prior approval of the ISP/IFSP Team. DDP must still be informed of any amendment so that any changes to the billing/reimbursement systems that are necessary to implement the change may occur.

There were other issues and concerns discussed, but these two became the focus of the discussions as being most in need of change, and most important to assure continued access to high quality services by individuals with developmental disabilities and their families.

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