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May 27, 2014

Director John Martin
Ohio Department of Developmental Disabilities
1810 Sullivant Avenue
Columbus, OH 43223-1239

Dear Director Martin:

Attached please find recommendations to strengthen Ohio's system of ensuring the health and safety of individuals enrolled in various HCBS waivers.

These recommendations were developed by the "Health and Safety Systems Panel" consisting of the following members:

1. Kelly Petty, Cuyahoga County Board of DD, Chair
2. Kate Haller, Ohio Department of DD
3. Kelly Miller, Ohio Department of DD
4. Angel Morgan, Ohio Department of DD
5. Scott Phillips, Ohio Department of DD
6. Dawn Freudenberg, Hamilton County Board of DD
7. Lori Stanfa, Ohio Association of County Boards
8. Janet Stephan, Ohio Waiver Network
9. Tom Musto, Ohio Provider Resource Association
10. Carol Rolf, Ohio Health Care Association
11. John Hannah, Self Advocate
12. Barb Sapharas, OSDA and SIBS
13. Gary Tonks, The Arc
14. Kristen Henry, Disability Rights Ohio

This group met four times beginning in January. Members were committed to improving various processes, allowing us to better ensure that individuals with developmental disabilities are healthy, safe, and well supported by providers. Our discussions and subsequent recommendations focused on four areas:

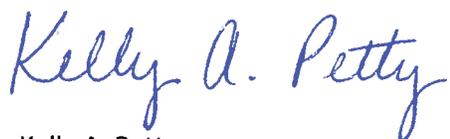
1. Certification to Become a Provider
2. Provider Compliance
3. Day Providers
4. Web Check, Criminal Background Checks, and Registry Checks

In each area, the group discussed and identified the current processes in place, the major concerns, and then agreed on a number of recommendations.

Overall I was very pleased with the work of the panel and hope that you find these recommendations to be useful in improving our service delivery system.

Thank you for the opportunity to serve on this panel. If you have any questions or concerns about any of the recommendations, please contact me.

Sincerely,



Kelly A. Petty
Superintendent and CEO

c: Kate Haller
Bridget Gargan
Lori Stanfa
Dawn Freudenberg
Steve Oster

HEALTH/SAFETY SYSTEMS PANEL
RECOMMENDATIONS

CERTIFICATION TO BE A PROVIDER

In January, 2014, there were 2264 agency providers and 8605 independent providers. Approximately half of these providers are actively billing. (These figures exclude TDD providers.)

In 2013, DODD received 5051 applications for certification:

	Independent	Agency
Initial	1441	219
Renewal	1949	596
Add-On	505	341

Beginning in 2009, DODD has substantially revamped its provider certification system including:

- time limited certification
- electronic applications including submissions of required documents

In 2013, 33 applications were denied for the following reasons:

- failed background/registry checks
- provider is a related party to a provider whose certification has been revoked
- CEO qualifications
- driver's abstract
- applicant was the subject of a substantiated and significant MUI

Principal Issue:

Should the certification process be strengthened and if so, how?

Recommendations:

1. DODD should require new applicants for certification to demonstrate that they have taken training similar to "so you want to be a provider."

2. DODD should require agency applicants to be an actual legal entity by, for example, having:
 - a. certificate from Secretary of State as a for-profit corporation, not-for-profit corporation, or LLC;
 - b. comprehensive general insurance in the amount of \$500,000;
 - c. a federal employer identification number; and
 - d. worker compensation coverage.
3. Agency providers must establish an internal compliance program to ensure compliance with certification, service and billing requirements.
4. The definition of related parties should be expanded (this has been proposed in the mid-biennium review).
5. County boards are sometimes aware that a principal with an agency subject to a proposed revocation is seeking to establish a new agency. County boards who have this information should alert DODD.
6. DODD should notify county boards of pending initial applications to become an independent provider. County boards (or the COG's) should meet with all newly certified independent providers within sixty days of being selected by a family or individual. The purpose of the meeting is to confirm that the providers understand their responsibilities and the individual service plan, and to provide contact information with the county board or COG.

PROVIDER COMPLIANCE

The Office of Provider Standards and Review reviews county boards, waiver providers, licensed waiver providers, ICF's, and TDD providers. In 2013, DODD conducted 2638 compliance reviews of waiver providers. This includes TDD providers and licensed waiver settings. Additionally, county boards performed 814 reviews. Reviews are either routine (once every three years) or special (based on a MUI, complaint, or other cause).

Providers under a routine review are notified 90 days in advance. They also receive the survey tool and the sample of individuals selected. The review results are in a summary report which notes the deficiencies, explanation of deficiencies and time line for submission of a POC, if required. OPSR schedules a review of new providers within one year of initial billing. Otherwise, providers are seen for a routine review once every three years.

In 2013, 41% of the routine reviews resulted in no citations. In contrast, there was a small number of providers for which the deficiencies demonstrated either a significant health and safety issue or a pattern of noncompliance. In 2013, 48 suspensions of admissions were initiated. 34 proposed revocations were issued. During this year, 23 revocations were adjudicated (some having been initiated in the prior year).

Providers subject to suspension or revocation may seek an administrative hearing before an impartial hearing officer. Many choose to exercise this right. In such cases, it may take six months or more to schedule the hearing, receive the report from the hearing officer and issue a final order.

Principal Issues:

1. Ensuring that new providers understand what is expected early on before problems develop
2. Length of time to revoke a poor performing provider
3. Communication with families and individuals once a revocation is proposed

Recommendations:

1. County boards and DODD should consider ways of visiting a provider within the first six months of billing. This could be done through a compliance review.
2. DODD should consider whether an additional dedicated (and possibly DODD-funded) assistant attorney general would help in expediting hearings.
3. County boards should enhance internal communications regarding problem providers by, for example, ongoing active monitoring by SSA's and communication of concerns to a centralized system. This allows early intervention leading to reform by the provider, or if need be, developing solid information to be presented to DODD.
4. County boards should serve as resources for best practices thus raising expectations for all providers in the county.
5. Posting of compliance summaries on line will be one important source of information for families and individuals. There will need to be an explanation of how to read the summary.

6. SSA's can and should help individuals and families think through what they want in a provider. SSA's should provide objective information about providers.
7. The provider associations should encourage their members to publish better descriptions of what they offer to families and individuals.
8. Letters proposing suspension only and suspension and revocation should be copied to individuals/families. See attached templates.

DAY PROVIDERS

In 2013, 299 providers were newly certified to provide adult day support; 241 to provide vocational habilitation; 610 to provide non-medical transportation mile; and 515 to provide non-medical transportation trip.

The rules regarding expectations for delivery of day services are very minimal. Compliance reviews highlight the following:

Service plan does not clearly identify service needs, supervision levels or outcomes. Problems with physical environment for facility-based services and in some cases not even being appropriate for services provided.

Many providers are getting into the day service business due to reimbursement level. This level of interest coupled with lack of clear expectations demands attention from DODD as well as provider associations.

Principal Issue:

Should there be additional requirements specific to adult day support and vocational habilitation?

Recommendations:

1. Require providers who establish new locations to notify DODD before doing so.
2. DODD should convene a group of stakeholders to develop expectations regarding the delivery of day services.
3. OACB, in collaboration with DODD, should develop training on enhancing adult services outcomes in ISP consistent with person-centered planning principles.

WEBCHECK, CRIMINAL BACKGROUND CHECKS AND REGISTRY CHECKS

R.C. 5123.081 and Rule 5123:2-2-03 require that criminal background checks be completed by the Bureau of Criminal Investigation and Identification (BCI) to determine if a prospective employee has any disqualifying convictions. This same rule also requires agencies to check six state and federal databases.

Fingerprints and other data are submitted to BCI and the Federal Bureau of Investigation (FBI) electronically through WebCheck. This information is compared against a database of criminal fingerprints to determine if an individual has a criminal record. BCI then issues a background report.

WebCheck assigns a transaction number to each submission and the name of the person being checked is listed as well, if the check is BCI, FBI or both.

Reporting Results

If the applicant has no convictions or arrests, WebCheck will report the results as "Record Not Found". WebCheck will show the date and time the results were sent to the employer.

The employer can print the criminal history record check. The "printout" is a letter that contains the applicant's name, date of birth, last four digits of social security number, the date the check was completed and states where a criminal history record check has been completed and no convictions are on file. WebCheck also tracks when the results were printed.

If no records are found, the results can be returned within minutes.

If WebCheck finds an arrest or a conviction for any offense, it will display the status of the background check as "Accepted" with the message "Allow 30 days for a response." BCI will then examine what was found. The background check results are then mailed to the employer. The results will show whether there are any convictions for disqualifying offenses.

Background Check Processing Time

State law allows BCI 30 days to process a State of Ohio background check. State law allows BCI 30 days from the date the FBI completes the Federal background check to send the results to the requesting agency.

It is currently taking it about three weeks to process a background check.

Principal Issues

1. Though a small minority, there are still too many agencies not consistently conducting background checks at all or conducting them too late.
2. State law allows an employee to work unsupervised for 60 days before the criminal background check is received.

Recommendations

1. Make it as simple as possible for agencies to complete the background checks.
 - a. DODD should publish very clear instructions on each step of the background check process.
 - b. County boards should canvas the availability of WebCheck providers, and if need be, make their own WebCheck available to providers at cost. All county boards should publicize this to agencies operating in their county or provide a list of local vendors.
 - c. The Automatic Registry Check System (ARCS) which combines all six required registry checks will go live this summer. This will assist employers in getting and documenting the registry checks efficiently.
 - d. Rapback is a continuous monitoring of criminal court databases for convictions. The Attorney General is making Rapback available to public and private providers beginning this fall. There is a fee to participate in Rapback and DODD should require that all agencies participate.
2. DODD should develop some materials for SSA's and families that explain that a staff member may begin working before the employer has the results of the criminal background check. Some employers, including DODD and county boards, do not place a staff unsupervised until the background check is returned.
3. Providers should develop internal compliance systems to ensure that all background checks are consistently and timely completed.
4. Revise state law and adopt a rule to allow the imposition of a fine if a background check was not requested as required for applicants and employees.
5. When OPSR discovers that background or registry checks for the employees in the sample have not been properly completed, the sample size will be expanded.
6. As practices are improved in the area of criminal background checks, reduce to 45 days the time allowed for the background check to be returned.