



**Montgomery County Commission on People with Disabilities
Developmental Disabilities Advisory Committee
Meeting Summary – May 9, 2022
Revised May 18, 2022
Larry Bram, Co-Chair • Karen Morgret, Co-Chair**

Attendees

Parents: Lyda Astrove; Lisa Slifermbacke; Christopher DeVierno; Whitney Ellenby; Scottie Holton; Sari Hornstein; Susan Hartung; Annette Jolles; Jenn Lynn; Karen Leggett; Reda Sheinberg; Mary Keyser; Katie Larkin; Melissa Wyman; Jamila Michael-Sobratti

DDA Providers: Lisa Lorraine; Susan Ingram

CCS Staff: Sara O'Neil, Laurie Lyons; Rosemary DiPietro; Kim Mayo

HHS Staff: Odile Brunetto; Shawn Lattanzio

Commission Members: Seth Morgan; Karen Morgret; Larry Bram; Jeneva Stone; John Whittle

DDA: Patricia Sastoque; Onesta Duke

County Council: Beth Shuman

MCPS: Margie Parrott

HOC: Susan Smith

Commission Staff: Betsy Luecking; Carly Clem

Approval of the April 2022 Meeting Summary Minutes

A motion was made to approve the April 2022 Meeting Summary Minutes. The motion was seconded. A vote was taken and the April 2022 Meeting Summary Minutes were unanimously approved as written. Approved minutes are available online at www.montgomerycountymd.gov/ddac.

DDA Updates – Onesta Duke, Regional Director, Southern Maryland Regional Office (SMRO), DDA

Montgomery County Waiting List Data

- 910 people on the waiting list
 - 9 in crisis resolution
 - Individuals in this category are currently working with a CCS agency that will help enroll them in one of DDA's waiver programs and to identify needed services
 - 46 in crisis prevention
 - 855 in current request

Montgomery County Transitioning Youth Data

TY19 / FY20

- 151 TYs total
- 127 placed (identified providers and receiving services)
- 24 not placed
 - 11 declined services
 - 1 denied by EDD due to over assets
 - 2 have waivers pending enrollment with Eligibility Determination Division (EDD)
 - 8 have been approved but no identified provider
 - 2 are working with CCS agencies to enroll into the waiver

TY20 / FY21

- 165 TYs total
- 107 placed (identified providers and receiving services)
- 58 not placed
 - 12 declined
 - 1 denied due to citizenship challenges

- 8 waivers pending with EDD
- 26 waivers approved but no provider identified
- 11 are working with CCS agencies to enroll into the waiver

TY21 / FY22

- 190 TYs total
- 70 placed
- 120 not placed
 - 6 declined services
 - 2 have waivers denied by EDD – reason unknown
 - 17 have waivers pending at EDD
 - 4 have providers
 - 31 waivers approved but no provider identified
 - 64 are working with CCS agencies to enroll into the waiver

TY22 / FY23

- 166 TYs total
- Still early in the process – CCS agencies still working on waiver enrollments

TYs who are eligible for July 2020, July 2021 and July 2022 have until June 30, 2022 to complete and submit a DDA waiver application or waiver enrollment packet.

- CCS agencies are actively working with families to ensure they get enrolled in a waiver.
- SMRO is monitoring the progress of those waiver enrollments.

Appendix K Update

- Appendix K flexibilities that were scheduled to terminate on March 31, 2022 have been extended and will expire on June 30, 2022
- Deputy Secretary Bernie Simons shared information about Appendix K during his last webinar: https://youtu.be/TCuWG9L_X1w
- Due to the extension current guidance has been updated – https://health.maryland.gov/dda/Pages/DDA_COVID-19_Information.aspx
- Providers, CCSs and families are encouraged to continue to plan for the upcoming transition.
- Some flexibilities will be continued through federally approved waivers.
- One flexibility that will continue is the ability for providers to support a person in an acute care hospital.
 - Specific steps providers need to take in order to be approved to provide such supports.
- Another flexibility that will continue is the provider being able to provide telephonic or remote supports.
 - Providers will be able to provide telephonic/remote support for CDS, Day Habilitation, Employment Services, Personal Supports services, and Some of the Behavioral Support Services (BSIS excluded)
- Another flexibility that will be continued is the ability for providers to continue to hire relatives and legally responsible individuals for select services or in situations of extraordinary care.
 - Participants can employ a relative after June 30, 2022, for the following services only: Community Development Services; Ongoing Job Supports/Follow Along; Nursing Support Services; Personal Supports; Respite Care Services; Support Brokers Services; Supported Living; and Transportation as permitted by the approved programs.
 - If a person is self-directing their services and wants to continue to employ a family member as staff after June 30, 2022, as permitted under the program, you will need to be sure they have all of their required trainings and Family As Staff Form completed before June 30, 2022.
- One flexibility that will not continue is waiving of training requirements for staff such as CPR and first aid. This flexibility will end June 30 and all staff must meet all required training requirements.
 - Important for providers and individuals self-directing to ensure all staff have trainings and certifications prior to July 1.
- Appendix K currently authorizes providers to deliver a minimum of 3 hours for billing for meaningful day services - this flexibility will end June 30, 2022.
 - Providers are encouraged to engage in transition planning in order to best support individuals that are receiving certain meaningful day services.

- Onesta noted that Waiver Amendment #3 specifies that virtual supports cannot comprise the entirety of the service to promote community integration and the goals of the home and community-based settings final rule.
 - If an individual is interested in virtual supports, the individual should identify within their person-centered plan (PCP) how they want to receive those services and the amount of virtual supports they prefer to complement in person supports.
 - Provider should update the individual service implementation plan to reflect virtual supports.
 - There are no set minimum amount of in-person services that has been established by DDA.
 - Providers who are interested in continuing some or all of the retained service modalities permitted under Amendment #3, must ensure that they have these approved by updating and submitting their PSP to the DDA Provider Services team
- Appendix K flexibilities that no longer apply should be removed in the next revised or annual PCP.
- In response to provider requests for residential retainer days post December 31, 2021, Maryland Department of Health (MDH) is aligning the expiration date of residential retainer days consistent with the other flexibilities through June 30, 2022.
 - MDH is seeking guidance from Centers for Medicare and Medicaid (CMS) to expand the definition of residential retainer days to include vacation days.
 - With the Appendix K flexibility residential retainer days were limited to 60 days as well as the Federal requirements.
 - Once Appendix K expires on June 30, 2022 retainer days will be limited to 18 days in a calendar year.
- CCS agencies and providers can assist families who have questions regarding Appendix K.
 - SMRO is also able to clarify questions.

Community Settings Rule for Home and Community-Based Settings (HCBS)

- On March 17, 2014, CMS issued regulations that define the settings in which states can pay for Medicaid HCBS.
- The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated and that support full access to the greater community – including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive HCBS.
- All states must be in full compliance with the community settings rule by March 17, 2023.
- Medicaid is the lead Maryland agency for the community settings rule – DDA manages the DDA waivers on behalf of Medicaid.
- DDA had public comments open for the [statewide transition plan](#) for the community settings rule until April 23 – [all comments were shared with CMS](#)
- HCBS settings must meet certain criteria including: the setting is integrated in and supports full access to the greater community; the setting is selected by the individual from among setting options; the individual's rights to privacy, dignity, respect, and freedom from coercion and restraint are upheld; the individual has independence in making life choices; and the individual has a choice regarding services and who provides them.
- Provider-owned or controlled settings must meet the following additional requirements: the individual has a lease or other legally enforceable agreement providing similar protections; individuals must have privacy in their living unit including lockable doors; individuals sharing a living unit must have choice of roommates; individuals must be allowed to furnish or decorate their own sleeping and living areas; the individual controls his/her own schedule, including having access to food at any time; the individual can have visitors at any time; and the setting is physically accessible.
- As outlined by the CMS, heightened scrutiny reviews are applicable to residential or non-residential settings presumed to have qualities of an institution, settings located on the grounds of, or immediately adjacent to, a public or private institution that provides inpatient treatment, or settings that have the characteristics of isolating individuals receiving Medicaid HCBS from the broader community.
- In accordance with CMS' guidance, MDH requires heightened scrutiny for the following settings: sheltered workshops; farmsteads; and licensed residential sites in close proximity to each other (e.g., two residential sites next to one another or multiple homes on a cul-de-sac).
- DDA is working with providers to ensure they are in compliance – need to assess over 200 providers and over 2,000 sites.

- In 2014, DDA utilized National Core Indicator surveys to evaluate performance related to core indicators. Core indicators are standardized measures used across states to assess the outcomes of services provided to individuals and families and include key areas such as employment, participants' rights, service planning, community inclusion, participant choice, and participant health and well-being.
- In 2016, DDA conducted a non-residential provider self-assessment and a residential assessment.
- In 2017, DDA began conducting evaluations of those provider self-assessments and site-visits.
- DDA has also been conducting participant assessments.
- DDA sends letters to providers to notify them of their compliance status.
- If a provider is not in compliance, they will need to submit a plan of action on how to address their non-compliance – plans must be submitted to Medicaid.
 - If a provider refuses to become compliant, then DDA will work with those participants to transition them to another provider.
- The majority of providers and sites are in compliance with approximately 11 to 14 providers and 30 sites not in compliance.

Individuals with Medically Complex Needs

- Jeneva Stone, Parent, recently spoke with Secretary Carol Beatty about the issues of individuals with medically complex needs.
- Concerns about isolating individuals with medically complex needs - subgroup of individuals who require skilled nursing care.
 - These individuals can be served in self-directed services or medical day.
- Not an appropriate level of choices or long-term care options in the community.
- DDA and Autism Waivers language states that providers cannot utilize funds for Skilled Nursing Care..
- Four providers currently offer skilled nursing supports – limited, unique and require a lot of support.
- Difficult problem to solve – involves Maryland Board of Nursing (MBN), Rare and Expensive Case Management (REM), and DDA.
 - MBN dictates what is a delegable task and what is a non-delegable task.
 - Licensed nurses who work as direct support professionals (DSP) can put their license in jeopardy with some of those non-delegable tasks.
- Patricia said Medicaid needs to be included in the discussion – DDA operates the DDA waivers on behalf of Medicaid.
 - She will contact Marlana Hutchinson, Acting Director, Office of Long-Term Support Services, MDH
 - She will share a list of agencies with Medicaid to elevate the issue so that they can determine next steps moving forward – MBN, REM, DDA, MDH, Maryland Department of Disabilities (MDOD), Arc of Maryland and families who can share their experiences and assist in identifying the gaps.
 - Patricia will have Onesta provide updates to Betsy.
 - Larry suggested inviting state legislators – Arianna Kelly
- DDA does not have the authority to add skilled nursing services under the waiver.
- Need to identify which agency is providing skilled nursing services and how DDA is supporting an individual who needs skilled nursing services.
- Susan Ingram, Community Support Services (CSS), said that prior to the last waiver renewal if an individual needed skilled nursing services that were non-delegable it was considered a professional add-on, and in some cases it was state-only funded.
- There are a wide range of tasks that are delegable including medication administration, feeding, and swallowing, and other tasks related to activities of daily living and they can be provided by Community First Choice Wavier.
- Non-delegable tasks include invasive procedures such as flushing catheters and are considered Skilled Nursing.
- Jeneva said her son needs his trach suctioned around the clock and that a DSP could be trained to handle this task.
 - Susan Ingram said providers will be hesitant to take on more responsibility for delegated tasks due to the risks involved with them.
 - Some individuals are too vulnerable and need that skilled nursing care.
- MBN dictates which tasks are delegable and which tasks are non- delegable.
- MBN will be undergoing a full evaluation as part of its sunset review by the end of 2022.

- Some state legislators are not happy with how MBN has been operating in terms of failing to approve licenses in a timely fashion which is impeding the county and the state from providing safe and affordable care to individuals.
- Montgomery County Public Schools (MCPS) pays for private duty nursing services during the instructional day. The funding source has been a combination of grant and local funds. Some families opt to use the nursing services that are funded by their insurance company to ensure continuity of service.
- Some students in the Autism Waiver with delegable nursing care needs also apply for the Community First Choice (CFC) waiver but CFC does not provide Skilled Nursing Care.
- According to the Coordinating Center, there are approximately 4,500 individuals with medically complex needs in Maryland.

Commission Staff are including an **acuity** definition referred to in the information below. Acuity Level means the amount of the medically related support needs of an individual as measured by an assessment by the Direct Nursing Services Criteria.

Rate Study Update – Susan Ingram, Community Support Services

- DDA released a report on November 3, 2017 following a two-year developmental disabilities service provider rate setting study.
- The purpose of the study was to establish a fair and equitable rate system for services provided to Marylanders with developmental disabilities.
- There were challenges with the findings of the first report and it has been revised over the years.
- [Rates were published in April.](#)
- DDA is transitioning from legacy Provider Consumer Information System (PCIS2) to the Maryland Long Term Services and Support System (LTSSMaryland).
 - Some providers have made the transition to LTSSMaryland.
 - The transition is currently voluntary - There is no set date for when all providers must transition.
 - Regional offices working with providers and CCSs to process PCPs.
- Residential habilitation is now called Community Living.
 - Individuals will no longer be ranked via a matrix – new systems pays all individuals the same regardless of need intensity for the same unit of the same service.
 - As a result, individuals with low intensity needs received a larger increase with the new rates.
 - Concern is for individuals with high intensity needs and whether they will end up with a decrease.
 - Nursing services are included under Community Living.
- Supported living is for individuals who own, rent, or lease their own place and the provider provides staff support.
- Transportation and delegable nursing support services are included in services.
- Discussion of acuity levels - are rates for individuals with low intensity needs are adequate or too high and not high enough for individuals with high intensity needs.
- Meaningful Day has incorporated all day services – employment, career exploration, community development services (CDS), day habilitation, and medical day care.
 - Employment cannot be on a volunteer basis and must meet the criteria for competitive integration.
 - Rates for employment vary based on one-to-one, small group or large group.
 - Some providers think the rates for small and large groups are inadequate.
 - Providers think rates are inadequate for Individuals who are able to work independently without staff support – rates paid via 15 minute increments rather than daily rate.
 - Individuals with more intensive needs who need a job coach would receive an increase in their rate.
 - CDS rates increased for small groups.
- New rate system allows for services to be billed every 15 minutes.
 - Can create more documentation and a burden on the provider.
- Extra professional services including occupational therapy, physical therapy, speech language, music art, nutrition, recreation, therapeutic recreation are no longer approved as state-only funding.
- Nursing services are included in Community Living, Support Living, Meaningful Day, and Employment without any extra funding.
- Nursing can be added as an additional under Personal Supports if the individual does not receive any other services, if approved by DDA.

- Transportation, as the standalone waiver service, includes a variety of supports including orientation services, accessing mobility, travel training, transportation services (such as Uber), mileage reimbursement, and purchase of prepaid vouchers and cards.
 - These services are billed as a lump sum for reimbursement. Some services already include transportation coverage in the rates, such as in Day Habilitation, Community Living, and other services.
 - The DDA will not reimburse for transportation if it would be duplicate funding within the rate for these services.

Staff shortages within agencies continue to be an issue – will new rates assist with acquiring and retaining staff?

- Staff shortages are due to multiple factors including pandemic-related reasons, risks involved with the type of work, childcare issues, individuals no longer working second or third jobs.
- Most agencies cannot provide all services in an individual's PCPs – such as Saturday service or all support hours.
 - In many cases staff are working extra hours.
- Agencies have been discussing how to change schedules to make the positions more attractive and appealing to different groups of individuals.
- Patricia reported the provider staff stability survey show a 36.1% turnover rate in the DDA Community
 - Larry reported Easterseals has 70 openings - most are for DSPs.
- The average age of staff is in the high 40s and 50s with some staff still working into their 70s.
- Not attracting high school or college age individuals.
- The DD supplement from Montgomery County allows providers to pay above neighboring counties and that makes a big difference.
- Staffing issues not just for medical day care but also for the Autism Waiver.
- Administration expenses are also increasing due to more complex billing systems and electronic records, more documentation, and more training requirements.
- Dennis Schrader, Secretary of Health has a rate group and is still meeting monthly to discuss issues of equity and geographic differentials and address rates for FY24.
 - Group comprised of providers and consultants.
 - Discussion: <https://health.maryland.gov/dda/Pages/RATE-REVIEW-ADVISORY-GROUP.aspx>
- If Build Back Better passes \$150 billion is set aside for Home and Community-Based Services.
 - It would also expand and increase pay for the direct-care workforce.

Updates and Announcements

Larry reported \$99,200 has been included in the County's FY 23 budget to fund MoCo Better Beginnings – an early intervention screening initiative. Avner Shapiro, Commissioner, Commission on People with Disabilities (CPWD), initiated this effort.

- Funding will be used for both an outreach/project manager position and for subsidizing/promoting the use of an electronic system of care, such as CHADIS, by area pediatricians.
- Larry suggested inviting Infants and Toddlers to a future DDAC meeting to discuss the launch of this initiative.

Susan Ingram asked if this Committee could draft a letter supporting Secretary Beatty addressing the issue of individuals with complex medical needs by convening a meeting with state agencies.

- A draft letter should be presented before the CPWD for approval.
- This Committee cannot send letters and all Commission correspondence must be sent out via Seth Morgan, Chair, CPWD.
- This Committee operates under CPWD and as by the by-laws Seth appoints the Chairpersons of any committee meeting and they must be members of the Commission who chair it.
- The CPWD's [Enabling legislation](#) states that they are to advise the County Executive and County Council on the coordination and development of policies for people with disabilities.
- In 2016, [County Council Bill 37-15](#) was passed to allow certain boards, committees and commissions (BCCs) (including CPWD) to advocate at the state level if the advocacy is approved by the Office of Intergovernmental Relations (OIR).
 - This change was established so that all BCCs were operating on the same level.
 - CPWD has contacted OIR twice for approval since the legislation was passed.

- This Committee was originally convened by CPWD to advocate for DDA to allow coordination of community care to be returned to the County, which did take place in 2016 returning up to 500 persons for this service.
- Beth Shuman, Senior Legislative Aide, suggested this Committee outline the issues, determine scope of the work and timeline, and highlight the outcomes and goals and involve state legislators such as Craig Zucker.
 - She said the County does work with the State but it is all through Office of Intergovernmental Relations (OIR).
 - She suggested inviting Melanie Wenger, OIR, to give a presentation before this Committee to explain the process.
- DDAC meetings focus on state issues and state agencies which is beyond the scope of the enabling legislation of CPWD.
- Discussion took place about the meetings being held monthly or quarterly. The question to be answered is whether the meetings are to problem solve or for updates. The CCS agencies and persons being served are where problem solving should be done for individual cases. DDA should be brought in as needed for individual cases. The Commission public meetings are not the place for individual problem solving.
- As per the February 2022 meeting minutes, CCS agencies are required to have a clear process for individuals and families to file grievances or complaints. Process/resolution should start with the CCS supervisor, however if the family or participant is unhappy with the outcome or has concerns they can reach out to the regional office.
- Individuals can meet directly with state legislators and state agencies.
- Betsy has been communicating with Secretary Beatty about the concerns about skilled nursing care for people who have developmental disability as a staff member of Montgomery County Department of Health and Human Services (MCDHHS) to obtain information on clarifying who is responsible in the State for skilled nursing service in community integrated settings.
- The Commission is a member of the Alliance of Disability Commissions which includes MDOD where information is shared not advised between the counties and MDOD.
- Odile Brunetto, Chief, Aging & Disability Services, MCDHHS, clarified that DDA ensures compliance of CCS agencies and certifies and oversees programs and services of DDA providers.
 - State Issues need to be addressed at the state level.
 - Not all BCCs have the same guidelines and charters.
 - CPWD cannot advise state agencies and must follow established protocols unless given permission by OIR.
- The County does not have enforcement or control over other CCS agencies as the Community Support Network is one of the CCS agencies
- The County does require each group home/ALU that serves 3 or more people to have an annual Fire Safety inspection (completed by the Fire Marshall's office). It is written into the DD Supplement contracts.
- In addition, CSN does have a staff person that as part of their duties conducts site visits to all licensed DD group homes to monitor the safety and cleanliness of the house, the condition of the interior/exterior of the home, as well as the quality of life of the residents (staff speak to residents if they are home and responsive). This position is not an inspector.

Planning for Next Meeting

Regular reports

Carry over from this meeting: Susan Hartung will discuss progress on the County Council's 2018 Workgroup on Meeting the Needs of Residents with Developmental Differences Report : <https://montgomerycountymd.gov/HHS-Program/Resources/Files/A%26D%20Docs/DDAC/DDWorkGroupReport2018.pdf>

Respectfully Submitted,

Carly Clem, Administrative Specialist

Betsy Luecking, Community Outreach Manager

Next Meeting

Monday, June 13, 2022

via Zoom - Instructions to attend will be included on the meeting agenda.