

1915C HOME & COMMUNITY BASED SERVICES WAIVER REDESIGN TASK FORCE

Minutes of the 3rd Meeting of the 2021 Interim

August 23, 2021

Call to Order and Roll Call

The 3rd meeting of the 1915c Home & Community Based Services Waiver Redesign Task Force was held on Monday, August 23, 2021, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senators Danny Carroll, Stephen Meredith, and Dennis Parrett; Representatives Daniel Elliott, Norma Kirk-McCormick, and Pamela Stevenson.

Guests: Aaron Bale, Acquired Brain Injury Long-Term Care Waiver Services Recipient; Linda Klawitter, Speech-Language Pathologist and Owner, Brainwave Neurorehab, PLLC; Kristal Vardaman, PhD, MSPH, Policy Director and Tamara Huson, MSPH, Analyst, Medicaid and CHIP Payment and Access Commission; Pam Smith Director of Community Alternatives, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS); Jeff Edwards, Division Director, Protection and Advocacy Division, Department of Public Advocacy.

LRC Staff: Ben Payne, Hillary Abbott, and Samir Nasir.

Approval of the Minutes

A motion to approve the July 26, 2021, minutes was made by Senator Adams and seconded by Senator Meredith.

The Importance of Waiver Services and Barriers to Care

Aaron Bale, acquired brain injury long-term care waiver services recipient and his speech-language therapist, Linda Klawitter presented an overview of the barriers to care Aaron has faced as a waiver recipient. Ms. Klawitter spoke to the barriers she has faced serving waiver participants. The barriers include staffing shortages, lack of transportation, and the limited and arbitrary number of service hours that are not person-centered. Mr. Bale stated that he is dependent on the services that the waiver provides him, yet given the staffing shortages and barriers that Ms. Klawitter stated, there are days he fears none of the services he needs will be provided. Ms. Klawitter stated that waiver redesign needs to be

person-centered accounting for provider flexibility to ensure all participants being served have their needs met.

1915(c) HCBS Waiver Redesign Options

Pam Smith, Director of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services, presented an overview of the 1915(c) waiver redesign process, the steps in the redesign process already made by DMS, and ways the General Assembly can help.

In response to questions and comments from Senator Meredith, Ms. Smith stated that the timeline for moving forward with the rate methodology will be broken up into multiple parts and the Cabinet will be first moving ahead with a rate study of increasing all waivers. The larger rate study does not have a definitive start time. Ms. Smith stated that the reason there were winners and losers from the previous rate study was because it was conducted within a budget neutral framework. CHFS has decided that there are too many changes that need to be made to take a budget-neutral approach. Ms. Smith stated that she agrees that the cost of doing nothing is too great and pledges to keep working hard for the waiver recipients and providers.

In response to questions and comments from Senator Adams, Ms. Smith stated that the first step would be to look at what it would take to increase all waivers in order to be rate equal and once all waivers are equal, the next step would be to look into what particular services need rate increases.

In response to questions and comments from Representative Riley, Ms. Smith stated that Kentucky's Appendix K, is directly tied to the state of emergency declaration. Ms. Smith stated that she is not able to speak to vaccine mandates and their possible impact on waiver provider labor shortages.

In response to questions and comments from Senator Meredith, Ms. Smith stated that CHFS would be looking to bring in community partners to help with the redesign.

In response to questions and comments from Senator Carroll, Ms. Smith stated that the reimbursement rate discrepancies between waivers in case management stand out as an item that needs to be looked at closely in the upcoming rate study.

HCBS Waiver Waiting List Management

Kristal Vardaman, PhD, MSPH, Policy Director and Tamara Huson, MSPH, Analyst, Medicaid and CHIP Payment and Access Commission, (MACPAC) presented a national overview of Medicaid waiver waitlists including statistics, solutions, and common barriers, providing context for the waiver waitlist in Kentucky.

Senator Meredith stated that the MACPAC presentation shows that the long waiver waitlist demonstrates greatly what the cost of doing nothing is and the need to address the waitlist sooner rather than later.

Pam Smith, Director of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services, presented an overview of the 1915(c) waiver waitlist in Kentucky, detailing the unique barriers facing the Kentucky Medicaid multi-year waiver waitlist and ways DMS plans to address the wait list.

In response to questions and comments from Senator Carroll, Ms. Smith stated that there is a targeted set of criteria that has to be met to be placed on any waitlist and each waiver has their own targeted criteria. Ms. Smith added that all waivers, except the Supports for Community Living (SCL) waiver, use a mix of assessments; SCL uses a validated assessment tool. Ms. Smith stated that a goal of waiver redesign is to create a universal, validated assessment for all waivers that follow the participant and their changing needs.

In response to questions and comments from Senator Meredith, Ms. Smith stated that the projected funding requested to get the waiver program out of the red, would be around \$45 million, but the amount needed to eliminate the waitlist is difficult to tell because more research is needed to be done to verify the actual number of people on the waitlist.

Community Integration and Meeting the Needs of Vulnerable Kentuckians

Jeff Edwards, Division Director, Protection and Advocacy Division, Department of Public Advocacy, presented an overview of Kentucky's Protection and Advocacy (KPA) system, the client-directed approach KPA advocates to protect Kentuckians with disabilities, including those receiving waiver services created as a result of *Olmstead v. L.C.* Mr. Edwards addressed KPA's concerns with Kentucky's 1915(c) waiver programs, including low-provider pay rate, accessibility and service barriers, and lack of a person-centered approach. Mr. Edwards stated that while great progress has been made to keep many clients out of institutions, if staffing shortages persist, Kentucky runs the risk of having to serve clients in an institution instead of in the community which would be in violation of the *Olmstead* Act.

Representative Riley stated that he and Co-Chair Adams have made sure to have a waiver participant be the first speaker at every meeting of the Task Force because hearing their voice and experiences is vital to ensuring the Task Force takes the proper steps forward.

Adjournment

There being no further business, the meeting was adjourned at 3:30 pm.