EXCEPTIONAL SUPPORT WAIVER SERVICES TASK FORCE

Minutes of the 3rd Meeting of the 2020 Interim

September 28, 2020

Call to Order and Roll Call

The 3rd meeting of the Exceptional Support Waiver Services Task Force was held on Monday, September 28, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Julie Raque Adams, 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; Senator Dennis Parrett, Representative Tina Bojanowski, LeeAnn Creech, Thomas Laurino, Lisa Lee, Wendy Morris, Bob Napolilli, Brad Schneider, Steve Shannon, Amy Staed, Brenda Wylie, and Bonnie Thorson Young.

Guests: Jim Dashiell, Director of Human Services, Rich Metzger, Executive Director, interCare; Robert Napolilli, Chief Executive Officer, Council on Developmental Disabilities; Leslie Hoffmann, Policy Advisor, Pam Smith, Director of the Division of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion and Hillary Abbott

Cost Effective Crisis Transitioning

Jim Dashiell, Director of Human Services for interCare stated that filling in the gaps of community care for clients and stakeholders drives the work interCare does in assisting treatment teams with crisis transitioning. Mr. Dashiell stated that currently interCare serves clients with intellectual, developmental, and dually-diagnosed disabilities, as well as waiver and non-waiver participants.

Mr. Dashiell stated that their crisis transitioning footprint is broad across Indiana yet has a case management presence in Bowling Green, Kentucky. Rich Metzger, Executive Director, interCare, stated that the approach interCare takes to crisis transitioning follows the life course of the patient. The company provides a consistent third party management to a patient, which gives interCare providers a unique ability to anticipate and solve problems so there is not a lapse in the continuity of care. Mr. Metzger stated that the ultimate goal of crisis transitioning is for the client to gain independence and self-determination coupled with the services provided being cost-effective and budget neutral. Mr. Dashiell stated that in Indiana, crisis transitioning has had a positive financial impact because its efficient use of established resources like regional mental health centers,

and the efficacy has reduced institutional enrollments. Mr. Metzger stated that in 2017, the state of Indiana saved $1.3 million by utilizing the interCare system. Mr. Dashiell stated that crisis transitioning provides a unique opportunity to build provider capacity, provides predictability, and gives the provider an ability to see the whole case not just the issues or symptoms before them. Mr. Metzger stated that the framework for crisis transitioning begins with the client first, driven by their needs and selectively focusing resources, utilizing advanced technology that follows the client, which helps the client transition from a state of crisis to successful community living.

Senator Raque-Adams stated that she would like to see a plan created for clients before they age out of the system so that crisis can be avoided in adulthood. Senator Adams stated that if we have a plan in place, then that plan can follow the client so the treatment team is not just creating a plan in response to bad situations; those bad situations can be bypassed.

In response to questions and comments from Amy Staed, Rich Metzger stated that interCare would work with the providers to address the crisis event even with community supports in place. Mr. Metzger stated that interCare' s role is as a third party observer who would help address the systemic problems the waiver recipients face that the waiver does not cover.

In response to questions and comments from Steve Shannon, Jim Dashiell stated that funding for their services would come from the state and could be billed as a supports for community living (SCL) service.

In response to questions and comments from Thomas Laurino, Mr. Metzger stated that currently in Bowling Green, interCare' s case management team features a registered nurse, quality improvement organizational team of specialists, and coordinates with other providers in the community. Mr. Metzger stated that in Indiana, interCare can provide a whole host of professionals depending on the services they are employed to carry out.

Council on Developmental Disabilities

Bob Napolilli, Chief Executive Officer, Council on Developmental Disabilities stated that while he is speaking as a representative of the Council on Developmental Disabilities, he is also speaking as a parent of an adult child with intellectual and developmental disabilities and complex medical issues. Mr. Napolilli stated that his son Robby, is 37 years old, and has a diagnoses of severe intellectual and developmental disabilities (IDD), cerebral palsy, a seizure disorder, scoliosis, asthma, allergies, and a vagus nerve stimulator implant. Mr. Napolilli stated that Robby currently resides in an intermediate care facility (ICF), he is medically stable and he would like to live in the community. Mr. Napolilli stated that an overarching question from parents children with IDD is, "what will happen to my child when I can no longer care for them or when I pass on". Mr. Napolilli stated that prevailing issues expressed by parents are that some

individuals are currently living in state and private institutions but would rather live in a smaller community home, just like the rest of us. Mr. Napolilli also stated that many families would not like their adult child to live in an ICF but the SCL waiver does not provide adequate residential support services.

Mr. Napolilli stated that the ADA and the 1999 Supreme Court Decision "Olmstead v. L.C." directs federal and state governments to ensure that services for people with disabilities are available in inclusive, community settings. Mr. Napolilli stated that the policy makes clear that any residential setting must be inclusive and assure that those being supported have control and decision making authority about aspects of daily life. Mr. Napolilli stated that the Kentucky Olmstead Compliance Plan and Implementation, updated in December 2019, states that the primary goal is to establish an environment which enables all individuals to live meaningful, inclusive, and integrated lives within their communities supported by an array of services, in a setting they choose, according to individual need, with input from their families and legal guardians. Mr. Napolilli stated that nationally, approximately 860,000 parents over 60 are caring for someone with IDD in their homes, many are waiting for years for placement in a waiver group home, and parents fear that without federal/state funding their family member my end up in an institution.

Mr. Napolilli stated that the cost to the state and federal governments for Medicaid reimbursement to live in an institutional setting is in excess of $420,000 annually per person and the average annual cost of the Kentucky Medicaid Waiver IDD residential model is approximately $62,500 per person. Mr. Napolilli stated that advocates and stakeholders believe that there could be a better SCL model in the community which is more cost effective than ICF and potentially for less than half of the cost of an ICF.

Mr. Napolilli stated that some proposed solutions to these problems would be finding and training qualified caregivers, enabling easier access to integrated health care, ensuring more robust case management, easier access to community-based activities, and engaging with families who have an adult child or loved one with IDD who receives these supports.

Mr. Napolilli stated that the Council on Developmental Disabilities has proposed a new model for two to four persons living in an accessible home in a community neighborhood with highly trained, well compensated staff at a ratio of 1:1. Mr. Napolilli stated this proposed model would provide community access versus isolation, access to integrated healthcare, individualized, person-centered behavior support plans, and community socialization.

Cost Neutrality and the Supports for Community Living Waiver and Exceptional Support Waiver Services

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services (DMS) stated that 1915(c) Home and Community Based Services (HCBS) waivers are designed to give individuals with disabilities an alternative to institutionalization and should complement available state Medicaid program services, public programs, and family/community supports to meet each individual's needs. Ms. Hoffmann stated that HCBS waivers should allow an individual to live safely in the community and that if an individual's needs exceed what can be safely provided in the community, waiver services may not be appropriate for the individual. Ms. Hoffmann stated that to receive Centers for Medicare and Medicaid Services (CMS) approval for a 1915(c) HCBS waiver, states must provide the same level of care in the community that an individual would receive in an institution, demonstrate that the cost of care in the community is equal or less than an institution, or in other words is budget-neutral, and should conduct monitoring to ensure waivers meet quality standards.

Ms. Hoffmann stated that in Appendix B of the waiver application, Kentucky chose "no cost limit" which means that the amount of services received is determined by assessed needs and individuals are subject to service limits found in the waiver and waiver regulations. Ms. Hoffmann stated that the waivers are managed in the "aggregate" to assure cost-neutrality, referring to information collected from multiple sources, using multiple variables, and are compiled for examining trends, creating summaries or statistical analysis. This means that cost of services for some individuals will be higher than for others.

Ms. Hoffmann stated that Kentucky's waiver budgets are determined by evaluating expenditures from previous fiscal years and that the Social Security Act requires the cost of providing services each year be cost neutral. Ms. Hoffmann stated that DMS is required to report cost neutrality information to CMS initially upon approval of the waiver and every 18 months thereafter. Ms. Hoffmann stated that to be cost neutral, the average per participant expenditure must not exceed the average per person cost of furnishing institutional services for an individual with the same level of care.

Ms. Hoffmann stated that the aggregate cost per capita, per month of providing services in an institution during a 12-month period is $29,306 and the aggregate cost per capita, per month of providing supports through the SCL waiver (including exceptional supports) during a 12-month period is $6,785. Ms. Hoffmann stated that if all 4,941 funded SCL waiver participants received ICF level of care in the community at a cost of $29,306 per month, the total cost would be $1,737,611,352, the federal share would be $1,216,327,946 and Kentucky's state share would be $521,283,406. Ms. Hoffmann stated that Kentucky's current state share is $169,040,774. Ms. Hoffmann stated that states receive matching federal funds for services provided in the home or community and that not meeting CMS requirements for one waiver puts the funding for all waivers at risk.

Pam Smith, Director of the Division of Community Alternatives, Department for Medicaid Services stated that four percent of SCL waiver participants requested and

received exceptional supports which accounts for less than one percent of all paid claims. Ms. Smith stated that there are 90 percent more participants in the community than in ICFs. Ms. Smith stated that the total cost paid for private and semi-private ICF room and board was $132,029,686.27 and the total cost paid of ancillary services was $6,762,013.21.

Ms. Smith stated that the six most utilized SCL waiver services are residential services, day training, personal assistance, case management, community access, and consultative clinical & therapeutic services. Ms. Smith stated that the total paid amount for these six SCL waiver services was $376,200,452.38. Ms. Smith stated that the cost breakdown for SCL exceptional supports in residential levels I-II, day training, personal assistance, and respite is up to two times the maximum base rate. Ms. Smith stated that in 2019 the exceptional rate paid for total claims was $1,495,503.17 and the total paid for all SCL waiver claims in 2019 was $382,289,054.35. Ms. Smith stated that the five highest state plan services paid by the SCL waiver are for outpatient hospitals, inpatient acute care, pharmacy, non-emergency transportation, and physician care with the total paid amount for these five state plan services for SCL participants being $168,048,779.64. Ms. Smith stated that the total paid for all state plan services for SCL participants was $217,125,999.75. Ms. Smith stated that all of her data is based on service year 2019 and that her data reflects all claims paid as of September 4, 2020.

Ms. Smith stated that the opportunities for program improvements include better plan of care training that helps providers focus on true person-centered planning, assessed needs, and accessing available state plan services and natural supports. Ms. Smith stated that a review of the exceptional supports process is needed including a review of methodology, authorization process, and effectiveness of services to assure use by all individuals who need exceptional supports. Ms. Smith stated that a review of exceptional support need by region should be considered to see if there are regional deficits that can be fixed.

In response to questions from Amy Staed, Ms. Smith stated that there are 115 participants who are receiving exceptional supports exceeding the $100,000 per year threshold. Ms. Smith stated that it is important to review potential barriers providers feel hinder them from applying for reimbursement such as reviewing current methodologies, simplifying the application process and maximizing the plan of care process.

In response to questions and comments from Bob Napolilli, Ms. Smith stated that she will follow-up to see if the increase in cost of ICF beds is due to a decrease in utilization of ICF treatment. Ms. Smith stated that it is evident to the Cabinet that something is broken in the exceptional supports process and more digging needs to be done to figure out where in the waiver process problems are occurring, if it is happening prior to the need for exceptional support or in the process of serving out the exceptional support services. Ms. Smith stated that because the SCL waiver is a social model, the medical supports needed

to transition participants from ICF to the community are not included in the waiver and that is something that should be addressed the upcoming waiver redesign.

In response to questions and comments from Thomas Laurino, Ms. Smith stated that it is evident there are problems with the ICF and exceptional support referral process that are becoming barriers to successful and appropriate transitions into the community. Ms. Smith stated that the Cabinet plans on looking into these breakdowns in addition to addressing the issues providers may face in serving this population.

Adjournment

With there being no further business, the meeting was adjourned at 4:00 pm.