

Comparison:
Managed Care RFP (revised)
&
National Council on Disability Guidelines

Jane Hudson
Executive Director
Disability Rights Iowa

Americans with Disabilities Act

- ADA II Integration Mandate:
 - a public entity must “administer services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”
- Integrated setting enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible.”

U.S. Supreme Court Olmstead Decision

Public entities are required to provide community-based services to persons with disabilities when

- 1) Such services are appropriate
- 2) The affected persons do not oppose community-based treatment, and
- 3) Community services can be reasonably accommodated, taking into account the resources of the entity and the needs of other persons with disabilities

National Council on Disability

- Independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families
- Guiding Principles: Successfully Enrolling People with Disabilities in Managed Care Plans

Expectations of the Centers for Medicare and Medicaid Services

- CMS Guidance to States Using 115 Demonstrations or 1915(B) Waivers for Managed Long Term Services and Supports Programs (5/20/13)

Iowa High Quality Health Care Initiative

- 2/16/15: Request for Proposal Scope of Work
- 3/26/15: Revised RFP Scope of Work (RFP)
- 7/31/15: RFP Awards Published (7/31/15)
- 1/1/16: Medicaid Modernization Effective

National Council on Disability Guidelines

- 1) Community Living
- 2) Personal Control
- 3) Employment
- 4) Support for Family Caregivers
- 5) Stakeholder Involvement
- 6) Cross Disability/Live Span Focus
- 7) Readiness Assessment & Phase In Schedule

NCD Guidelines (cont.)

8. Provider Networks

9. Transitioning to Community-Based Services

10. Competency and Expertise

11. Operational Responsibility and Oversight

13. Maintenance of Effort and Reinvesting Savings

12. Continuous Innovation

14. Coordination of Services and Supports

NCD Guidelines (cont.)

- 15. Assistive Technology and Durable Medical Equipment
- 16. Quality Management
- 17. Civil Rights Compliance
- 18. Continuity of Medical Care
- 19. Due Process
- 20. Grievance and Appeals
- # Medications/Pharmacy Benefits

Focus Today

- 1) Community Living
- 2) Employment
- 3) Stakeholder Involvement
- 4) Readiness Assessment and Phase In Schedule
- 5) Quality Management

Community Living

- **NCD:** The central organizing goal of system reform must be to assist individuals with disabilities to live full, healthy, participatory lives in the community.
- **CMS:** MLTSS must be delivered in the most integrated fashion, in the most integrated setting, and in a way that offers the greatest opportunities for active community and workforce participation. (ADA & Olmstead)

Goals

- Integrated home and community-based services are not stated goal of RFP (Section 1.2)
- Least restrictive services are not necessarily most integrated services
- community-based alternatives within available resources”

ADA & Olmstead

- Added ADA and Olmstead to section on compliance with federal laws
- Behavioral Health Services and long-term care services and supports:
 - “DHS dedicated to serving individuals in communities of their choice within the resources available and to implementing the U.S. Supreme Court’s mandate in Olmstead
 - “MCO shall consider individual member choice and community based alternatives to promote the State’s goal of maximum community integration”
(Sections 3.2.8 and 4.1)

Some provisions promoting integration mandate

- Eligible enrollees include individuals in institutions (state resource centers, nursing facilities, ICF/IDs)
- Blended single rate cell
- MCO can authorize access to HCBS waiver when demonstrates corresponding reduction in institution
- MCO responsible for option counseling and transition activities when nursing facility resident identified for return to community by MDS § Q

But insufficient to comply with ADA and Olmstead mandate

- No requirements or incentives to
 - develop integrated HCBS services or recruit HCBS providers (limitation: “within available resources”)
 - reduce waiting list for HCBS services
 - reinvest excess profits into development and implementation of HCBS services
 - Follow evidence-based practices instead of “best”

Non-compliant with ADA & Olmstead (cont.)

- develop demonstration projects for specific institutionalized populations
- Reporting to DHS on decreases of members in institutionalized services, but no specific performance targets or consequences
- Allow assessments and transition plans to move forward despite guardian opposition
- To provide or arrange for specialized services for nursing facility residents with MI or ID so that they can move into the community

Employment

- **NCD:** For non-elderly adults with disabilities employment is a critical pathway toward independence and community integration. Working age enrollees must receive the supports necessary to secure and retain competitive employment.
- **CMS:** MLTSS must be delivered in the most integrated fashion, in the most integrated setting, and in a way that offers the greatest opportunities for active community and workforce participation.

RFP: Employment services neglected

- Mentions employment support services as covered benefit (Exhibit D)
- 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. (8.10.8)

More needs to be done to move Iowa at reasonable pace towards Olmstead compliance

- Incorporate recommendations from 2013 Employment Initiative (rates, definitions)
- Have performance targets for rebalancing employment services and supports from facility-based to integrated, supported employment
- Include employment in service plan content
- Require contractor to report on employment targets and achieve them

Stakeholder Involvement

- RFP revised has added specific timeframes and requirements to the development of the Stakeholder Advisory Board
- Membership of committee not identified. Sixty percent should be enrollees with disabilities, mental illness or their family members for children, guardians for adults.

Section 8.12.

Readiness Assessment and Phase-In Schedule

- **NCD:** States should complete a readiness assessment before deciding when and how various sub-groups of people with disabilities should be enrolled in managed care plans. A state's phase-in schedule in turn should be based on the results of this assessment.
- **CMS:** Adequate planning. It is essential to allow adequate time in advance of implementing new, expanded or reconfigured MLTSS programs to allow for thoughtful planning and design, incorporation of stakeholder input and implementation of safeguards to ensure a smooth transition to MLTSS.

Ready?

- RFP – short paragraph about an MCO passing a readiness review process and an implementation proposal.
- But,
 - What is readiness criteria or tool?
 - Where is phase-in schedule?
 - 6 months too short

Quality Management & Oversight (cont.)

- DHS added a provision that the contractor, upon request, must be able to provide evidence to DHS that all policies and procedures have been implemented. (**§ 2.13**)

Quality Management & Oversight

DHS/IME should provide more information in RFP as to:

- 1) how the state itself intends to staff and provide QI/QM and
- 2) how the Contractor should coordinate its QI/QM system with State

Quality Management & Oversight

- DHS in revised RFP is requiring MCO to document the methods and processes the Contractor used to identify program and clinical improvements that enhance the appropriate access, level of care, quality and utilization of program services by members and providers.
- MCO is required to file reports with DHS and demonstrate a decrease/increase in certain performance targets.
- But no specifics on what performance targets are and no consequences for not meeting.

Quality Management & Oversight

- There are also no provisions in the RFP for the State and/or the Contractor to provide MCO report cards to the public, which are transparent, easily-understandable and useful to participants in choosing an MCO.

Value Added Services?

- To what extent can MCOs include value added services to achieve
 - ADA and Olmstead compliance
 - NCD guidelines and
 - CMS guidance and expectations

(§ 3.2.14)

Thank-you

- Questions?
- Comments?
- Input?