

Disability Rights IOWA

Law Center for Protection and Advocacy™

March 20, 2015

Terry Branstad, Governor
State Capitol Building
1007 East Grand Ave.
Des Moines, IA 50319

Charles Palmer, Director
Iowa Department of Human Services
Hoover State Office Building
Des Moines, IA 50319

RE: COMMENTS AND REQUESTED AMENDMENTS TO THE REQUEST FOR PROPOSAL
(RFP) TO INCLUDE INTEGRATED COMMUNITY-BASED EMPLOYMENT SERVICES FOR
MEDICAID RECIPIENTS WITH DISABILITIES

Dear Governor Branstad and Director Palmer:

Disability Rights Iowa (the Congressionally mandated protection and advocacy system for Iowans with disabilities or mental illness and the Iowa chapter of the Association for People Supporting Employment First (Iowa APSE) urge you to strengthen the integrated employment service provisions in the Request for Proposal (RFP) known as the Iowa High Quality Healthcare Initiative.

DHS has not taken advantage of the opportunity to transform the State of Iowa's employment-related long-term services and support system from a system funding segregated facility-based employment to a system developing and funding a supported employment service system for individuals with disability or mental illness. The RFP maintains employment support (SE) services as covered services at current levels (RFP, Exhibit D), contains a general statement requiring the MCO to comply with laws regarding a member's right to fully participate in the community and work (RFP, § 8.10.8), and states that DHS "intends" to develop reports, baseline data and performance targets surrounding quality of life outcomes, including the number of members who gain and maintain competitive employment. (RFP, § 14.7). DHS has not required or incentivized the managed care contractor to rebalance the current employment services system for Medicaid recipients in Iowa. Essentially, DHS is maintaining the current employment services system "as is." Therefore, the RFP violates the integration mandate in Title II of the Americans with Disabilities Act, as amended, and the U.S. Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999) because Iowa is not moving at a reasonable pace in moving towards supporting integrated community-based employment.

As of September 3, 2013, Iowa was spending \$15,980,448 and \$6,762,814 in Iowa's state match for Medicaid-funded prevocational and day habilitation services respectively. As the RFP currently stands, the Contractor is simply required to reimburse providers for the current employment services, which have resulted in an emphasis on facility-based services. The State

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could reduce the large amounts currently being spent on segregated facility-based services and move the State at a reasonable pace towards *Olmstead* compliance by requiring the Contractor to define and pay for the supported employment related LTSS based on the model developed through a 2013 stakeholder input process and currently in final stages of review and implementation ("2013 Employment Initiative").

Therefore, DRI urges the State to amend the RFP to require the bidders to develop an integrated employment service system for individuals with disabilities by amending the RFP as follows:

1. Add the following definition in Exhibit A (Definitions):

2013 Employment Initiative. In 2013, DHS sought input and recommendations from a group of stakeholders about how the State of Iowa could transform from its current employment services system which emphasize segregated facility-based employment to a system that provides Individualized services associated with obtaining and maintaining competitive paid employment in the least restrictive and most integrated environment possible. The input and recommendations are currently in the final review and implementation stage by DHS.

2. Replace "best practices" throughout the RFP with "evidence-based practices."
3. Add the underlined phrase to Section 1.2 (Goals):

Through this program, DHS seeks to improve the quality of care and health outcomes for Medicaid and CHIP enrollees while leveraging the strength and success of current DHS initiatives, including the 2013 Employment Initiative. The program has been designed to emphasize member choice, access, safety, independence, and responsibility. Program contractors will provide high quality healthcare services in the least restrictive and most integrated manner and setting appropriate to a member's health, and functional status and in a way that offers the greatest opportunities for active community and workforce participation.¹ Contractors will be responsible for delivering covered benefits, including physical health, behavioral health and long-term services and supports (LTSS) in a highly coordinated manner. The program is intended to integrate care and improve quality outcomes and efficiencies across the healthcare delivery system, in turn decreasing costs through the reduction of unnecessary, inappropriate, and duplicative services.

4. Add the underlined phrase to Section 2.3.3.1 of the RFP:

¹ This language is taken from the Centers for Medicare and Medicaid Services Guidance to STATES USING 115 DEMONSTRATIONS R 1915(B) WAIVERS FOR MANAGED LONG TERM SERVICES AND SUPPORTS PROGRAMS, May 20, 2013, pp 3 and 8. ("CMS Guidance") <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/delivery-systems/downloads/1115-and-1915b-mltss-guidance.pdf>.

To financially incent contractors to deliver LTSS in the least restrictive environment, the State plans to blend the Institutional (e.g. Nursing Facility and ICF/ID) and Home and Community-Based Services (HCBS) populations into one rate cell, encouraging management of the entry into institutions and the development of integrated, community-based living and employment services. Each contractor's rates will be adjusted initially to reflect the Institutional versus HCBS mix of individuals enrolled with the Contractor. The blending percentage will be updated on a regular basis, at least annually.

5. *Since there are thousands of individuals receiving Medicaid-funded Prevocational and Day Habilitation Services in Iowa, DRI recommends that the RFP prioritize the individuals identified in DHS' 2013 Supported Employment Initiative or individuals with disabilities and/or mental illness who are 25 years of age or younger, basically the ADA generation. In future years, DHS can require managed care companies to focus on other populations. In light of this focus, DRI recommends that DHS add a new subsection 3.2.16 entitled "Employment Services and Supports" and include one of the alternatives below in that section.*

ALTERNATIVE A:

§ 3.2.16 Employment Supports and Services

The Iowa Department of Human Services is dedicated to serving individuals in the most integrated employment settings and to implementing the United States Supreme Court's mandate in Olmstead v. L.C. DHS shall require the contractor to define and pay for the supported employment-related LTSS in accordance with the model developed through the 2013 Employment Initiative. All employment services and supports for HCBS waiver recipients must be provided in accordance with any rules that CMS issues on employment services for HCBS waiver recipients.

ALTERNATIVE B:

§ 3.2.16 Employment Supports and Services

The Iowa Department of Human Services is dedicated to serving individuals in the most integrated employment settings and to implementing the United States Supreme Court's mandate in Olmstead v. L.C. All employment services and supports for HCBS waiver recipients must be provided in accordance with any rules that CMS issues on employment services for HCBS waiver recipients.

- i. By the end of Year 1 of the Contract, the Contractor shall:*

- a. identify by name, provider and location the number of individuals who are currently age 25 or under and are receiving Medicaid-funded Pre-vocational and/or Day Habilitation Services (ADA Generation Group)
 - b. assess the strengths, needs and preferences of the ADA Generation Group with respect to employment goals and include these goals in each Individual's Service Plan, as required in 4.4.3 of the RFP;
 - c. require the contractor to provide incentives to providers to transform their employment services from segregated facility based services to Supported Employment Services, including becoming Employment Networks under the Ticket to Work and Work Incentives Improvement Act.
 - d. Require the Contractor to define and pay for employment-related LTSS at the rate recommended by the 2013 Supported Employment Initiative
- ii. In Years 2 and 3 of the Contract, the Contractor shall provide job exploration, job discovery, supported employment services and other employment services and supports that assist at least 50% of the individuals in the ADA Generation to work in competitive employment settings, with appropriate employment related LTSS for at least 20 hours per week.
- iii. At the end of Year 3 of the Contract, the Contractor shall submit a written report to DHS which states:
- a. The number and percentage of members that transitioned from Pre-Vocational Services to Integrated Community-Based Employment and their employer(s) of record, their hourly wage and their hours worked each week, and
 - b. The number and percentage of members that transitioned from Day Habilitation Services to integrated community based services and, if they are employed, provide the same information in Subsection iii(a) above.
- iv. If DHS and the Contractor agree to any two year extensions of the Contract, the Contractor will be required to reinvest any Savings it realizes from the reduction of its payments for Pre-Vocational and Day Habilitation services into the development of Supported Employment Services.
6. Revise section 4.4.3 to include employment in the Service Plan content for individuals receiving 1915(C) HCBS Waiver Services as follows:

Service Plan Content

In accordance with 42 CFR 441.301 and the Iowa Administrative Code 441-90.5(1)b and 441-83 the Contractor shall ensure the service plan reflects the services and supports that are important for the member to meet the needs identified through the needs assessment, as well as what is important to the member with regard to preferences for the delivery of such services and supports, including employment services and supports. The service plan must reflect the member's needs and preferences and how those needs will be met by a combination of covered services and available community supports. The person-centered service planning process shall be holistic in addressing the full array of medical and non-medical services and supports provided by both the Contractor or available in the community to ensure the maximum degree of integration and the best possible health outcomes and participant satisfaction. The Contractor shall ensure the service plan:

7. *Add the underlined phrase to Section 8.10.8 of the RFP:*

The right to fully participate in the community and to work, live and learn in the most integrated manner and setting to the fullest extent possible; and

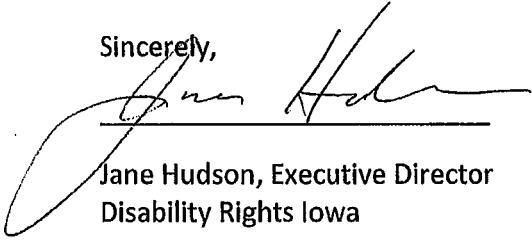
8. *Revise Section 14.7 of the RFP as follows:*

Quality of Life Reports and Performance Targets

DHS intends to develop reports, baseline data and performance targets surrounding quality of life outcomes for members. ~~Potential areas for measurement include but are not limited to:~~ DHS will require the Contractor to provide to DHS on an annual basis (i) data on increased life expectancy; (ii) the number and percentage of members who are receiving Pre-Vocational Services and the numbers of members who have transitioned from Pre-Vocational Services to who gain and maintain competitive employment and their hourly wage, weekly hours of work, and employer(s) of record; (iii) the number and percentage of members receiving Day Habilitation Services and number and percentage of members who have transitioned from Day Habilitation Services to integrated engaged in volunteer work employment and their hourly wage, weekly hours of work, and the employer(s) of record; (iv) satisfaction; and (v) reduction in homelessness. DHS may require the Contractor to conduct a member survey to measure key experience MED-16-009 Iowa High Quality Healthcare Initiative and quality of life indicators using best and evidence-based practices for reaching populations with special healthcare needs. The State will analyze the findings of the survey to identify required performance improvement activities, shall make the findings available to stakeholders and shall have the EQRO validate the findings.

With the issuance of the RFP, the State of Iowa and the Department of Human Services has a golden opportunity to transform the employment services system for individuals with disabilities to a system that supports integrated employment in competitive settings. We fervently hope that Iowa and DHS will take full advantage of this opportunity to incorporate in the RFP the employment systems improvement work that has been done over the past few years.

Sincerely,



Jane Hudson, Executive Director
Disability Rights Iowa



Iowa Association of Persons Supporting Employment First