**OPRA Policy Committee Meeting Notes**

**May 16, 2016**

**10a-2pm**

**OPRA Offices-Goodale Blvd.**

Chairperson: Matt Ottinger

Those in attendance: Refer to the signature sheet

1. **Introductions of all in attendance**
2. **Guest Speaker: Representative Mike Duffey (District 21)**

Representative Duffey is sponsor of House Bill 503 which is a companion bill to Senate Bill 303 which is being led by Senator Uecker.

* Rep. Duffey explained to the group that JCARR (Joint Committee Agency Rule Review) was originally created to review proposed State Agency administrative rules to ensure consistency with authorizing statute, to ensure that the rule-making was done using the proper processes, and that the agency did not impose fees that were above the benefit. If JCARR determines that one of the prongs above are violated, they have the authority to question the agency involved, request the rule to be refiled or they may adopt a motion to invalidate.
* Rep. Duffey said that HB 503 is in response to a belief that state agencies occasionally publish ‘policies’ that put regulations on Ohioans, but which have not gone through formal rulemaking as required by state law. That means no public hearings, no oversight by the legislature and no opportunity for the public to comment. This legislation will fix that and ensure a fair hearing for all affected parties.
* This proposed bill serves to modernize and incorporate by reference that State agencies must pass rule through rule making process to include details that may be in a separate document (such as a manual, best practice, guidelines, etc.). It also requires that the State agency responsible ensure that the document is readily accessible to JCARR and stakeholders with opportunity for public input, response, review. It also allows presentation regarding unforeseen impact review which allows request for review in the middle of the process due to implementation that results in unforeseen harm.
* The bill would permit JCARR to require agencies that are found to be conducting business through policy rather than through rule to appear before JCARR to explain why, and requires the agency to adopt rules to supplant the policy.
* Requires an agency, within three months after the start of a new gubernatorial term, to self-examine its own operations for policies that should be adopted as rules, to transmit its findings to JCARR, and to adopt rules if the agency is relying on policy that has not been established as a rule.
* This bill serves to further clarify the definition of adverse impact to include, not only if a fee is charged that outweighs benefit, but also to include if the policy or rule may adversely affect in a material way such as revenue reduction, excess fees, etc.
* This will prohibit State agencies from avoiding public hearing, rule making comment, and review through saying it is a policy not a rule.
* This bill also allows JCARR to request that an agency write a rule within 9 months. If the State agency does not, it will be reviewed also.
* Those who acquire attorney/court costs out of an action from State agency meeting this criteria may also require the State to pay for said costs of the adverse actions.
* This bill would also require that the OOD fee schedule to be placed in rule.
* Exclusions: Dept. of Education, State Retirement Systems
* The Senate bill will probably take the lead and HB 503 will be made identical to the Senate bill.
* OPRA and members can get involved by writing letters and emails of support, testifying in support of.
* Hearings are upcoming including SB 303 hearing in front of GAO in Room 114 tomorrow (May 17th) 1:30p (Government Accountability and Oversight Committee)
* HB503 set for hearing on Wednesday, May 18th
* OPRA Policy Committee members strongly support this legislation and Jeff Davis agreed to testify in support of this on Wednesday.
* Director Martin is scheduled for testimony May 17th at 3pm on HB 483 and members inquired on whether testimony was needed on that day.
* Jeff Davis will be sending email to notify of information related to hearings. If members wish to testify, how to do so, etc.
* Rep. Duffey received many thanks from group for proposed legislation and for coming to speak to the Policy Committee so that we could understand the purpose of the bill.

1. **Guest Presenter: Barry Jamieson, CMP Financial Planning**

**ABLE Act Updates**

* Refer to the power point presentation [here](https://www.opra.org/wp-content/uploads/2016/05/Able-Accounts-and-Estate-Planning.pptx).
* The ABLE accounts should be ready for set-up in June
* The website [www.tos.ohio.gov/Ohio\_ABLE](http://www.tos.ohio.gov/Ohio_ABLE) should be ready to go live soon
* The ABLE Act allows account set-up for those with a disability that occurred before age 26. The contributions to this account would be post tax and the earnings are tax free. The account can have up to $100,000 before affecting Medicaid eligibility.
* These accounts do have option for Debit Card like MasterCard called the STABLE card for individuals to utilize.
* There are 5 different investment options that an individual may choose
* The set-up of accounts is fairly inexpensive and simple to do.
* It is recommended that families also have will, POA, and guardianship addressed through estate planning.
* Barry is available to present to families, individuals, or other groups that may be interested. Please let him know if anyone is interested. His email is [barry@cmpfinancial.com](mailto:barry@cmpfinancial.com).
* OPRA members suggested that he train the County Board employees as they would be directly involved in information to families, individuals.
* Provider members asked the following questions for further review:

1. What is any would the provider responsibility be for those with an ABLE account? Payee responsibilities? What if placed in ISPs?
2. How does this work with Medicaid Buy In?
3. How does the new money management rule affect this and the implementation of this account if staff are assisting the individuals to spend the money, etc.?
4. When doing OJFS redeterminations, trust are reported. Would the ABLE accounts then have to be reported by provider?
5. **HB 483**

The group reviewed HB 483 status involving transition of Help Me Grow, IAF Exception review amendment, Expansion of delegated nursing, etc…

* OPRA supported HB 483 through testimony with the amendments that were proposed.
* The group discussed at length the proposed amendment regarding delegated nursing being permitted in facilities with greater than 16 beds. Some opposition was expressed. OPRA has already publically expressed its support.

1. **Waiver Nursing**

* The group expressed strong concerns with the Waiver Nursing proposed rules in the areas of TDD transition to I/O regarding time for transition, continuity of care, and the implementation period.
* There was much discussion on DODD being the approving authority through determination of whether nursing service was appropriate. There were no guidelines provided in rule for the test for appropriateness, but were told that it will be Donna Patterson and her group that would be responsible for this determination. Members were very concerned that this would lead to Department ability to again reduce services, control funding, etc.
* The Policy Committee agreed that this is a rule that we must keep a close eye on and be involved with the transitions, implementation, and ensure that individuals ARE receiving the needed services.

1. **Department of Labor Update-Overtime Threshold**

* ANCOR has created a website **www.disabilitysos.org** -all members are encouraged to check this site out and get involved by sending letters and emails
* It is expected to be filed by President with an effective date soon. The proposed timeline for implementation presented was 60 days.
* The plan now is to mitigate focused around extension of timeline for implementation, exclusions…etc.
* OPRA has been approached by the leaders from DOL to discuss further considerations of our field.
* This will greatly impact providers and OPRA will continue their work on this.

1. **Workforce Crisis**

* The group discussed the Workforce Crisis and all members agreed that overtime, those not able to receive services due to inability to staff, and number of open positions have reached an all-time high. This will continue to get worse based on what the data is showing.
* Members believe that we need to gather solid data to really display the impact of this workforce crisis from all angles including provider data on overtime and open positions, data on those not being served due to staffing shortage, the effect of new waivers that cannot be initiated due to capacity, etc…
* There was discussion that we probably as a field will not see any greater increase than the 6% that we just received. We need to review how money is spent and create a clear story on what we want and how it impacts individuals.
* The group feels that we need to create a clear flow chart to display how money is received, who receives it, and where it goes, etc…there is a general concern that there may be a lack of understanding about funding in the DD field as a whole.
* Additionally, it should be stressed that in order to meet the multitude of regulations/changes going on in the field that the Workforce Crisis must be addressed FIRST and that is everyone’s problem.
* It was the feeling of the group that we must take sustained and immediate action to address the causal factors surrounding the Workforce Crisis, including, but not limited to:

1. Demographic information
2. Awareness Campaign
3. Working environment
4. overregulation/ unreasonable demands of DSPs
5. Those things that are sucking all of the provider time
6. Unfunded mandates
7. Money-overtime rate, OSOC, minimum wage, DOL requirements, ACA
8. Reduce complexity-simplification
9. Career ladder/advancement
10. Meeting basic needs of DSPs
11. Finding our staffing pools in different creative ways and arenas
12. Partnerships-providers, counties, other entities coming together for sustainability/capacity
13. DSP Support
14. Remote Monitoring
15. Natural Supports
16. Family/guardian/individual experiences-choice of provider etc.

* It was recommended that a structured plan be developed to outline the categories for strategic approaches to address the Workforce Crisis and have committees choose the area that they will be responsible to address/further develop and follow-up on action plan for.

1. **OSOC**

* Committee members asked about OSOC. Jeff Davis presented to County Board Association last week on OSOC its impact on basis of services and reimbursement.
* County employees seemed to receive this and understood. Some approached him after about this topic.
* Members agreed that this is an area that also has to be addressed with action plan.

1. **Remote Monitoring**

* Refer to the power point presentation [here](https://www.opra.org/wp-content/uploads/2016/05/RemoteMonitoting2016.pptx).
* Jeff presented data that was shared at the County Board Conference showing that only 7 providers are providing Remote Monitoring Services and that 42 counties have NOT authorized the services at all.
* Providers shared that this has been successful with some individuals in some counties and recommended that this is an area to also address the DSP Workforce Crisis (staffing especially on overnight) and have stories of those that it has greatly enhanced their independence.

1. **Workgroup CFO and new leaders**

* OPRA is looking into launching a CFO/Finance work group and a new leaders group. More details to follow….

1. **Claims Audit-Waiver**

* Providers have been experiencing Claims Audits on Waiver Services dating back to 2009-2011. The results of the audits have reflected the following issues:

1. ISPs that were received late from county or that were signed past the date of the span with a finding claiming that the provider had to pay back the money because the services were not authorized. The State instructed provider to go back to County Board and demand payment from them for the disallowed days.
2. At DRA sites, by rule, only 8 minutes is required for billing purposes regarding documentation. Even though the rule does not require this, the audit findings involved taking back of funds for missing initials on a daily documentation sheet (even though MAR, timesheet, billing documents, etc.. were present) In one case tooth brushing was not initialed on one sheet and that was considered a disallowed day.
3. The years of 2011-2013 are supposedly being done soon.
4. **Strategic Plan**

* OPRA will be involving all committees and stakeholders in the Strategic planning in the next few months. It is absolutely critical that members get involved and assist with development of a multi-faceted approach to addressing the request for Providers to propose what we want---and propose what we think will work in the system to ensure quality service delivery to the individuals served. We need to have a structured, clear plan by end of this year and be prepared to present this to all.

1. **Employment Services/OOD**

* OOD rate schedule released. Working with them on addressing the bundling of transportation and documentation. Still awaiting Supported Employment Rates. OOD has asked for more data from providers due to the kick back on rates and them being based on 2014 (lots of changes since then). OPRA will be requesting data from providers who currently are doing OOD services. Expecting the rule for day array from DODD at any time.

**ACTION STEPS/FOLLOW-UP:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| # |  | Person(s)  responsible | Target Date |  |
| P1 | Send information to members regarding HB 503/SB 303 testimony needs, where to send emails/letters for support-instructions etc.. | Jeff Davis | 5/21/16 |  |
| P2 | Testify in support of HB503/SB303 at upcoming hearing Wed. 5/18 | Jeff Davis | 5/18/16 |  |
| P3 | Schedule Series of Training for providers-those attending ISPs to advocate for individuals service needs-OSOC, Behavior and medical add on-how to approach at ISP, etc…Send information to all provider members | Jeff Davis/ Gary Brown | 6/15/16 |  |
| P4 | Strategic Plan for next Budget-done by December 2016 | OPRA Staff/ Provider members | 12/31/16 |  |
| P5 | Initiate workgroup CFO/ Finance | OPRA |  |  |
| P6 | Initiate workgroup New and emerging leaders | OPRA |  |  |
| P7 | Send members link to ANCOR video on DSP position | OPRA |  |  |
| P8 | Create policy/rule/regulatory at-a-glance status update and maintain it will updates and distribution to members | OPRA | 7/1/16 |  |
| P9 | Create flow chart showing flow of all money in our field-who what when where how used etc….. | OPRA | 7/1/16 |  |
| P10 | Create multifaceted approach to causal factors for Workforce Crisis addressing categories identified in meeting notes above-create structured assignments for committee focus and action plans related to specific categories | OPRA/ All members | 6/30/16 |  |
| P11 | Start maintaining list for regulations creating undue harm and money reductions/fees etc. | OPRA | 6/1/16 |  |
| P12 | Create solid data regarding Workforce Crisis –OT, those not served due to staffing, open positions, lack of capacity, etc.. | Members/OPRA | 8/1/16 |  |
| P13 | Provide data request for OOD | All providers doing OOD services | Upon request |  |
| P14 | Send POWERPOINT from today’s meeting including ABLE Act to members | Jeff Davis | 5/20/16 |  |