

Governor's Commission on Intellectual Disability

September 21, 2016

The Executive Office of Health & Human Services

One Ashburton Place

Boston, MA

DRAFT

The Chair, Mr. Jim Brett, called the meeting to order at 4:05pm and welcomed Commission members and DDS staff. Commission members present were: Anne Fracht, Doreen Cummings (phone), George Ford, Jim Brett, Jim Cassetta, Joann Simons and Paul Zerola. DDS staff present were: Commissioner Elin Howe, Jane Ryder, Laney Bruner-Canhoto, Gail Grossman and Victor Hernandez.

Laney Bruner-Canhoto and Gail Grossman presented the DDS progress on complying with the HCBS "Community Rule". On March 17th, 2014 the Centers for Medicare and Medicaid Services (CMS) published its final rule governing the settings in which home and community-based services (HCBS) are provided. The rule sets out CMS' expectations for settings in which HCBS services are provided. The purpose of these regulations is to ensure that individuals receive HCBS Waiver services in settings that are integrated in and support full access to the greater community. CMS moved away from defining settings based solely on specific location, size, geography or physical characteristics to defining them based on outcomes and quality of the person's experiences.

DDS conducted a review and analysis of its regulations, policies and quality assurance systems to determine how they meet the intent of the new HCBS rule. DDS also conducted assessments of its residential supports offered through HCBS waivers. A statewide transition plan was submitted to CMS on February 2015. This plan addressed primarily residential waiver services; an addendum to address non-residential waiver services was submitted later in 2015, which included an assessment of both community-based day supports and employment supports. The Commonwealth is now preparing to submit to CMS a revised statewide transition plan that incorporates modifications from feedback received from CMS in the spring of 2016. To date CMS has approved only one statewide transition plan (Tennessee), with 5 other states receiving "initial" approval.

One GCID member asked if there was a legal review completed of the requirement that DDS individuals sign their own leases. The Commissioner provided a review of the Department's best faith effort to meet CMS' intent within the Transfer Agreement and the ISP process. The Commissioner also provided her confidence with the DDS contracted providers to meet the residential and employment goals of the CMS guidance. The funding for these initiatives will show up in the FY18 & 19 budget request.

Gail Grossman reviewed the Office of Inspector General Report (July 2016) titled, "*Massachusetts Did Not Comply with Federal and State Requirements for Critical Incidents Involving Developmentally Disabled Medicaid Beneficiaries*." The report which covered a 2 ½ year period from 2012 through mid-2014 and concluded that DDS did not adequately safeguard 146 out of 334 developmentally disabled Medicaid beneficiaries because the DDS' system of reporting and monitoring critical incidents did not

work as designed. More specifically DDS did not ensure that its group homes reported all critical incidents or reasonable suspicions of abuse/neglect to the Disabled Persons Protection Commission (DPPC). The report also stated that DDS did not adequately obtain and analyze data on the selected critical incidents and appropriate action steps were not taken which could prevent similar critical incidents in the future.

Ms. Grossman emphasized that DDS takes its responsibility to assure the health and safety of the individuals it supports very seriously and there is nothing more important than assuring that the individuals we serve are free from harm. DDS, along with its provider community, have zero tolerance with respect to preventing and addressing abuse and neglect by caregivers. Despite our best efforts, incidents will occur and when they do DDS and its providers do all they can to respond and to prevent a recurrence. While the Department strongly disagrees with the title, methodology and misleading conclusions reached in the audit report, Ms. Grossman reviewed the efforts towards implementing the OIG audit recommendations. Those efforts include: DDS and MassHealth having a data sharing agreement for a quarterly exchange of information to review that no unexpected hospital visit goes unreported in the HCSIS incident management system, an advisory went out to providers and DDS staff reiterating the importance of reporting all incidents in the HCSIS system and on ensuring that appropriate follow-up actions have been taken in response to incidents, a series of trainings have and will continue to train DDS staff and providers of the importance of reporting all required incidents of abuse/neglect and assuring that immediate and longer term action steps are taken, a "Quality is no Accident" brief on ER/hospitalizations will be developed by October 2016 and a field was added to the HCSIS incident management system related to whether if DPPC should have been notified. DDS will provide updates at future GCID meetings on the progress of these efforts.

There being no further business, Ms. Simons made a motion to adjourn, seconded by Mr. Zerola. Motion approved and Mr. Brett adjourned the meeting at 5:15 p.m.

Next meeting of the Commission is scheduled for Wednesday, December 14, 2016 from 4:00 – 6:00 PM at EOHHS Matta Conference Room, One Ashburton Place, 11th Floor, Boston.