



ATTACHMENT B

COLORADO DEPARTMENT OF HEALTH CARE POLICY

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Bill Ritter, Jr., Governor • Joan Henneberry, Executive Director

December 7, 2009

Ms. Sally Symanski, State Auditor
Office of the State Auditor
Legislative Council Building
200 E. 14th Avenue
Denver, CO 80203

Dear Ms. Symanski:

Please find the Department of Health Care Policy and Financing's status update to the June 2009 Medicaid Community-Based Services for People with Developmental Disabilities Audit Report.

If you have any questions or comments, please feel free to contact the Department's Audit Coordinator, Laurie Simon at 303-866-2590 or laurie.simon@state.co.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandeep Wadhwa', written over a horizontal line.

Sandeep Wadhwa, MD, MBA
State Medical Director

SW:las

cc: Representative Dianne Primavera, Chair
Senator David Schultheis, Vice-Chair
Senator Morgan Carroll, Legislative Audit Committee
Representative Jim Kerr, Legislative Audit Committee
Representative Frank McNulty, Legislative Audit Committee
Representative Joe Miklosi, Legislative Audit Committee
Senator Shawn Mitchell, Legislative Audit Committee
Senator Lois Tochtrop, Legislative Audit Committee
HCPF Executive Director's Office
Barbara Prehmus, HCBS LTC Division Director
Laurie Simon, HCPF Audit Coordinator

**COLORADO DEPARTMENT OF HEALTH CARE POLICY & FINANCING'S
DECEMBER 2009 STATUS UPDATE
CONTROLS OVER PAYMENTS
MEDICAID COMMUNITY-BASED SERVICES FOR
PEOPLE WITH DEVELOPMENTAL DISABILITIES AUDIT**

Recommendation 1a

The Department of Human Services, Division for Developmental Disabilities should improve controls to ensure service plan documentation is sufficient to support the service request and subsequent payments. Specifically, the Department should work with HCPF to:

- a. Develop standardized guidelines for documenting the frequency and duration of services in service plans to support service requests and payments.

HCPF Response (June 2009):

Agree. Implementation Date: December 2009.

The Department of Health Care Policy and Financing (HCPF) has recently completed regional trainings with specific instruction on appropriately documenting the frequency and duration of services in the service plan. BUS Service Plan instructions have been available for a year on line; however, these existing instructions will be updated with more specific information and redistributed based on feedback from the trainings by August 1, 2009. Additionally, HCPF will work with the Department of Human Services on training and standard guidelines specific to the developmental disability waivers. Training on guidelines will be completed by December 2009.

DHS Response (June 2009):

Agree. Implementation Date: December 2009.

The Colorado Department of Human Services together with the Department of Health Care Policy and Financing (HCPF), has been developing standard guidelines for documenting the frequency and duration of services in service plans to support service requests and payments. The Department of Human Services will complete the guidelines and provide training to the Community Centered Boards on these requirements by end of the calendar year, December 2009.

HCPF and DHS Joint Status Update (December 2009):

Implementation Status: In progress.

Revised Implementation Date: January 2010

HCPF and DHS/DDD completed guidelines for standardization of documenting Frequency, Scope and Duration in Service Plans.. HCPF decided to seek additional stakeholder input which will delay implementation by one month. The Service Plan draft and instructions have been distributed to various stakeholder groups including clients, families, advocates, Case Management Agencies (SEPs

and CCBs) and providers,. The deadline for Stakeholder input is December 14, 2009. CCB training on the application of these guidelines will be completed by January 31, 2010.

Recommendation 1b

The Department of Human Services, Division for Developmental Disabilities should improve controls to ensure service plan documentation is sufficient to support the service request and subsequent payments. Specifically, the Department should work with HCPF to:

- b. Implement additional edits in the BUS system requiring that CCBs enter service frequency information before exiting the service plan document, and automating the calculation of total service units approved.

HCPF Response (June 2009):

Agree. Implementation Date: November 2009.

HCPF has submitted a work request to the Business Utilization System (BUS) programmer to commence this project. The expected completion of the work request and implementation of edits is November 30, 2009.

DHS Response (June 2009):

Agree. Implementation Date: November 2009.

HCPF manages the BUS and has submitted a request to their IT division to commence this project. The expected completion of the work request and implementation of edits is November 30, 2009.

HCPF and DHS Joint Status Update (December 2009):

Implementation Status: In Progress

Revised Implementation Date: March 30, 2010.

OIT has received the request and began initial work in September. Both Departments agreed to expand the project to include: streamline the Service Plan process; reduce duplicate entry; clarify the Service Plan instructions; and automation the Prior Authorization Request (PAR) process. The automation of the PAR request process, requires additional programming and will extend implementation to March 2010. Both Departments agree the additional investment will produce a better, quality outcome. However this additional programming is more complex and will extend the deadline until March 2010.

Recommendation 1c

The Department of Human Services, Division for Developmental Disabilities should improve controls to ensure service plan documentation is sufficient to support the service request and subsequent payments. Specifically, the Department should work with HCPF to:

- c. Eliminate duplicate data entry of service requests in the CCMS and BUS systems by automatically populating the service request in CCMS from the service plan information contained in the BUS system.

HCPF Response (June 2009):

Agree. Implementation Date: October 2009.

HCPF's and DHS' programmers are currently determining the feasibility of an electronic link between the BUS and CCMS systems. The feasibility study is scheduled to be completed by October 1, 2009.

DHS Response (June 2009):

Agree. Implementation Date: October 2009.

HCPF and the Department of Services' IT divisions will determine the feasibility of linking the two systems by October 1, 2009, to include resource requirements.

HCPF and DHS Joint Status Update (December 2009):

*Implementation Status: Partially Implemented
Revised Implementation Date: March 31, 2010*

DHS and HCPF have determined the linkage of the two systems is feasible. This will be incorporated in the PAR automation project as noted in 1b.

Recommendation 5

The Department of Health Care Policy and Financing and the Department of Human Services, Division for Developmental Disabilities should work together to develop standards for the types of documentation that providers must maintain for each type of service provided. CCBs should be trained on the standards and required to include the standards in their contracts with all service providers.

HCPF Response (June 2009):

Agree. Implementation Date: December 2009.

HCPF and The Department of Human Services are currently participating in a Qualified Provider Task Force as part of the CMS Quality Improvement Strategy (QIS) to explore provider related issues and implement policy. The QIS requires a post payment review process as part of the program review. The CCBs will be involved in the program review and this is included in the FY09-10 three way contracts with HCPF, The Department of Human Services and each CCB. The two Departments will jointly review a sample of clients including a post payment claims review. Both Departments have begun to develop standards for documentation that providers must maintain for each type of service. All CCBs and providers will be trained on the standards December 30, 2009.

DHS Response (June 2009):

Agree. Implementation Date: December 2009.

The Department of Human Services is implementing a retrospective review process and will develop standards for documentation that providers must maintain for each type of service. Initial billing standards are already available for CCB implementation. CCB and provider staff will be trained on additional procedures as they are developed. The Department of Human Services will develop a new policy and procedures system to facilitate timely dissemination of policies, procedures, and practices to strengthen communication, accuracy, and consistency of operations.

HCPF and DHS Joint Status Update (December 2009):

Implementation Status: In Progress

Revised Implementation Date: January 31, 2010

The program tool including the retrospective review process has been completed and reviewed by both departments. However, there is a minor delay in completing the training of the tool to the CCBs resulting in revising the implementation date. Factors that influenced the decision to change the date included: 1) The scoring of the tool was more complex than anticipated and was not completed on schedule. 2) State staff have had to reprioritize work plans to

accommodate submitting waiver amendments due to the State budget cuts as well as completing the annual 372 reports to CMS. HCPF will be conducting trainings in January 2010.

Recommendation 6

The Department of Health Care Policy and Financing and the Department of Human Services, Division for Developmental Disabilities Services should reassess whether targeted case management and the client questionnaires serve as effective tools for validating HCBS-DD payments. If HCPF and the Division determine these practices are ineffective, HCPF should discontinue listing these practices as mechanisms used to validate billings in the HCBS-DD waiver and use other mechanisms to ensure payments are appropriate

HCPF Response (June 2009):

Agree. Implementation Date: June 2010.

HCPF will discontinue listing these practices as mechanisms used to validate billings in the HCBS-DD waiver. Currently, HCPF is working with the Department of Human Services to implement a post-payment review process in conjunction with the Program Review in the CMS Quality Improvement Strategy (QIS). The process will be fully implemented by June 30, 2010.

DHS Response (June 2009):

Agree. Implementation Date: June 2010.

The Department of Human Services has assessed these processes and does not believe that targeted case management and client questionnaires alone serve as sufficient tools for validating HCBS-DD payments. Therefore, in conjunction with HCPF, the Department of Human Services is implementing a post-payment review process. This process will be fully implemented by June 30, 2010.

HCPF and DHS Joint Status Update (December 2009):

Implementation Status: In Progress

HCPF has completed the program review tool including the retrospective review process as aforementioned in Recommendation 5. The samples have been generated by the Business Analysis Section at HCPF and have been provided to the DHS. Monitoring of the programs and post-claim reviews will commence following the training in January 2010 for full implementation by June 30, 2010.

Recommendation 8a

The Department of Health Care Policy and Financing should improve monitoring and oversight of its interagency agreement with the Division to ensure compliance with agreement provisions, as well as with federal requirements. The Department should make monitoring improvements to ensure the Division:

- a. Develops clear, written fiscal and administrative procedures for the HCBS-DD waiver program.

Department Response (June 2009):

Agree. Implementation Date: June 2010.

Through the interagency agreement for FY09-10, the Department of Health Care Policy and Financing (HCPF) has included specific language, accountability requirements and timelines to support oversight and monitoring of the DD waivers. HCPF will meet with the Department of Human Services on a monthly basis, and more often as necessary, to report on the administration of the DD waivers. Specifically, the Department of Human Services will comply with the following schedule for each on the aforementioned recommendations:

- a. The Department of Human Services will begin developing clear, written fiscal and administrative procedures for the HCBS-DD waiver program by July 1, 2009 and the procedures will be fully implemented by June 30, 2010.

HCPF Status Update (December 2009):

Implementation Status: In progress.

HCPF has completely revised the Interagency Agreement with DHS. The new agreement clearly lays out both Departments' responsibilities with specific language and timelines to demonstrate accountability and ensure compliance. The Interagency Agreement has been reviewed by both Departments and is currently in the final clearance process prior to being executed.

DHS has initiated drafting administrative procedures for the HCBS-DD Waiver program. The procedures on scheduled to be fully implemented by June 30, 2010.

Recommendation 8b

The Department of Health Care Policy and Financing should improve monitoring and oversight of its interagency agreement with the Division to ensure compliance with agreement provisions, as well as with federal requirements. The Department should make monitoring improvements to ensure the Division:

- b. Provides timely training and technical assistance to the CCBs.

Department Response (June 2009):

Agree. Implementation Date: June 2010.

The Department of Human Services will provide quarterly reports on training and technical assistance to the CCBs.

HCPF Status Update (December 2009):

Implementation Status: Implemented and Ongoing

The DD Waiver Oversight Manager participates and reviews the agendas for monthly Technical Assistance teleconferences with the CCB case management departments and quarterly Case Management Directors' Meetings. In addition, the DD Waiver Oversight Manager is monitoring the Interagency Agreement deliverables on a monthly basis and reporting any deficiencies at the monthly meeting between the two Departments. The DD Waiver Oversight Manager will work with the Long Term Care Division Director on developing Plans of Correction when deficiencies are not promptly addressed.

Recommendation 8c

The Department of Health Care Policy and Financing should improve monitoring and oversight of its interagency agreement with the Division to ensure compliance with agreement provisions, as well as with federal requirements. The Department should make monitoring improvements to ensure the Division:

c. Monitors service provision, quality, and financial accountability.

In the event that HCPF finds the Division is not carrying out its responsibilities, HCPF should work with the Division to develop a plan to address deficiencies or identify other appropriate options for overseeing and administering the HCBS-DD waiver program.

Department Response (June 2009):

Agree. Implementation Date: June 2010

The Department of Human Services will submit monthly and quarterly reports on service provision, quality, and financial accountability.

HCPF will communicate deficiencies to the Department of Human Services when there is non compliance and will require specific plans for remediation.

HCPF Status Update (December 2009):

Implementation Status: Implemented and Ongoing

The DD Waiver Oversight Manager is monitoring the Interagency Agreement deliverables on a monthly basis and reporting any deficiencies at the monthly meeting between the two Departments. The DD Waiver Oversight Manager will work with the Long Term Care Division Director on developing Plans of Correction when deficiencies are not promptly addressed.

Recommendation 9

The Department of Human Services, Division for Developmental Disabilities Services should work with the Department of Health Care Policy and Financing to create an implementation plan to address the recommendations made by the University of Southern Maine study on potential conflicts of interest in the Colorado developmental disabilities community-based service provision system. The plan should include a description of specific actions planned, a timeline for implementation of planned changes, and a mechanism for ensuring implementation is progressing timely.

HCPF Response (June 2009):

Agree. Implementation Date: October 2009.

HCPF has already begun working with the Department of Human Services to address many of the recommendations outlined in the University of Southern Maine's study. A complete work plan will be developed by October 1, 2009.

DHS Response (June 2009):

Agree. Implementation Date: October 2009.

HCPF and the Department spent the spring of 2008 developing responses to the recommendations from the study. The initial plan was to implement safeguards around waiver participant issues in fall 2008 and begin a review of possible system re-design changes in July 2009, e.g., separation of case management functions from service provision. However, during summer 2008, CMS and HCPF began the development of an overarching strategy for quality improvement for all the Colorado Medicaid Waivers, called the global Quality Improvement Strategy (QIS).

While the Department of Human Services had already implemented or was in the process of implementing many of the University of Southern Maine's recommendations, the Department of Human Services decided to wait to address the specific recommendations that would be affected by the QIS. The QIS has been submitted to CMS for approval and implementation beginning July 1, 2009.

HCPF and DHS Joint Status Update (December 2009):

Implementation Status: In Progress

Revised Implementation Date: December 31, 2009

A work plan has been developed. Implementation of the work plan is occurring collaboratively with HCPF and DDD to ensure continuous dialogue regarding the Quality Improvement Strategy. In addition, a workgroup between both Departments has commenced to address general improvements within the Long Term Care service delivery system. The larger question of separation of case

management from service provision in the CCBs is one consideration being reviewed within this workgroup.

STATE OF COLORADO



Colorado Department
of Human Services
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Bill Ritter, Jr.
Governor

Karen L. Beye
Executive Director

December 14, 2009

The Honorable Dianne Primavera
Chair, Legislative Audit Committee
200 E. Colfax Avenue
Denver, CO 80203

Dear Representative Primavera:

The Department of Human Services is providing this status report to you regarding the Department's progress towards implementing the recommendations of the June 2009 Controls Over Payments, Medicaid Community-Based Services for People with Developmental Disabilities (Developmental Disabilities) Performance Audit. The Legislative Audit Committee is scheduled to review this status report in January 2010. The attached status report includes:

- The implementation status of each recommendation
- A brief explanation of the actions taken for each recommendation.
- The impact of other factors on the implementation of the recommendations, if applicable.

Please contact Jenise May, Deputy Executive Director, at (303) 866-2773 if you have any questions or need additional information.

Sincerely,

Karen L. Beye
Executive Director

Atch

cc: Senator David Schultheis, Vice Chair
Senator Morgan Carroll
Senator Shawn Mitchell
Senator Lois Tochtrop
Representative Joe Miklosi
Representative Jim Kerr
Representative Frank McNulty
Sally Symanski, State Auditor
Jenise May, Deputy Executive Director, ERA &
Interim Deputy Executive Director, VDS

STATE OF COLORADO



Colorado Department of Human Services

people who help people

VETERANS AND DISABILITY SERVICES

Jenise May, Interim Deputy Executive Director

DIVISION FOR DEVELOPMENTAL DISABILITIES

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Bill Ritter, Jr.
Governor

Karen L. Beye
Executive Director

October 21, 2010

Legislative Audit Committee
Legislative Services Building
200 East 14th Avenue
Denver, CO 80203

Dear Members of the Legislative Audit Committee:

This letter is to provide you with a status update of the progress the Colorado Department of Human Service (CDHS) is making towards implementing Recommendation 9 of the June 2009 Controls Over Payment, Medicaid Community-Based Services for People with Developmental Disabilities (Developmental Disabilities) Performance Audit. A description detailing the status update information is enclosed.

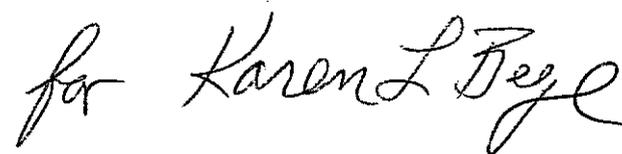
Recommendation 9 requests, "The Department of Human Services, Division for Developmental Disabilities should work with the Department of Health Care Policy and Financing to complete its implementation plan to address the recommendations made by the University of Southern Maine study on potential conflicts of interest in the Colorado developmental disabilities community-based service provision system. The plan should include a description of specific actions planned, a timeline for implementing planned changes, and a mechanism for ensuring that implementation is progressing timely."

In the spring of this year, the CDHS and the Department of Health Care Policy and Financing convened the Conflict of Interest (COI) Task Force comprised of stakeholders in the developmental disability system to analyze and make recommendations to resolve conflict-of-interest issues in the service system. Information on their work and the recommendations made is contained in the enclosed report, "Conflict of Interest Task Force Report", dated September 15, 2010. Also enclosed is a table identifying the areas subject to conflict of interest and summarizing the COI Task Force recommendations.

Joint Budget Committee
Legislative Audit Committee
October 21, 2010
Page 2

Please contact Jenise May, Deputy Executive Director, at 303-866-2773, if you have questions or need additional information.

Sincerely,

 for 

Karen L. Beye
Executive Director

Enclosures.

cc: Don Elliman, Chairman, Colorado Economic Recovery Accountability Board
Todd Saliman, Director, Governor's Office of State Budget and Planning
Joan Henneberry, Executive Director, HCPF
Barbara Prehmus, Federal Policy and Rules Officer, HCPF
Jenise May, Deputy Executive Director, CDHS

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Colorado Department of Human Services

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Bill Ritter, Jr.
Governor

Karen L. Beye
Executive Director

Division for Developmental Disabilities
Colorado Department of Human Services

Update on Conflict of Interest in the DD System
October 21, 2010

Background. Results of the State Auditor's Office (SAO) 2009 audit of the Home and Community Based Services waiver for People with Developmental Disabilities indicated that the potential for conflict of interest had not been fully resolved. This issue was raised by the Centers for Medicare and Medicaid Services (CMS), and further examined in a December 2007 study by the University of Southern Maine (USM), Muskie School of Government titled "Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards". While the Colorado Department of Human Services (CDHS) has resolved many issues identified by CMS through the implementation of new Home and Community Based Services waivers in FY 2008-09 and FY 2009-10, the dual role of service provider and case management entity has not been resolved.

Project Plan Update. CDHS and the Department of Health Care Policy and Financing (HCPF) convened a stakeholder task force to develop a resolution to the conflict of interest issues inherent in the Developmental Disabilities system. This task force met from March 2010 to July 2010. The task force evaluated all options presented to them or developed by the task force, as well as the system options identified in the USM report, and recommended options for the system that resolve the conflict of interest issues. The task force meetings were open to the public. Public comment was taken in various parts of the state through a teleconference. Written comments were also accepted to ensure all stakeholders had the opportunity for input.

The task force issued their recommendations September 15, 2010, addressing seven areas in the system subject to conflict of interest. For information and referral, eligibility determination, and wait list administration, there was general consensus of the 17 members voting. The recommendation is to separate these functions from service provision and have the function performed either by the state or an independent entity. Rate negotiation was already eliminated as a conflict due to the state developing standardized service rates. For service planning, provider selection and monitoring services, the majority recommendation (9 of 17) was to separate these functions from agencies that provide services.

If these recommendations move forward, a change in the C. R. S. 27-10.5 statute that currently allows the CCB to function as a case management agency and a service provider will be necessary. Implementation of the recommendations would require transition over a two to three year period.

**Departments of Human Services and Health Care Policy and Financing
Conflict of Interest Task Force
Recommendations
September 15, 2010**

Areas Subject To Potential COI	Recommendation	Vote	Change of Statute Needed
<p>1. Information and Referral Services – focal point for clients/families to learn of available services.</p>	<p>1. Formal information and referral functions regarding all DD waivers, services, supports and Medicaid programs be assigned to either existing single access point entities (SEPs) or a similar system of entities contracting with the State to provide initial information and referral for persons wishing to access any of these identified services.</p>	<p>16 of 17 voting members in attendance</p>	<p>27-10.5-102 C.R.S. Definitions of CCB and case management services</p> <p>27-10.5-105 C.R.S. Designation</p>
<p>2. Eligibility Determination – Level of Care determinations for Medicaid Long Term Care.</p>	<p>2A. Eligibility determination for all DD waivers, services, supports and Medicaid programs be assigned to either existing single access point entities (SEPs) or a similar system of entities contracting with the State to provider eligibility determination of persons wishing to access any of these identified services.</p> <p>2B. Couple eligibility determination with formal information and referral</p>	<p>Full consensus</p> <p>16 of 17 votes</p>	<p>27-10.5-102 C.R.S. Definitions of CCB</p> <p>27-10.5-106 C.R.S. Eligibility determination</p> <p>27-10.5-105 C.R.S. Designation</p>
<p>3. Administration of the Waiting List – placing individuals on the waiting list and filling waiver vacancies.</p>	<p>3. Wait list administration, up to the point when the consumer is referred for service planning, be done by an independent third party.</p>	<p>Full consensus</p> <p>Note that the primary responsibility has been assumed by DDD already</p>	<p>None</p>

Areas Subject To Potential COI	Recommendation	Vote	Change of Statute Needed
4. Service Planning – identify service needs and create service plans to meet those needs.	4. Service planning (case management) be done by an entity (or entities) that can provide local availability of case management services and is independent, with separate finances & governance, from those entities responsible for eligibility determination or service provision.	9 of 17 votes	27-10.5-102 C.R.S. Definitions of CCB as able to provide or purchase services 27-10.5-106 C.R.S. Individualized Plans 27-10.5-105 C.R.S. Designation
5. Provider Selection – assuring clients are informed of all qualified providers in their geographic region, or to meet need.	5A. Assistance with provider selection will be done by local entities that are independent, with separate finances & governance, from those responsible for eligibility determination or service provision.	9 of 17 votes	None in current statutes; may want to add this recommendation in new statute
	5B. There should be a uniform, standardized criteria-based and transparent process utilized by every entity assisting with provider selection throughout the State.	Full consensus	None-rule add-ons
6. Rate Negotiation – set payment rates to providers.	6. The State will set all rates for all services for people with developmental disabilities.	Full consensus Recommendation completed.	None
7. Monitoring Services – monitor implementation of the client’s individualized plan, tracking & responding to client complaints, and reporting incidents.	7. Monitoring should be an included function in the duties of the entity that provides service planning (case management) separate from services. provision.	9 of 17 votes	27-10.5-102 C.R.S. Definitions of CCB 27-10.5-106 C.R.S. Periodic review

Areas Subject To Potential COI	Recommendation	Vote	Change of Statute Needed
<p>8, Incident Investigations- responsible for conducting investigations of MANE for their direct services and for providers in their catchment area</p>	<p>Incident investigations involving mistreatment, abuse, neglect or exploitation (MANE) should be conducted by an unbiased entity, either a state agency or contractor unaffiliated with either the involved service provider or the consumer.</p>	<p>Full consensus</p>	<p>27-10.5-102,106 C.R.S. Definitions of CCB and case management services</p>
<p>9. Complaints-handled through CCB system for direct services and external agencies</p>	<p>Independent third party entity should handle complaints about quality of services and appeals of decisions affecting services. Third party entity should be unaffiliated with either the complaining or appealing consumer or the entity about which the complaint/appeal is being made. Not the same entity that conducts MANE investigations.</p>	<p>Full consensus</p>	<p>27-10.5 102,106 C.R.S. Definition of CCB and case management services</p>
<p>Additional Recommendations Not Specifically Outlined in the University of Southern Maine Report</p>			
	<p>Consolidate the activities of: Formal Information & Referral, Service Planning, Provider Selection and Monitoring of Services, which must be separated from Service Provision.</p>	<p>9 of 17 votes</p>	<p>27-10.5-102, 105, 106 C.R.S. Definitions of CCB & case management services; DHS ED designation</p>
	<p>The Departments and any implementation group created to address these recommendations must complete a comprehensive fiscal analysis prior to implementation to ensure that adequate resources are available and that services will not be negatively affected.</p>	<p>Full consensus</p>	

27-10.5-102. Definitions

(3) "Community Centered Board" means a private corporation, for profit or not for profit, that when designated pursuant to section 27-10.5-105, provides case management services to persons with developmental disabilities, is authorized to determine eligibility of those persons within a specified geographical area, serves as the single point of entry for persons to receive services and supports under this article, and provides authorized services and supports to those persons either directly or by purchasing services and supports from service agencies.

COLORADO
DEPARTMENT OF HUMAN SERVICES
DIVISION FOR DEVELOPMENTAL DISABILITIES
And
DEPARTMENT OF HEALTH CARE POLICY AND
FINANCING
LONG TERM BENEFITS DIVISION



CONFLICT OF INTEREST
TASK FORCE

REPORT

September 15, 2010

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Introduction

The Colorado Department of Human Services (CDHS) and the Department of Health Care Policy and Financing (HCPF) have been aware of potential conflicts of interest in the developmental disability services delivery system related to the multiple roles that Community Centered Boards (CCBs) hold for some time. Several Community Centered Boards and the Division for Developmental Disabilities developed and implemented various safeguards intended to mitigate the potential for conflicts of interest. However, results of the State Auditor's Office 2009 Audit of the Home and Community Based Services Waiver for People with Developmental Disabilities indicated that the potential for conflicts of interest, examined in a December 2007 study by the University of Southern Maine (USM), Muskie School of Government titled "Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards" had not been resolved. To this end, in February 2010, the Departments solicited applications for and convened a stakeholder group to develop recommendations for resolving the conflict of interest issues inherent in the developmental disabilities system, the Conflict of Interest Task Force (COITF) (Please see Attachment A). To ensure broad representation of the various stakeholders, the Departments selected members to represent the following constituencies from locations throughout the State:

- Self-advocates
- Family members
- Community Centered Board staff and Boards of Directors
- Service providers
- Advocacy organizations
- The Developmental Disabilities Council
- The Legal Center for People with Disabilities and Older People
- Long Term Care Advisory Committee
- County Departments of Human Services
- Single Entry Point Agencies
- Other interested parties.

For the purposes of this Task Force the Departments utilized the following definition of conflict of interest: "A "conflict of interest" is a "real or seeming incompatibility between one's private interests and one's public or fiduciary duties." This definition clarifies that conflicts may exist in a system whether or not they are acted upon at any given time. The Task Force was charged with generating and evaluating options for system redesign and for making recommendations to the Departments regarding how to best resolve the conflicts of interest inherent in the developmental disability service system as outlined in the State Auditor's Office 2009 Audit of the Home and Community Based Services Waiver for People with Developmental Disabilities. This Report presents those recommendations. It is respectfully submitted on behalf of the Task Force Members listed below.

Task Force Members

Member	Association	Organization	Location
Maeline Barnstable	Family, CSHA	Colorado Speech and Hearing Association	Denver
Jean Benfield	Self Advocate		Pueblo
Kathy Jean Brown	Family		La Veta
Tim Cairns	Family, Advocacy	The Association for Community Living	Boulder
Randy Chapman	Legal Advocacy	The Legal Center for People with Disabilities and Older People	Denver
David A. Ervin	CCB	The Resource Exchange	Colorado Springs
Jeff Konrade-Helm	Family		Thornton
Denise Krug	Service Provider	Goodwill Industries	Colorado Springs
Aileen McGinley	Advocacy	AdvocacyDenver	Denver
John Meeker	CCB	Developmental Pathways	Englewood
Carol Meredith	Family, Advocacy	The Arc of Arapahoe and Douglas County	Centennial
Sally Montgomery	Service Provider	Mosaic	Loveland
Timothy S. O'Neill	CCB	Foothills Gateway	Fort Collins
Marijo Rymer	Advocacy	The Arc of Colorado	Denver
Jennifer Sorensen	Single Entry Point	Mesa County Department of Human Services	Grand Junction
Warren Taylor	CCB Board of Directors	North Metro Community Services, Inc.	Henderson
Marcia Tewell	Public Policy Advocacy	Developmental Disabilities Council	Denver
Jayne Tschirhart-Short	Service Provider	Community Support Services	Aurora
Ann M. Turner	Service Provider	Cheyenne Village	Colorado Springs
Tom Turner	CCB	Community Options, Inc.	Montrose
Jenise May*	CDHS	Deputy Executive Director, Office of Veteran's and Disability Services	Denver
Sandeep Wadhwa, MD*	HCPF	Medicaid Director and Chief Medical Officer	Denver
Sharon Jacksi, PhD*	CDHS	Director, Division for Developmental Disabilities	Denver
Barbara B. Prehmus*	HCPF	Director, Long Term Benefits Division through June 28, 2010 Federal Policy and Rule Officer	Denver

*Departmental Representatives were non-voting members.

Recommendations

The Task Force recommendations were designed to address the seven areas subject to potential conflicts of interest initially identified by the University of Southern Maine in the study, Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards and outlined in the June 2009 Performance Audit Conducted by the Legislative Audit Committee, Controls Over Payments, Medicaid Community-Based Services for People with Developmental Disabilities, Department of Health Care Policy and Financing and Department of Human Services Performance Audit.

1. Information and Referral—CCBs are the focal point for clients and families to learn of available services and supports in the community. As a direct provider of care, the CCB has the discretion to limit access to information about other service provider agencies in favor of its own providers.
2. Eligibility Determination—CCBs conduct level-of-care determinations giving the CCB discretion to limit equitable access to services and providing CCBs an opportunity to screen out difficult-to-serve individuals.
3. Administration of the Waiting List—CCBs are responsible for managing waiting lists for services. This gives the CCB discretion to favor one individual over another or to fill openings in its own service provider agencies prior to filling vacancies at private service provider agencies.
4. Service Planning—CCBs create service plans and could identify service needs that benefit its own service providers or steer consumers to the CCB versus private providers for services.
5. Provider Selection—CCBs are responsible for assuring that clients are informed of all qualified providers in their area, however, the CCB could steer clients to the CCB's providers rather than to private service providers.
6. Rate Negotiation—CCBs can set different payment rates for providers that choose to have the CCB process all Medicaid billings on their behalf. This allows CCBs to pay its own providers more for the same service than it would pay other service provider agencies that choose to bill through the CCB.
7. Monitoring Services—CCBs are responsible for monitoring the implementation of the client's individualized plan, tracking and responding to client complaints, and reporting incidents. This role could allow CCBs to enforce a different standard for quality of care for its own providers versus for private providers.

For the purposes of this Task Force, the Departments utilized the following definition of conflict of interest: "A "conflict of interest" is a "real or seeming incompatibility between

one's private interests and one's public or fiduciary duties.”” This definition clarifies that conflicts may exist in a system whether or not they are acted upon at any given time. The Task Force decided that they would attempt to reach consensus in decision-making regarding their recommendations and would make decisions by a majority vote if they could not. They also determined that in any cases where votes were taken, their report would reflect the vote taken and briefly describe the respective positions of the majority making the recommendation and any substantial minority opinion. It is the belief of the Task Force that this will give the Departments the most thorough information to consider regarding their deliberation process.

Specific recommendations, regarding how each individual function should be addressed are presented first. There is a general recommendation regarding the separation of certain functions overall, that follows. There is a final recommendation regarding the need for fiscal analysis of all recommendations prior to any implementation. This section will end with a list of topics the Task Force would like the Departments to consider when making their decisions.

Information and Referral

Recommendation 1 (16 votes)

Formal information and referral functions regarding all DD Waivers, services, supports and Medicaid programs be assigned to either, existing single access point entities (SEPs), or a similar system of entities contracting with the State to provide initial information and referral for persons wishing to access any of these identified services.

- **The SEPs or contractors will function completely independently from (separate finances and governance) any service providers.**
- **These SEPs or contractors will be available in local geographic areas throughout the State.**

This change resolves the conflict of interest issues inherent in the formal information and referral process.

- **16 of 17 voting Task Force Members believe this formal information and referral function should be coupled with eligibility determination.**

Since only one Task Force member voted against this recommendation, no formal minority position was identified.

Eligibility Determination

Recommendation 2 (Full Consensus)

Eligibility determination for all DD Waivers, services, supports and Medicaid programs, be assigned to either, existing single access point entities (SEPs), or a similar system of entities contracting with the State to provide eligibility determination for persons wishing to access any of these identified services.

- The State will have final authority to approve eligibility.
- The SEPs or contractors will function completely independently from any service providers (separate finances and governance).
- These SEPs or contractors will be available in local geographic areas throughout the State.

This change resolves the conflict of interest issues in the eligibility determination process.

- 16 of 17 voting Task Force Members voted that eligibility determination should be coupled with formal information and referral functions.

Administration of the Waiting List

***Recommendation 3 (Full Consensus)**

Wait List administration, including case management necessary while someone is on the Wait List and initial notification, up to the point when the consumer is referred for service planning, be done by an independent third party who is not a service provider.

- The third party could be the State Division for Developmental Disabilities or the Department of Health Care Policy and Financing.
- Consideration to geographic location of the consumer should be considered as well as length of time on the wait list when openings in services occur and people can be removed from the wait list and begin receiving services.

This change will resolve the conflict of interest issues in administration of the Wait List.

This change could result in more consistent administration throughout the State and in data that is more meaningful about who is actually currently waiting for needed services and who is on the wait list for future needs.

*The Division for Developmental Disabilities in CDHS is currently managing the waiting list for all HCBS DD Waiver programs with the exception of the Supported Living Services Waiver. Waiting list case management is currently being conducted by CCBs.

Service Planning (Case Management)

Recommendation 4 (9 votes)

Service planning (case management) will be done by an entity (or entities) that can provide local availability of case management services and is independent, with separate finances and governance, from those entities responsible for eligibility determination or service provision.

- **These entities will assist the self-advocate or family with provider selection and monitor individual service plan implementation.**
- **This change should be implemented by a 'phasing in' process with as little disruption to consumers and families as possible.**
- **Careful consideration should be given to needs and conditions of rural and frontier communities with a possible process for formal exceptions in some small or remote locations.**

This separation of functions will resolve conflict of interest issues.

Disruption to consumers and families receiving service planning in the current structure could be minimal. It is possible, and even likely in some circumstances, that the same Case Managers would be working with the same consumers, but be employed by different organizations.

Offering consumers and families a choice to seek services in a system where potential conflicts of interest exist does not address or resolve the conflicts of interest.

Minority Position (8 votes)

CCBs continue to offer both service planning (case management) and direct service provision. Consumers and families would have a choice between the CCB and another entity (the local SEP or another identified third party), to provide service planning.

- **The entity that provides service planning, either the CCB or another entity, would monitor individual service plan implementation.**

This option offers consumers and families choice.

It leaves much of the existing structure intact, which could cause less disruption to families.

It recognizes that the majority of consumers and families report being satisfied with their current service planning (case management).

Separation of functions will not prevent personal favoritism by individual case managers for specific service providers.

While this option does not resolve conflicts of interest, it may mitigate the likelihood that they will occur.

Provider Selection

Recommendation 5A (9 votes)

Assistance with provider selection will be done by local entities that are independent, with separate finances and governance, from those responsible for eligibility determination or service provision.

- **These entities will also conduct service planning (case management).**
- **Careful consideration should be given to needs and conditions of rural and frontier communities with a possible process for formal exceptions in some small or remote locations.**

This separation of functions will resolve conflict of interest issues.

Offering consumers and families a choice to seek services in a system where potential conflicts of interest exist does not address or resolve the conflicts of interest.

Minority Position (8 votes)

CCBs continue to offer both assistance with provider selection and direct service provision. Consumers and families would have a choice between the CCB and another entity (the local SEP or another identified third party), to assist with provider selection.

- These entities would also conduct service planning.

This option offers consumers and families choice.

It recognizes that that the majority of consumers and families report being satisfied with their current service planning (case management).

Separation of functions will not prevent personal favoritism by individual case managers for specific service providers.

While this option does not resolve conflicts of interest it may mitigate the likelihood that they will occur.

Recommendation 5B (Full Consensus)

There should be a uniform, standardized, criteria-based and transparent process utilized by every entity assisting with provider selection throughout the State.

- This process must include informed consumer and family choice of providers.
- This process must include a statewide tracking system to identify which providers are serving which consumers.

This change will promote fair and equitable access to service provision throughout the State.

This change will also improve local communities' abilities and the State's ability to do more effective development and recruitment of providers and community planning.

Rate Negotiation

***Recommendation 9 (Full Consensus)**

The State will set rates for all services for people with developmental disabilities.

Independent contractors and other service providers should be able to bill the State directly or contract with the State through a third party billing and payment entity (OHCDS or other billing agent).

- The OHCDS function should remain with CCBs.

This system addresses conflicts of interest by instituting a common rate system based on intensity of service.

It allows small independent providers to have assistance with difficult and complicated Medicaid billing that might eliminate them from providing services if they were required to do it themselves.

*The Departments have completed this recommendation. Standardized rates have been set.

Monitoring Services

Recommendation 6 (9 votes)

Service monitoring should be an included function in the duties of the entity that provides service planning (case management) separate from service provision.

The separation of functions will resolve conflict of interest issues.

Minority Position (8 votes)

If service planning (case management) is not separated from service provision and families can choose a CCB or another entity to provide service planning, service monitoring should be provided by the State Division for Developmental Disabilities or another independent third party contractor.

This would promote unbiased monitoring of services.

Recommendation 7 (Full Consensus)

Incident investigations involving mistreatment, abuse, neglect or exploitation (MANE investigations) should be conducted by an unbiased entity, either a State agency or contractor unaffiliated with either the involved service provider or consumer.

This will promote fair and unbiased investigations in these serious circumstances.

Recommendation 8 (Full Consensus)

An independent third party entity should handle complaints about quality of services and appeals of decisions affecting services. The third party entity should be unaffiliated with either the complaining or appealing consumer or the entity about which the complaint or appeal is being made.

- **This would not be the same entity that conducts MANE Investigations.**

Independence in addressing complaints and appeals promotes a fair and unbiased process.

General Recommendation

Recommendation 10 (9 votes):

Formal Information and Referral, Service Planning, Provider Selection and Monitoring of Services must be separated from Service Provision.

- **Governance and financial direction of entities providing services should be independent from entities providing any of these functions.**
- **Consideration of rural or frontier communities must be given if this change is made.**

This separation of functions will resolve conflict of interest issues. Multiple recommendations regarding how to separate each of these functions were presented earlier in this report.

Offering consumers and families a choice to seek services in a system where potential conflicts of interest exist does not address or resolve the conflicts of interest.

Minority Position (8 votes):

CCBs continue to provide all of these functions simultaneously and offer each family a choice between their local CCB for all functions (in 19 of 20 CCB service areas) and an additional option for Formal Information and Referral, Service Planning, Provider Selection and Monitoring of Services.

- This option could include a different CCB in a different area, a 21st CCB designed to offer consumers and families choice throughout the State or another third party depending on the function.

This option would offer consumers (and families) choice.

This option would leave much of the existing structure intact, which may cause less disruption to families.

It recognizes that the majority of consumers and families report being satisfied with all of the functions they are currently receiving.

Separation of functions will not prevent individual favoritism by individuals providing different functions.

Additional Recommendation

Recommendation 11 (Full Consensus)

These recommendations are being presented without a clear indication of their fiscal impact (either positive or negative) to the State. The Task Force recommends that the Departments and any implementation group created to address these recommendations complete a comprehensive fiscal analysis of these recommendations prior to implementation to ensure that adequate resources are available and that services to people with developmental disabilities will not be negatively impacted.

- **The Departmental Representatives on the Task Force indicated that the first responsibility of the Task Force was to make recommendations based on the best possible outcomes for individuals with developmental disabilities, rather than eliminating options based solely on anticipated costs.**
- **While the Task Force did address some components of cost and funding in their analysis of issues, they did not have sufficient time to complete a comprehensive fiscal analysis of these recommendations.**

Considerations for Implementation of the Recommendations of the Task Force

Task Force members identified the following factors important for the Departments to consider in any possible implementation plan.

- Local access to case management and service providers across the State was identified as one of the most important issues to consumers and their families through the public comment solicited by the Task Force.
- Implementation should cause as little disruption to consumers, families and their existing services as possible.
- Consideration of some process for phasing in structural changes or providing grandfathering for existing programs and circumstances should be considered if they would lessen disruptions to consumers and families.
- Wait list case management for high need consumers and emergencies is intensive work. It requires a great deal of time and attention in some cases.
- There is a need for focus on and support of local community capacity building in terms of planning and provider recruitment.
- Task Force members identified the benefit of building a system where there is an actual single entry point for all waivers and services, rather than the multiple “single” entry points that currently exist and make entering the system so confusing and overwhelming to families.
- Another concept Task Force members identified to address confusion in the existing system is a “no wrong door” approach for consumers and families to access information and services.
- A robust quality assurance component with actual incentives and sanctions will help ensure effective, quality services for consumers.
- The issue of Guardianship needs to be addressed for this consumer group.
- People who have developmental disabilities and who are non-verbal and unsupported by others may need additional consideration to ensure they have access to adequate and quality services.
- Consumers and families have the right to choose from among qualified providers willing to deliver their services.
- Early Intervention services are separate from these services directed to adults and should remain so.

Background and Overview of the Work of the Task Force

The Departments assigned a Facilitator to coordinate the work of the Task Force, facilitate their meetings and prepare this report on their behalf. Jean McAllister, Administrator of the Colorado Commission for Individuals Who Are Blind or Visually Impaired, served in that role. The Task Force originally scheduled seven and ultimately held nine working meetings and one Statewide Videoconference to take public comment on the following dates:

March 9, 2010

March 25, 2010

April 8, 2010

April 22, 2010 April 29, 2010

May 13, 2010

May 27, 2010 June 1, 2010 (Public Comment Video Conference),

June 10, 2010

June 24, 2010

Prior to beginning their deliberation of options, the Task Force developed a Values Statement to guide their work (Please see Attachment B). As a part of this process, they made a commitment to have transparency in their work and decided to post all meeting notices, meeting Minutes, documents and presentation materials they reviewed on the CDHS Website (http://www.cdhs.state.co.us/ddd/COI_Documents.htm), as well as this final report.

They began their work by gathering extensive information about the developmental disability system in Colorado and the concerns expressed by the Legislative Audit Committee and the University of Southern Maine Study about potential conflicts of interest present in the Developmental Disability system in Colorado. Their work included reviewing multiple documents, receiving numerous presentations, reviewing data and receiving information regarding developmental disability services in other states. A list of materials they reviewed follows. All of these documents and presentation materials are available on the website listed above.

- Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards, Report to the Colorado Department of Human Services, Division of Developmental Disabilities, 2007, Institute for Health Policy, Muskie School of Public Service, University of Southern Maine
- Controls Over Payments Medicaid Community-Based Services for People with Developmental Disabilities Department of Health Care Policy and Financing and Department of Human Services Performance Audit June 2009, Office of the State Auditor
- Conflict of Interest Safeguards Workplan, Division for Developmental Disabilities, 1/15/10
- Analysis of Statutory Changes Needed to Address Potential Conflicts of Interest, January 21, 2010

- Demographic Data on the Current CCB System
- Report of the State Auditor Access to Medicaid Home and Community-Based Long-Term Care Services Department of Health Care Policy and Financing Performance Audit January 2009
- Overview of Changes Made by DDRC and Alliance to Mitigate Potential Conflicts of Interest
- Foothills Gateway, Inc. Conflict of Interest Task Force Presentation Study Funding Associated with Single Entry Point and Target Case Management Activities Performed by Community Centered Boards (CCBs), November 2009, Meyers and Stauffer, LC
- FY 2007 DDD TCM Satisfaction Survey Results
- Special Report to the Joint Budget Committee on the History of Community Centered Boards and the History of the Controversy Surrounding Separation of Case Management (or Managed Care Duties) from Service Provision, January 1996
- Additional Option Idea from Jayne Tschirhart-Short
- DDD Data on Breakouts of CCB Billing for CCB Provided Services and Private Provider Services
- Overview of Structures of Services for Developmental Disabilities in Other States
- Presentation of Indiana's Case Management System, Caliber Case Management Services
- Overview of Services for Children with Developmental Disabilities including Early Intervention Services
- Data on Specific Conflicts of Interest Reported to the Division for Developmental Disabilities, to Arcs and to Parent to Parent
- Presentation of Accountable Care Collaborative Option for System Redesign by Carol Meredith
- Policy Statement on Service Coordination, Arc of the US and American Association on Intellectual and Developmental Disabilities
- Presentation on Changes in the Developmental Disabilities Service System in South Dakota
- Options for Resolving Potential CCB Conflicts of Interest by John Meeker and David Ervin
- System Re-design Ideas for Addressing Potential Conflict of Interest from Alliance
- Recommendations for System Re-Design to Address Conflicts of Interest in the CO System of Supports for People with Developmental Disabilities from The Arcs, the Legal Center and the DD Council
- Final Report for the COI TF from Jeanie Benfield, Consumer Representative

Task Force Members developed a process for generating and evaluating options based on a template developed by Task Force Member, Marijo Rymer (Please see Attachment C). They went through a painstaking analysis of each of the potential areas of conflict of interest identified in the USM Study and the June 2009 Audit and generated multiple options for addressing possible conflicts of interest in different parts of the Developmental Disability service system. After careful analysis of multiple options, they

narrowed the list down to a group of 50 options and other issues they wanted to seriously consider (Please see Attachment D). At this point, the Task Force concluded that they had sufficiently discussed and analyzed the differing options were prepared to address making decisions about their recommendations.

Public Comment

The Task Force identified the importance of public comment early in their process. They reserved time for public comment at each of their meetings and heard comment at all but two of those meetings. They did a broad solicitation throughout the Developmental Disability stakeholder community (Please see Attachment D) and held a Statewide Public Meeting via Videoconference at four locations throughout the State; Denver, Pueblo, Sterling and Grand Junction, to gather as much public comment as possible. They also received 159 written comments throughout their process. Themes that Task Force Members identified in their reception of the public comment are listed below.

- Generally, Task Force members perceived that the input was genuine and well intended. They expressed their appreciation and respect for the people who made comment either in person or in writing. They kept the themes expressed by members of the public, particularly consumers and families, present throughout the development of their recommendations.
- Some members were impressed with the number of families that attended and some members were disappointed.
- A large majority of the public, both family members and self-advocates, did not want change in their current services or personnel.
- Much of the input was emotional, some of it based in fear of loss of services or centralization of case management services in the metro area.
- There was overwhelming support for the local availability of case managers.
- Many people expressed a feeling that the system is not broken.
- Sensitivity to how rural communities will be impacted was another issue of broad concern identified through public comment.
- Several individuals identified problems they believed to be related to conflicts of interest.
- Some Task Force members expressed concern that they did not hear from provider agencies or Arcs. One Task Force member reported that she made calls to some of the providers to see why they had not attended, and was told that there was a hesitation from them to voice their concerns since their customers are referred by the CCBs.
- Several Task Force members expressed surprise that there was not a lot of comment on the extremely high turnover rates in some areas.

STATE OF COLORADO



Colorado Department of Human Services
people who help people



Bill Ritter
Gov

Karen L.
Executive Dir

VETERANS AND DISABILITY SERVICES
Jenise May, Interim Deputy Executive Director

DIVISION FOR DEVELOPMENTAL DISABILITIES
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MEMORANDUM

TO: Colorado Developmental Disabilities Stakeholders

FROM: Jenise May, Interim Deputy Executive Director, CDHS Veterans and Disability Services
Sharon Jacksi, Ph.D. Division Director, CDHS Division for Developmental Disabilities
Sandeep Wadhwa, MD, MBA, HCPF Medicaid Director and Chief Medical Officer
Barbara B. Prehmus, Director, HCPF Long-Term Benefits Division

SUBJECT: Establishment of a Task Force Regarding Conflict of Interest in the Colorado Developmental Disabilities System

DATE: February 24, 2010

The purpose of this memorandum is to provide stakeholders in the Colorado Developmental Disabilities system with information regarding the establishment of a task force to address conflict of interest issues within the Developmental Disabilities system. We invite stakeholders to apply to participate in an evaluation of the conflict of interest issues in the provision of single entry point, case management and program services for individuals with developmental disabilities.

Results of the State Auditor's Office 2009 audit of the Home and Community Based Services waiver for People with Developmental Disabilities indicated that the potential for conflict of interest initially raised by the Centers for Medicare and Medicaid Services, and further examined in a December 2007 study by the University of Southern Maine (USM), Muskie

School of Government titled “Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado’s Community Centered Boards” had not been resolved.

To this end, the Colorado Department of Human Services (CDHS) and the Department of Health Care Policy and Financing (HCPF) are convening a stakeholder task force to develop a resolution to the conflict of interest issues inherent in the Developmental Disabilities system. CDHS and HCPF have no pre-determined outcome for this evaluation of the current system. The task force will evaluate all options presented to them or developed by the task force, as well as the system options identified in the USM report, and recommend the best option for the system that resolves the conflict of interest issues.

The charge of the task force is to evaluate options for system re-design specific to resolving conflict of interest issues and to make recommendations to CDHS and HCPF. The task force is to recommend new statutory requirements for C.R.S. 27-10.5, if necessary. CDHS and HCPF intend to have a separate stakeholder process to look at modernizing the Home and Community Based Services waivers to look at broader issues of improving performance, access, efficiency and satisfaction.

Task force meetings will be open to the public. Public comment will be taken in two meetings to be held in different parts of the state. Written comments will also be accepted to ensure all stakeholders have the opportunity for input.

The task force will be composed of 15 members from the following stakeholder groups:

- Self-advocates
- Family members
- Community Centered Board staff and Board of Directors
- Service providers
- Advocacy organizations
- The Developmental Disabilities Council
- The Legal Center for People with Disabilities and Older People
- University Center for Excellence in Developmental Disabilities Education, Research, and Service (UCE), JFK Partners
- Long Term Care Advisory Committee
- County Department of Human Services
- Single Entry Point representative
- Other interested parties

Sharon Jacksi, DDD Director, and Jenise May, Interim Deputy Executive Director for Veterans and Disability Services, Sandeep Wadhwa, MD, MBA, Medicaid Director and Chief Medical Officer Barbara Prehmus, Director, Long-Term Benefits Division will also participate.

In order to have the most successful and efficient meetings, the Departments have asked Jean McAllister, Administrator of the Commission for Individuals who are Blind or Visually Impaired, to facilitate all task force meetings. Jean previously facilitated the DD Definition Task Force and we look forward to working with her on this project.

The composition of the task force will be selected based on an application process. If you are interested in participating in this task force, please complete the attached letter of interest form and submit to Sharon Jacksi, Ph.D. by March 3, 2010. Participants must commit to attendance as part of the application for this task force.

The task force will begin deliberation in March 2010 and will make recommendations for system re-design specific to resolving conflict of interest issues to CDHS and HCPF by May 30, 2010. The task force will then develop an implementation plan and address statutory changes, if necessary, by October 30, 2010. The Task force will meet from 10 a.m. to 3 p.m. on the following dates:

Tuesday, March 9th
Thursday, March 25th
Thursday, April 8th
Thursday, April 22nd
Thursday, April 29th
Thursday, May 13th
Thursday, May 27th

Anyone who is interested or who has questions may contact Sharon Jacksi at 303.866.7454 or Sharon.Jacksi@state.co.us.

Cc: Jenise May, Interim Deputy Executive Director for VDS
Barbara Prehmus, HCPF
Jean McAllister, CDHS
Sandeep Wahdwa, M.D., HCPF
DDD Staff
Lesley Reeder, HCPF

**COLORADO
DEPARTMENT OF HUMAN SERVICES
DIVISION FOR DEVELOPMENTAL DISABILITIES
And
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
LONG TERM BENEFITS DIVISION**

**CONFLICT OF INTEREST
TASK FORCE**

VALUES STATEMENT

Approved 3-25-10

- ❖ **Our work will be done with transparency:**
 - **Meetings will be open;**
 - **Decisions will be made in open meetings; and**
 - **Stakeholders will have access to the materials we review and to our final report.**

- ❖ **We acknowledge and respect the right and ability of individuals with developmental disabilities to self-determination and choice.**

- ❖ **Our work to address conflicts of interest in the Developmental Disabilities Service System will have three primary focal points:**
 - **Services**
 - **The goal of service provision will be to have enhanced quality of life for consumers (positive impact or outcome).**
 - **Services should provide choice to consumers.**
 - **Services should be accessible to consumers regardless of where they live.**

 - **Accountability**
 - **To consumers**
 - **Services to meet needs as determined by the interdisciplinary team**
 - **Services that enhance quality of life**
 - **To taxpayers and funders**
 - **Responsible use of public funds**

 - **Positive partnerships will provide the most effective service provision system**
 - **With providers**
 - **With consumers**
 - **With advocates**
 - **With families**

Conflict of Interest Task Force

Option Generation and Analysis Template

COI Issue _____

1. What is the current status of this function?
2. Which groups of individuals or programs are affected by this function?
3. What is the current experience for individuals and families for this function?
4. What are the COI concerns re: this function?
5. What options could eliminate COI re: this function?
6. What other factors should be considered re: this function as the system is re-designed?
7. How is this function funded now?

Option Analysis for Option _____

1. What changes would be required under this option?
2. How would these changes affect clients and families?
3. What are the arguments in favor of this option?
4. What are the arguments against this option?
5. What are the financial impacts associated with these changes?
6. Are there potential unintended consequences or other considerations affecting this issue that don't fall within the categories?

COI Task Force
OPTIONS FOR ADDRESSING CONFLICT OF INTEREST
June 10, 2010

- Possibly expand existing ombudsman through CDPHE to address DD issues
- Real penalties need to be in place – real regulation (\$?)
- Service planning and referral not done by agency that provides services
- All rate negotiation and OCDHS functions be done by the State
- Monitoring must be included in any system
- Monitoring of service plans by independent agency
- Centralized service provider selection process
- Maintain local relationships: use SEPs for ED/CM/Svc Planning with accommodation for rural areas
- Current CCBs or SEPs be given as a choice for families for both directions ED/CM/Svc Planning
- 1. A single entry point for all long term services and supports including DD and for the functions I & R and ED
- 2. Wait list administration be state responsibility
- 3. If SEPs are responsible for CM there will be very clear standards re: caseload, unique needs of people with DD and their families and a genuine local presence
- **OR**
- 3a. State could contract for CM services in metro area (1st soon) and exceptions could be made for rural areas (CCBs continue CM and service with additional safeguards)
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, standardized across the State - related to mitigation of COI so any CCB could be “Exempted” to do both
- **AND**
- Create a 21st entity to provide an option to clients and families
- Wait list handled by State DDD
- State provide an ombudsperson (with teeth and authority) and no CCB does any investigation

- Strong State QA presence/process with real consequences and authority
 - CCB monitoring of individual service plans
 - CCB Service Agencies would be monitored by PASAs in good standing (not CCBs) as a part of ongoing, regular self monitoring
 - State still does formal, external monitoring every 2 years
 - Referral system completely transparent (#of people – not percentages) that go to each agency
 - Rural CCBs would be required to actively recruit service agencies to come to their area to provide choice
-
- Eligibility needs to be determined by State or a single contracted entity
 - State Administer wait list
 - I & R statewide happen through a single entity for consistency
 - I & R for service planning should go to some single entry point (like Indiana's – with person centered plans done in a timely way)
 - Service brokering should be handled locally by SEP (not like the current Colo ones) or families
-
- State simplify billing system so Independent Contractors can bill directly (no need for OCDHS)
 - Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
 - Service provision is local
 - Service Agencies should be able to “market” their services to families from wait list forward
 - Standardization of process across the board
-
- Choice has to be on table, including keep some the same based on client need
-
- Real one stop shop for families
-
- State retain eligibility determination, wait list, and QA (Monitoring)
 - I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community
-
- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
-
- Grandfather or phase in to changes (rather than providing choice for clients and families)

- Use State definitions: Rural, Frontier, Urban

Parking Lot

1. People can choose between Alliance CCBs now
2. How much local dollars for what
3. How to minimize local dollars impact (1/8 mill)

In the following section, the options are grouped by area they impact, per your request

Information and Referral

- Service planning and referral not done by agency that provides services
- A single entry point for all long term services and supports including DD and for the functions I & R and ED
- Referral system completely transparent (#of people – not percentages) that go to each agency
- I & R statewide happen through a single entity for consistency
- I & R for service planning should go to some single entry point (like Indiana's – with person centered plans done in a timely way)
- Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
 - Service Agencies should be able to “market” their services to families from wait list forward
 - I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community

Eligibility Determination

- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- Eligibility needs to be determined by State or a single contracted entity
- Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
- Maintain local relationships: use SEPs for ED/CM/Svc Planning with accommodation for rural areas
- Current CCBs or SEPs be given as a choice for families for both directions ED/CM/Svc Planning
- 1. A single entry point for all long term services and supports including DD and for the functions I & R and ED

Administration of the Waiting List

- State Administer wait list
- Wait list administration be state responsibility
- Wait list handled by State DDD

Service Planning (Case Management)

- Maintain local relationships: use SEPs for ED/CM/Svc Planning with accommodation for rural areas
- Current CCBs or SEPs be given as a choice for families for both directions ED/CM/Svc Planning
- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community
- Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, standardized across the State - related to mitigation of COI so any CCB could be "Exempted" to do both **AND**
- Create a 21st entity to provide an option to clients and families
- Service planning and referral not done by agency that provides services
 4. If SEPs are responsible for CM there will be very clear standards re: caseload, unique needs of people with DD and their families and a genuine local presence

OR

3a. State could contract for CM services in metro area (1st soon) and exceptions could be made for rural areas (CCBs continue CM and service with additional safeguards)

- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, standardized across the State - related to mitigation of COI so any CCB could be "Exempted" to do both **AND**
- Create a 21st entity to provide an option to clients and families

Provider Selection

- Centralized service provider selection process
- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community

- Referral system completely transparent (#of people – not percentages) that go to each agency
- Rural CCBs would be required to actively recruit service agencies to come to their area to provide choice
- Service brokering should be handled locally by SEP (not like the current Colo ones) or families
- Service provision is local
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, standardized across the State - related to mitigation of COI so any CCB could be “Exempted” to do both **AND**
- Create a 21st entity to provide an option to clients and families
- Service planning and referral not done by agency that provides services

Rate Setting

- I &R Service Planning, Provider Selection and Rate Setting RFP’d out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community
- State simplify billing system so Independent Contractors can bill directly (no need for OCDHS)
- All rate negotiation and OCDHS functions be done by the State

Monitoring Services

- Strong State QA presence/process with real consequences and authority
- CCB monitoring of individual service plans
 - CCB Service Agencies would be monitored by PASAs in good standing (not CCBs) as a part of ongoing, regular self monitoring
- State still does formal, external monitoring every 2 years
- Real penalties need to be in place – real regulation (\$?)
- Monitoring must be included in any system
- Monitoring of service plans by independent agency
- State provide an ombudsperson (with teeth and authority) and no CCB does any investigation

General Application or Applies to Multiple Areas

- Choice has to be on table, including keep some the same based on client need
- Real one stop shop for families
- Grandfather or phase in to changes (rather than providing choice for clients and families)
- Use State definitions: Rural, Frontier, Urban

-
- State simplify billing system so Independent Contractors can bill directly (no need for OCDHS)
 - Possibly expand existing ombudsman through CDPHE to address DD issues
 - State provide an ombudsperson (with teeth and authority) and no CCB does any investigation



STATE OF COLORADO

Governor Bill Ritter, Jr.

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TO: All Interested Parties

FROM: Jean G. McAllister, Facilitator on behalf of the Conflict of Interest Task Force, Colorado Departments of Human Services and Health Care Policy and Financing

SUBJECT: Forum to Provide Public Comment Regarding the Redesign of the System for Developmental Disabilities in Colorado

DATE: May 18, 2010

The Colorado Department of Human Services (CDHS) and the Colorado Department of Health Care Policy and Financing (HCPF) has assembled a Task Force of stakeholders from the developmental disabilities system to develop recommendations for a resolution to the conflict of interest issues inherent in the Developmental Disabilities system.

Results of the State Auditor's Office 2009 Audit of the Home and Community Based Services waiver for People with Developmental Disabilities indicated that the potential for conflict of interest initially raised by the Centers for Medicare and Medicaid Services, and further examined in a December 2007 study by the University of Southern Maine (USM), Muskie School of Government titled "Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards" had not been resolved or sufficiently addressed. The 2009 Audit referenced above categorized those potential conflicts in seven areas on pages 43 and 44 of the Audit: Information and Referral, Eligibility Determination, Administration of the Waiting List, Service Planning, Provider Selection, Rate Negotiation and Monitoring Services.

Consequently, the charge of the COI Task Force is to evaluate options to resolve conflict of interest issues and to make recommendations to CDHS and HCPF. The task force is to recommend new statutory requirements for C.R.S. 27-10.5, if necessary. The Task Force

will evaluate all options presented to them or developed by the Task Force, as well as the system options identified in the USM report, and recommend the best option for the system that resolves the conflict of interest issues.

The Task Force is interested in hearing public comment regarding options that will resolve conflict of interest issues inherent in the developmental disabilities system. It has set aside the following date and time for any interested persons to provide comment to the Task Force.

**Tuesday, June 1, 2010
1:00 pm to 5:00 pm**

Please save this date and time. In the interest of allowing as many stakeholders as possible access to provide input, the Task Force will be taking comment through a video teleconference with multiple sites throughout the State. Sites are confirmed in four areas of the State at the following locations.

Denver: The Auditorium at Fort Logan Campus
3520 W. Oxford Ave.
Denver, CO 80236

Grand Junction: The Facilities Conference Room at Grand Junction Regional
Center
2800 Riverside Parkway
Grand Junction, CO 80501

Pueblo: The Colorado Mental Health Institute, Conference Room A
1600 W. 24th Street
Pueblo, CO 81003

Sterling: Logan County Human Services
508 S. 10th Avenue
Sterling, CO 80715

The University of Southern Maine (USM), Muskie School of Government report, "Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards" and the State Auditor's Office 2009 Audit of the Home and Community Based Services Waiver for People with Developmental Disabilities are attached to this email. These reports identify potential conflicts of interest that must be addressed by this Task Force.

If there are any specifically identified options being considered prior to the Public Comment Meeting, they will be sent in a separate memo.

Time to speak may be limited, so that all parties wishing to provide comment to the Task Force will have time to do so. It would be helpful if a written version of the testimony could be provided at the time comments are made. The Task Force will also take written comment from anyone who is not able to attend the public forum on June 1st. Written comment will be accepted through May 31st (or at the meeting on June 1st) and should be directed to:

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Fax#: 303-866-5024

Ms McAllister will distribute all comments to the Task Force. If there is time, written comments will be read into the record on June 1st.

If anyone needs special accommodations for the public forum (e.g., interpreter services), please contact Roberta Aceves at 303-866-7030 or Roberta.Aceves@state.co.us