

**Olmstead Council Meeting**  
**Tuesday, April 20, 2010**  
**1:00 PM – 4:00 PM**

**Meeting Minutes**

**Approved by the Council on July 20, 2010**

**Members Present:** Kevin Smith, Jeannie Elkins, Nancy Fry, Laura Friend, Karen Davis, Clarice Hausch, Brenda Hellwig, Linda Maniak, Steve Wiseman, David Sanders, Cathy Hutchinson, Vanessa VanGilder, Libby Collins, John Russell

**Members Absent:** Vonda Spencer, Suzanne Messenger, Roy Herzbach, Bitsy Shaw, Darla Ervin, Penney Hall, Jan Derry, Ted Johnson, Elliott Birckhead, Cindy Beane, Libby Collins, Ann McDaniel, David Stewart

**Other:** Tina Maher

**WELCOME & INTRODUCTIONS**

The Olmstead Council meeting was held at the Wilson Student Union at WVSU in Institute, West Virginia. Nancy Fry, Chair called the meeting to order. Fry welcomed members, and introductions were made.

**REVIEW & APPROVE MINUTES**

Fry introduced the draft minutes from the January 12, 2010 Council meeting. Brenda Hellwig made a motion to accept the minutes and Steve Wiseman seconded the motion. Fry asked whether there was any discussion. No discussion was held. A vote to accept the minutes was taken with no abstentions or dissenting votes.

**COMMITTEE REPORTS**

**Transition Navigator Committee**

Fry directed members to the meeting minutes, and asked for a review by the Transition Navigator Committee. Maher provided an overview to the Committee activities. *SEE ATTACHED MEETING MINUTES.*

**Work Plan Committee**

Fry directed members to the meeting minutes, and asked for a review by the Work Plan Committee. Wiseman provided an overview to the Committee activities. *SEE ATTACHED MEETING MINUTES.*

Fry asked Maher to review the quarterly work plan report with members. Maher reviewed the Quarterly Work Plan. It was discussed that the Council would have a full day meeting for the development of the work plan. Maher will send out an e-mail polling members about this meeting.

## **SYSTEMIC ISSUES**

### **Legislative Updates**

Fry asked members to provide an overview of the regular legislative session outcomes. David Sanders, Steve Wiseman, and Cathy Hutchinson provided the following information:

- HB 4544 - Community- Based Services Act was introduced in the House and did not make it out of committee. Delegate Williams was the sponsor with 6 co-sponsors.
- HB 4613/SB 642 - Medication Administration and Community-Based Services legislation was introduced in the House and Senate and neither passed out committee. Office of Health and Facility Licensure and Certification modified their policy on the location where delegation may occur. One provider has had their policy approved by OHFLAC regarding this change. The legislature introduced a study resolution that did not pass out of committee. The Council, Fair Shake, DD Council, and SILC wrote a letter to urge the legislature to study the issue in the absence of a resolution.
- HB 4374 - Legislation passed to change the law from 12 to 18 as the age for refusing mental health treatment. Governor Manchin vetoed this bill due to a privacy issue.
- SB 498 - Legislation passed to change the use of the word "mental retardation" with "intellectual disability." Governor Manchin vetoed this bill due to a wording problem.
- HB 4164 - Creating of a pilot program for the placement of children four to ten years of age in foster care which shall be known as Jacob's Law.
- HB 4563 - Legislation passed extending MH Pilot Project for 2 years even though not used in past 4 years. The bill modified procedures for temporary compliance orders for certain medication dependent persons with prior hospitalizations or convictions, and instituted modified mental hygiene procedures.
- SB 664 – Legislation passed related to the duties and reports of the guardian of a protected person; providing that the guardian owes a fiduciary duty to act in the best interests of the protected person; requiring the guardian to make provision for social interactions between the protected person and the protected person's friends and family; requiring the periodic guardian reports to include a summary of the guardian's efforts and activities on behalf of the protected person; and including the guardian's efforts to facilitate the protected persons involvement in social activities and social interaction with friends and family as a part of the guardian's periodic reports.
- HB 4557 LOCHHRA would review change order increases over \$500,000. Governor vetoed.

### **Waiver Renewal Applications**

Maher provided members with an overview of the Aged and Disabled Waiver and MR/DD Waiver renewal applications.

Discussion was held on both waiver renewal applications. The issue of unduplicated participants for both programs was a major concern of members. Maher will work with the Executive Committee to issue comments to the Bureau for Medical Services on the renewals.

The following personnel changes at BMS were announced: Cindy Beane is the Acting Deputy Commissioner for Policy Coordination; Marcus Canaday is the Director of Home and Community Based Services; and Pat Nisbet is the Program Manager for the MR/DD Waiver.

### **COORDINATOR'S REPORT**

#### **Monthly Olmstead Reports**

Maher reviewed monthly Olmstead reports for January, February, and March. Maher provided the Council with information concerning a meeting on Olmstead with DHHR Secretary Patsy Hardy. The Secretary's office is reviewing the Olmstead Plan and subsequent information to begin an open dialogue on the priorities and issues.

#### **Institutional Bias Report**

Due to a lack of time, Maher gave a very brief overview of the draft report "Long Term Care Institutional Bias in WV." Maher will send this report to members for review and comment. The Executive Committee will work on this report.

### **OTHER BUSINESS/PUBLIC COMMENT/ ADJOURNMENT**

#### **Other Business**

Fry asked members about other business to be addressed. Maher reported briefly on the Long Term Care Partnership and will provide information about the Partnership electronically.

#### **Public Comment**

No public comment was given.

#### **Adjournment**

Wiseman made a motion to adjourn the meeting and no objections were voiced. The meeting was adjourned at 4:00 PM.

**Work Plan Committee - Olmstead Council**  
**Monday, April 5, 2010 ♦ 10:00 AM – 12:00 PM**  
**MEETING MINUTES**

**Attendance:** David Stewart, Jeannie Elkins, Ann McDaniel, Ted Johnson, Penney Hall, David Sanders, Steve Wiseman, Tina Maher  
*(Jan Derry, Suzanne Messenger and Cathy Hutchinson could not attend due to phone conferencing problems)*

**Payment for Empty Nursing Facility Beds**

The DHHR Division of Audit and Rate Setting provided an explanation for how occupancy rates are used to calculate nursing facility per diem rates. The explanation is intended to clarify that West Virginia does not pay for empty nursing facility beds. Some suggested ways to better understand this issue:

- Request actual examples of nursing facility rate computation and rate adjustments for facilities below and above the 90% occupancy level.
- Request the definition of “allowable.”
- Do we pay for “beds” or “people”?
- Do we pay for nursing facilities to maintain % of empty beds for emergencies?
- Request a meeting with Jeannie Snow, Tina and a couple committee members.

**Work Plan – Review**

The Committee reviewed the Work Plan. The Committee recommended scheduling a full day Olmstead Council meeting or a separate meeting for the responsible committees to thoroughly review the Work Plan.

**Institutional Bias Report**

The Committee reviewed the draft Institutional Bias report and made the following suggestions:

- Include a comparison of community vs. institutional costs for behavioral health services, including diversion costs. This should be added to Appendix A. David Sanders has 2009 data.
- Include the comparison of institutional expenditures to community-based expenditures in the introduction.
- Include a comparison of what is offered by TCM and Care Coordination.
- How many people are using TCM to transition under the 30 day limitation?
- What do other states offer under BH Rehabilitation codes in comparison to WV?

**Other Business**

David Stewart asked about CMS regulations on “unduplicated slots” for 1915 c waiver programs. Maher will research the issue and report to the Council.

**Transition Navigator Committee - Olmstead Council**

**Friday, April 9, 2010 ♦ 10:00 AM – 12:00 PM**

**MEETING MINUTES**

**Attendance:** Penney Hall, Karen Davis, Roy Herzbach, Ann McDaniel, Tina Maher  
(Linda Maniak and Vonda Spencer could not participate due to conference phone problems.)

**Data Report for SFY 2010**

Committee members reviewed the year-to-date data for the program. Members asked about the type of setting(s) people are moving to when they transition. Maher will get this information for the committee. The program has supported 33 people for transition and 74 people for diversion as of the end of March. Start-up funding has been allocated for 104 people for an average allocation of \$2,145.68. A total of \$223,151.09 has been allocated as of the end of March.

Maher is working with BHHF to have additional (carry over) funds allocated to the program for start-up funding.

**Improvement Package SFY 2012**

Committee members reviewed the improvement package request for the Transition Navigator Program. This would allow statewide implementation of the program beginning state fiscal year 2012. Minor edits were made to the document.

The Committee recommended a meeting with the Secretary's office and Jim Pitrolo of the Governor's office to discuss the commitment that was made in 2007. Maher will request a data report on the people transitioned to compare costs in the nursing facility and costs in the community.

**New Grant Agreements**

Committee members reviewed grant agreements for the program and the issue of transitions vs. diversions. The Committee decided to not put a percentage or number on the amount of transitions the Navigators work on for the grant period.

Maher discussed the concern for preventing nursing facility admissions and Navigators choosing to work on diversions because they are typically easier than transitions. This issue is complicated by waiting list for waiver services. Maher recommended the Navigators visit a specific number of nursing facilities per month to conduct outreach. Penney Hall specified that each county in their area needs to be targeted. Maher will make these changes to the grant agreements.

Members also reviewed the Program and Start-Up Funding Policy Statement and a Diversion Policy for the program.

**Personal Stories – Publication/Video Production**

Maher will issue solicitation for video production/publication for the Transition Navigator Program to media businesses in the state. The Committee recommended sending the solicitation to larger high schools and colleges/universities.