

October 29, 2019

Allison McCarthy  
New York State Office for People With Developmental Disabilities  
44 Holland Avenue  
Albany, NY 12229

Re: Follow-Up to People First Care Coordination Transition Advocacy Letter

Dear Ms. McCarthy,

We are writing as follow-up to our November 15, 2018 People First Care Coordination Transition advocacy letter. In response to our letter, OPWDD has taken actions on several of the recommendations we presented, among those actions:

- The 2018-06R Administrative Memorandum (ADM) was released, which extended the transition period to December 31, 2019, with allowance for Staff Action Plans (SAPs) to be in place by March 1, 2020.
- The 2018-06R ADM also highlighted the suspension of certain billing standards and included a Dispute Resolution Process.
- Two key Question and Answer documents were released:
  - Connecting the Dots – Released on November 16, 2018
  - The Life Plan, Staff Action Plan and Delivery of Habilitation Services – Released on June 24, 2019
- Informational webinars have been held on the second and fourth Wednesday of every month and the recordings have been published to OPWDD's website.
- A Care Management Contacts resource was published to OPWDD's website.

These efforts have reduced audit vulnerability, while encouraging partnership between all stakeholders.

We appreciate that OPWDD has focused its actions primarily on areas that created increased audit vulnerability. However, there continue to be some unresolved concerns from our November 15, 2018 letter, as well as new challenges impacting all stakeholders. We believe it is important to share these challenges with OPWDD, and to present recommendations that will support the Office's goal of delivering improved Care Management services.

#### **Care Coordination and Provider Collaboration**

The "Care Coordination Organization and Provider Collaboration on the Life Plan" webinar conducted by OPWDD emphasized the importance of collaboration between all parties involved in the person-centered planning process. We're pleased that OPWDD has undertaken a review of the CCOs and CCO implementation and continues to support collaboration.

**Recommendations:**

We recommend OPWDD organize a small work group of state staff, a Provider Association representative, a CCO representative and a self-advocate to inform the CCO implementation process. The work group would meet on a regular basis, perhaps every other month and via conference call. The Provider Association representative, CCO representative and self-advocate would seek information from their respective colleagues and report back to each other on best practices and areas for improvement at the regularly scheduled meetings.

**CCO/HH Information Technology Progress**

One year into the transition, stakeholders are adapting to their roles as partners in care management, and to the new service plan models. As this aspect of the transition continues to stabilize, the next phase of the transition will be critical and should focus on moving the system forward using consistent technological platforms, such as a secure web-based portal and integration of existing data feeds. Most critically, the integration with any portal must provide access to all providers, regardless of what Electronic Health Record (EHR) system they currently use.

The absence of a secure web-based portal continues to severely impact the effectiveness of communications between stakeholders. There is a significant need to make information – such as hospitalizations or a change in the selected Care Manager – consistently and openly available to stakeholders. We are aware that OPWDD is in the process of exploring a possible pilot platform, and we offer our support in that process.

Since the beginning of the transition, providers have worked closely with their EHR vendors to ensure their software generates service documentation in compliance with OPWDD's ADMs and applicable regulations. While progress has been made, the absence of integrated data feeds continues to present risk of inconsistencies between frequently changing service plans.

**Recommendations:** We urge OPWDD to thoroughly consider who will be responsible for managing the technical issues of rolling out a new technological platform, such as providing initial and on-going system access and user training. Furthermore, the cost of integrating existing data feeds should not be passed on to the providers. We are willing to participate in a review of any draft guidance documentation and system demonstrations.

**Lapses in Medicaid Eligibility**

Prior to the transition, Medicaid Service Coordinators (MSCs) supported providers in the Medicaid enrollment and recertification process. The close relationship between providers and MSCs provided an effective means for keeping lapses in Medicaid eligibility to a minimum. Since the transition, providers do not have access to individual recertification dates and have limited ability to address any lapses in Medicaid eligibility. Providers have reported denials of reimbursement due to an individual losing their Medicaid eligibility. This has a significant impact on the provider's ability to continue to deliver necessary services to the individual. The provider is also left with limited options to remedy this situation.

**Recommendations:** We recommend that OPWDD review the responsibilities of Care Managers with the CCOs to ensure that individuals remain Medicaid eligible. It must be made explicit that Care Managers and CCOs are responsible for maintaining Medicaid eligibility with CMS. Providers of service should not be held accountable for these failures via potential audit findings. A common location for retaining dates of recertification should be identified (e.g., CHOICES, the web-based portal), so the Care Manager and provider can work in tandem to ensure that individuals continue to receive services.

### **Life Plan Development and Review Processes**

The release of the 2018-06R ADM afforded some relief from audit vulnerability by suspending some of the service documentation standards that were creating significant exposure for providers. While OPWDD has developed solutions to some of the service documentation concerns, the person-centered planning process continues to need refinement. The current process has been a significant step backwards in the evolution of person-centered planning. Life Plan meetings have become a place of negotiation between the CCO and providers over functional plan language, due to the limitations of the IAM assessment. Life Plan meeting time would be better served discussing the individual's goals and objectives. We continue to have concerns in the areas of Life Plan approvals and the review process.

### **Scheduling of Life Plan Meetings**

OPWDD's expectation of a collaborative process during Life Plan meetings has been hindered by inconsistencies with the Life Plan meeting process. Our experience has not been aligned with the expectations communicated in OPWDD's January 23, 2019 presentation titled, "Care Coordination Organization and Provider Collaboration on the Life Plan." The presentation reinforced that, "all major providers that must implement the Life Plan are included in the Life Plan meeting(s)/process."

The scheduling of Life Plan meetings has been unreliable, which has led to meetings going unscheduled or being significantly delayed. We have received numerous reports of providers not being invited to Life Plan meetings, resulting in their inability to participate in the development of the Life Plan, which is then distributed to them with assigned goals and supports. Providers have also shared recurring Care Manager confusion regarding the identification of a Life Plan versus an ISP meeting. As an example, at the outset of the meeting, the Care Manager identifies the meeting as an ISP review; however, the provider later receives a Life Plan. This has created unnecessary work for providers, as they are then responsible for converting completed Habilitation Plans to SAPs. Furthermore, providers report that the low percentage of Life Plans completed to date indicates that, not only will the system not meet the 12/31/19 deadline, but many people have not yet transitioned to a Life Plan.

Currently, the CCOs are required to finalize the Life Plan within 45-days of the Life Plan meeting. However, there is no timeframe requirement for the Care Manager to distribute the Life Plan to the providers. When Life Plans are not distributed in a timely manner — sometimes beyond 60-days from the initial meeting — providers are forced to develop their

Staff Action Plans without the Life Plan as a reference. This increases audit vulnerability, should the provider receive a Life Plan that is inconsistent with what was discussed at the review. Additionally, this reduces the quality in Staff Action Plans, as authors must rush their development to meet the 60-day distribution time frames.

**Recommendations:** We recommend that OPWDD continue to work with CCOs and providers to determine consistent expectations and best practices for scheduling Life Plan meetings, as well as specific language that should be communicated at the beginning of each meeting to ensure those present are aware of the type of meeting being performed.

Additionally, we recommend that OPWDD reinforce the expectations for CCO completion and distribution of complete Life Plans to the providers. Furthermore, we recommend that OPWDD enforce a Life Plan distribution timeframe that allows providers an adequate window of time to develop and distribute the Staff Action Plan.

#### **Life Plan Changes and Signatures**

There are often changes requested when Life Plan drafts are disseminated to stakeholders. These changes require the Care Manager to redistribute updated drafts to all parties. It is then the responsibility of each party to re-read the entire Life Plan prior to signing, because it is unclear what changes were made. Reviewing each draft to determine what changes were made is extremely time consuming and not an effective use of resources.

Furthermore, providers continue to receive finalized Life Plans without the appropriate signatures and/or a signature page. Providers have been told that a signature page will not be distributed.

**Recommendations:** We recommend that OPWDD work with MediSked to include a distinct section within the Life Plan that clearly identifies what changes have been made to the Life Plan so that only parties directly impacted by the change(s) made to the draft would need to review and sign again. This would mitigate the redundant reviews that must occur for every draft version of a Life Plan.

Additionally, we recommend that OPWDD publish guidance to the CCOs and providers on any requirements to maintain Life Plan signature pages, and if such a requirement is a payment or programming standard.

#### **Consumer Advisory Board (CAB) and Life Plan approvals**

There is significant concern surrounding Willowbrook individuals and the need for CAB representatives to approve Life Plans. Care Managers have reported that CAB representatives are requiring Staff Action Plans be provided to them before they will sign the Life Plan.

As a result, providers have experienced substantial delays in the receipt of finalized Life Plans and our ability to transition to and implement SAPs.

**Recommendations:** We recommend that OPWDD continue to work through CAB concerns so that these delays can be prevented in the future. CAB may also require additional education and support regarding the impact that significant delays in approval of an individual's care plan can have on the delivery of their services, as well as the dispute resolution process that OPWDD has established.

### **Communication and Transparency**

It is imperative that processes are established to mitigate the potential for any communication barriers and transparency issues that could ultimately create additional challenges during this transition. This is an area where the CCOs and providers would benefit from additional guidance and clear expectations.

We raise the following additional concerns specific to communication and transparency.

#### **Dispute Resolution Policies**

As required in the CCO/HH Manual, as well as the person-centered planning process, each CCO is responsible for the development and implementation of a dispute resolution process.

Often, providers are involved with more than a single CCO. It is our understanding that each CCO has separate and distinct processes in place related to dispute resolution. Knowing and understanding the different dispute resolution expectations for each CCO is a challenging task without having access to the individual CCO's dispute resolution policies and procedures.

**Recommendations:** We recommend that OPWDD continue to work with the CCOs to ensure the variations between their dispute resolution processes remain as minimal as possible. To ensure all stakeholders are familiar with the process, we recommended that OPWDD require CCO's publish their dispute resolution policies and procedures. OPWDD should provide guidance on the specific minimum standards that must be contained within any CCO dispute resolution policy and procedure including but not limited to, requiring an informal process between the CM and provider, documentation of the dispute, progression through the CCO chain, and final determination made by OPWDD.

We recognize that the system continues to experience significant changes, and that navigating these changes can undoubtedly be very challenging. We appreciate OPWDD's willingness to hear feedback from the provider community, and we recognize the improvements that have been achieved since our November 15, 2018 advocacy letter. Our goal is to assist OPWDD in addressing inconsistencies and reducing confusion related to these changes through continued open communication and collaboration.

Sincerely,

Alliance of L.I. Agencies for Persons with D.D.  
*Seth Stein*

Cerebral Palsy Associations of NYS, Inc. (UCPANYS)  
*Susan Constantino*

Executive Directors Association

*Barbara Wale*

Financial Managers Association (FMA)

*Tina Chirico*

Interagency Council of Developmental Disabilities Agencies (IAC)

*Tom McAlvanah*

Multicultural and Emerging Agency Provider Council

*Philip Catchpole*

New York Alliance for Inclusion & Innovation

*Michael Seereiter*

New York Association of Emerging & Multi-Cultural Providers, Inc. (NYAEMP)

*Yvette Watts*

NYS Catholic Conference

*Lori VanAuken*

The Arc New York (NYSARC, Inc.)

*Mark van Voorst*

cc: Roger A. Bearden