New Hampshire
NHDDQC
Developmental Services Quality Council

The Developmental Services Quality Council provides leadership for consistent, systemic review and improvement of the developmental disability and acquired brain disorder services provided within New Hampshire's developmental services system

ANNUAL REPORT

OCTOBER 2022 – SEPTEMBER 2023

Note: This report was completed in August 2026, approximately 3 years after the time period of the report, using meeting minutes and other available information. The Council has attempted to report information as accurately as possible, but acknowledges that there may be errors or omissions.

ACKNOWLEDGEMENTS

ABLE NH

Brain Injury Association (BIA)

Disability Rights Center - NH (DRC)

UNH Institute on Disability (IOD)

New Hampshire Council on Developmental Disabilities (DD Council)

Community Support Network, Inc. (CSNI)

Northern Human Services

Lakes Region Community Services (LRCS)

Gateways Community Services

Community Partners

Community Crossroads

The Moore Center

Community Bridges

Monadnock Developmental Services (MDS)

Pathways of the River Valley

The Nashua Center

The New Hampshire Council on Autism Spectrum Disorders

New Hampshire State Family Support Council

People First of New Hampshire

The New Hampshire Bureau of Developmental Services

The New Hampshire Bureau for Family Centered Services

HISTORY OF QUALITY COUNCIL

In 2009 the New Hampshire legislature passed, and Governor Lynch signed into law, HB 483 establishing the New Hampshire Developmental Services Quality Council (hereafter referred to as the Quality Council). The creation of the Quality Council came about as a result of the State Legislature's repeated consideration of issues affecting New Hampshire's developmental services system. In 2007 the New Hampshire Legislature passed SB 138 providing funding for the developmental services wait list, proposed increasing salaries for certain direct care workers, and establishing a broadly representative committee (known as the SB 138 Committee) to improve the capacity of New Hampshire's developmental services system to address workforce and quality assurance issues. In its final report, SB 138 Quality Improvement Committee Report, issued in November 2008 the committee recommended establishing, in statute, an ongoing council to review quality assurance efforts and make recommendations to improve the ability of the developmental services system to meet the needs and goals of the individuals it serves. The purpose of the Quality Council would be "to provide leadership for consistent, systemic review and improvement of the developmental disability and acquired brain disorder services provided within New Hampshire's developmental services system." (See Addendum #1 – RSA 171-A:33). By statute, the Quality Council is required to report to the New Hampshire Legislature. This report covers the Quality Council's work from October 2022 through September 2023.

ORGANIZATIONAL STRUCTURE AND SUPPORT

In its first year, the Quality Council created an organizational structure and adopted by-laws. The by-laws call for the Quality Council to meet at least six times a year with an annual meeting in September. The meetings are open to the public and a period for public comment is included on every Council agenda. The Council's meeting schedule, agenda, and meeting minutes are posted on the NH Developmental Services Quality Council website: https://www.nhqualitycouncil.org/.

In accordance with its bylaws, the Quality Council has two elected offices, Chair and Vice-Chair. These seats were voted on at the September 2022 Meeting. Stephanie Patrick was elected as the Council Chair and Lisa Beaudoin was elected Vice Chair. In December 2022, Ms. Beaudoin left her role as the ABLE NH representative. Isadora Rodriguez-Legendre was elected to serve as vice chair in January 2023.

During this reporting period, the Quality Council held regular monthly meetings. The Quality Council meetings shifted to hold hybrid meetings in person and virtually through ZOOM in December 2022 as the public health emergency had ended.

Administrative support for the Council was provided by Community Partners. Community Partners receives a stipend from the Department of Human and Health Services to provide to the Quality Council and the Council on Autism Spectrum Disorders. The Quality Council and Council on Autism Spectrum Disorders began working with Community Partners to hire a dedicated administrator to serve both Councils. Brittany Potvin served as the administrative

support person from September 2022 to June 2023. Carrie Duran took over this role in June 2023.

Quality Council committees during this reporting period included: Data, Rules & Regulations, Membership, Person Center Planning, CIS/Recreation and Executive. The work of each committee is described in more detail below.

QUALITY COUNCIL MEMBERSHIP

The membership of the Quality Council as defined in the statute includes representation from the Bureau of Developmental Services; Area Agency Board of Directors; Family Support Councils; Institute on Disability; Brain Injury Association of New Hampshire; New Hampshire Council on Developmental Disabilities; Disability Rights Center; NH Council on Autism Spectrum Disorders; People First of New Hampshire; ABLE NH and Private Provider Network. The statute also calls for one direct support professional and one enhanced family care provider, appointed by the New Hampshire Council on Developmental Disabilities. Finally, the Council is charged with nominating up to 5 members at large who are confirmed by the Governor. At least 51% of the Council members shall be individuals served by the State's developmental system or parents of individuals who are served by the system.

The Quality Council has a committed and active membership. During this reporting period there has been a quorum at every Quality Council meeting except April and May 2023. The amount of time volunteered, and the quality of professional experience and expertise provided by Council members has been exceptional. The membership list is regularly updated as representation changes. (See Addendum #2 – New Hampshire Developmental Services Quality Council Members)

While more than half of the Quality Council's active members are individuals with developmental disabilities or parents of individuals with disabilities, the Council has had difficulty maintaining consistent representation in all the designated categories of members. Of note, during this reporting period there was no identified representative from Enhanced Family Care Providers. The Direct Service provider seat was filled during this reporting period.

On June 7, 2022, Governor Sununu signed SB 283 into law, adding five additional seats to the Quality Council, to be nominated by the Council and appointed by the Governor. During 2022-2023, the Quality Council continued the process to update its bylaws, to develop procedures to select new members and to solicit applications and select new members. These members, Kelly Ehrhart and Sarah Kouroubas were awaiting gubernatorial appointment at the end of this recording period.

QUALITY COUNCIL FOCUS AND PRIORITIES

In 2022-2023, the Quality Council focused on the following major areas of advocacy.

Use of American Rescue Plan Act (ARPA Funding)

The Council expressed concerns regarding the fair distribution of American Rescue Plan Act (ARPA) funding which were made available to area agencies to help retain current staff and recruit additional staff. Eighty percent (80%) of the funds were slated for recruitment training and retention while up to 20% could be used to cover administrative costs such as payroll taxes. The first round of funds was for direct support professionals only. The next round of distribution is set for case managers and supervisors. These funds were primarily used for recruitment and hiring incentives and staff bonuses. In discussions at Council meetings, it became clear that Participant Directed and Managed Services (PDMS) participants were excluded from these incentives in some regions and that family members serving as Direct Support Workers were also excluded. The Council requested spending plans from each area agency and confirmed these exclusions. The Council understood that the Department offered flexibility to the area agencies and some area agencies did not prioritize the PDMS families in their region. However, while this may have been allowable under the guidance from DHHS, the Council believes this was unfair to families in these regions who are facing the same challenges recruiting and retaining staff as the area agencies themselves and provider agencies.

The Quality Council wrote to DHHS to request that DHHS prioritize the employees of PDMS families if there is any unspent ARPA Funding in this program or other programs administered by DHHS. The Quality Council also requested that this should include family members who are employed as DSPs in PDMS programs in these regions.

Related correspondence is included as Addendum #3.

BDS System Redesign

During fall of 2020, the Governor and Executive Council commissioned Alvarez and Marsal (A&M) to do an efficiency audit on the Department of Health and Human Services (DHHS). Every DHHS system was examined for areas that could be improved. After several months of examination, the auditors provided recommendations for improvements through the A&M Report. As a result of these recommendations, the Bureau of Developmental Services (BDS) embarked on a system redesign.

Workgroups and Committees were formed by DHHS to engage stakeholders and work on the BDS Systems Redesign. Many Quality Council members sit on these workgroups and committees through other roles they hold, however the Quality Council does not have a designated representative on the steering committee/advisory group or any of the workgroups.

The Council recognized that the changes proposed will impact the services people within the disability community will receive for decades to come and decided to maintain the A&M Report/ BDS System Redesign as a standing agenda item to oversee, make recommendations, and ensure quality in the process.

During this reporting period, the Quality Council continued to express concerns about the redesign process at full Quality Council meetings. In particular, the Council expressed concerns about the lack of contingency plans should the shift to direct billing and any related delays cause significant impacts to provider agencies or staff; barriers in enrolling as Medicaid providers; service plan approvals; triaging provider and family/individual concerns and staff training opportunities. The shift occurred on July 1, 2023.

The Council also expressed concerns that the state would not center person centered planning in the assessment and service planning process.

Funding of Recreational Services/Family Support Council Funding

The Council expressed concerns regarding new limitations on the use of recreational service funding and the impact of the loss of funding on people with disabilities who want to participate in camps and other community activities. The Bureau indicated that some requests could be funded by local Family Support Councils, but the Quality Council expressed concerns that the funds were not sufficient and some people who do not live with their family of origin will be left out. The Council sent a letter to the Bureau of Developmental Services expressing these concerns after it was approved at the September 2023 Council meeting. See Addendum #4.

Legislative Authority of the Quality Council

At the start of this reporting period, Council members expressed concerns about the ability of the Council to achieve its legislative mandate to "provide leadership for consistent, systemic review and improvement of the quality of the developmental disability and acquired brain disorder services provided within New Hampshire's developmental services system." Members were frustrated that it seemed that state officials were not considering Council member recommendations and identified opportunities to strengthen the Council's authority via changes to RSA 171-A:33, the law that established the Quality Council.

Rep. Charles McMahon agreed to sponsor legislation to strengthen the ability of the Quality Council to make recommendations and to expect responses from DHHS. The proposed legislation (HB238) further empowered the Quality Council to be a part of major decisions that are made by BDS, set an expectation that BDS responds to input from the Quality Council when making major decisions, and changed the method which the Quality Council uses to determine an in person quorum to ensure people with disabilities and family members with disability related transportation barriers could participate. This legislation was signed by the Governor on August 9, 2023.

Statewide Training

The Quality Council sent a letter to the Bureau of Developmental Services requesting that the Bureau devote additional resources to statewide training including:

- Area Agency 101 – A high level training on the historical components that have led to our present-day service delivery model. Training would also entail the role and

responsibilities of the Area Agencies, RSA171:A, the hierarchy of decision-making and contracting, and tips and tools for successfully accessing and navigating services and funding.
- Participant Directed and Managed Services (PDMS) 101 – Training for families and individuals who are considering the PDMS model, including how to design services within this model, proper employer of record protocols and procedures, training expectations, and how to appropriately and effectively budget for services.
- Human Rights – Training related to He-M 202 and 310.
- Benefits training and understanding Medicaid/SSI/SSDI.
- Person Centered Planning – Comprehensive training on Chartering the Life Course, key milestones and decisions making moments, and how to engage a wrap-around network of supports.
- Social Role Valorization – Comprehensive training on the importance and critical components of Social Role Valorization.

The Bureau responded that "BDS shares the perspective that appropriate and thorough training is essential to ensure quality in service planning and delivery as well as to ensure the health and welfare of individuals participating in New Hampshire's Developmental Services system." BDS reported that "many of the recommended trainings are already in development, including Participant Directed and Managed Services, Human Rights and Person Centered Planning (to include topics including social role valorization)." The Bureau agreed to keep the Council informed as additional trainings were developed. Correspondence on trainings is included as Addendum #5.

HeM 310, Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services in the Community

The full Council had several discussions about the importance of He-M 310 which outlines the rights of people with developmental disabilities. Major concerns included:

- People receive true person centered planning throughout the process of planning for services.
- Rules prioritize opportunities for the person with disabilities to lead the development of their plan and make decisions.
- Clarity that rules apply to everyone who is eligible for Developmental Disability System Services and Acquired Brain Disorder Services.
- The importance of articulating the right to: develop friendships; have romantic relationships (including LGBTQ+ relationships); engage in sexual activity with another person (with informed consent from both individuals); have overnight guests; vote; text and call who they want when they want; access the internet; and privacy (related to technology).

The Rules and Regulations Committee drafted formal comments based on these discussions which were approved by the full Council. As a result, the Council sent the comments included as Addendum #6.

Quality Council Membership

In the previous reporting period, SB 283 into law, adding five additional seats to the Quality Council, to be nominated by the Council and appointed by the Governor. During this reporting period, the Council updated the bylaws to reflect this change, established a Member Relations Committee and developed procedures to consider applications for membership.

Meeting with Commissioner Weaver

On August 9, 2023, the Quality Council met with DHHS Commissioner Lori Weaver. The Council discussed these issues:

- Transition to direct billing
- Funding for recreational activities
- Direct support workforce crisis
- Measurement of success of systems redesign

Council members also had an opportunity to share their most important concerns.

COMPLAINT DATA

In November, the Quality Council was presented a spreadsheet from the Bureau of Developmental Services which compiled complaint data from 2020 and the first 5 months of 2021. The Council reviewed the breakdown of complaints, the nature of the complaints, and how they were handled. BDS's complaint filing process was also explained to the Council. The Council requested that the Data Committee look more closely at the data to address questions and concerns raised by members.

ADDITIONAL TOPICS OF DISCUSSION

In addition to the topics above, the Council also discussed legislation impacting people with disabilities, the Bureau of Developmental Services budget, the upcoming Family Support conference, challenges with the use of NH Easy, and the pilot program to provide services to individuals with developmental disabilities who are 18-21

COMMITTEES OF THE QUALITY COUNCIL

During this reporting period the Quality Council had 7 committees. Six committees were created to address issues of specific concern or interest to the Quality Council. These are Data, Bylaws, Member Relations, Rules & Regulations, Person Centered Planning and Intensive Treatment Services. The final committee is the Executive Committee, created to plan meetings and address administrative/member concerns in between meetings.

Data

By Statute, the Council is mandated to regularly review information on the quality of developmental services in New Hampshire and make recommendations for improving service quality and the quality assurance and continuous improvement systems. To fulfill this charge, our Strategic Plan included the goal of having access to quality-related reports and unfiltered data upon request. After challenges gathering data, the Council established the Data Committee to organize and formalize data requests.

During this reporting period this Committee reviewed data provided by BDS. The information received included complaints to the BOS Hotline from January 2022 to June 2022. During the summer of 2023, the Committee prioritized data regarding the shift to direct billing and the impact on provider agencies. The Committee also requested data regarding the employment of people with disabilities.

Bylaws

At the legislative session during the previous reporting period, a bill passed to add 5 additional members to the Council. In this reporting period, the Council's bylaws were updated to reflect this change and also make updates to meet the current needs of Council members. Additional updates included defining a quorum as a majority plus one as provided in law, authorizing stipends for members and updating a seat for the Autism Society to the Autism Council. The revised bylaws were approved in February 2023.

Member Relations

During this reporting period, the Quality Council established procedures for accepting new members and a Membership Committee to review membership applications and make recommendations to the full Council on members.

Rules And Regulations

By statute, the Quality Council is charged with reviewing rules and regulations to ensure that the state's developmental services system works as intended in RSA 171-A:1. To meet this obligation, the Council reviews all proposed changes in developmental services regulations and submit written comments to many of the proposed rules.

In addition to comments on HeM 310 described above, the Rules and Regulations Committee drafted the following additional comments for review by the Committee:

- HeM 503 - ELIGIBILITY AND THE PROCESS OF PROVIDING SERVICES
- HeM 505 - ESTABLISHMENT AND OPERATION OF AREA AGENCIES
- HeM 504 - PROVIDER AND PROVIDER AGENCY OPERATIONS
- HeM 507 - COMMUNITY PARTICIPATION SERIVCES
- HeM 522 - ELIGIBILITY AND THE PROCESS OF PROVIDING SERVICES FOR INDIVIDUALS WITH AN ACQUIRED BRAIN DISORDER

- HeM 1001 - CERTIFICATION STANDARDS FOR DEVELOPMENTAL SERVICES COMMUNITY RESIDENCES
- HeM 517 - MEDICAID-COVERED HOME AND COMMUNITY-BASED CARE SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AND ACQUIRED BRAIN DISORDERS

Comments on rules submitted by the Council are included in Addendum #7.

Of note, during this reporting period, the Bureau of Developmental Services began the use of a comments tracker to assist advocates to understand comments received on rules and changes that were made. This allowed the Rules and Regulations Committee to better assess the reasons for specific rule changes and helped in the development of follow up comments.

In September 2023, the Rules and Regulations Committee agreed to take the lead on drafting comments on the proposed new services to be added to the Developmental Disabilities waiver.

Person Centered Planning

During this reporting period, the Council established a Person Centered Planning Committee to better define person centered planning and set expectations regarding the use of person centered planning in the development of goals for individuals with developmental disabilities. The Committee wrote a letter expressing concerns with the current provision of person centered planning and requesting that the Bureau ensure that individuals have access to both person-centered service agreements necessary for identifying needs and supports that contribute to a community-based life, as well as Person-Centered Plans (PCP) that capture an individual's hopes, dreams and vision for their life in the community, which may include things that can't be funded through Medicaid. The Council received a response from BDS. This correspondence is included as Addendum #8.

Intensive Treatment Services

In September 2023, the Council formed an ad hoc committee to address concerns regarding intensive treatment services. The committee began meeting in the 2023-2024 year.

IN SUMMARY

New Hampshire Developmental Services Quality Council continues to provide leadership for the review and improvement of New Hampshire's services for individuals with developmental disabilities and acquired brain injuries. The Quality Council has a diverse and active membership; those serving on the Council have given their time and talents and are committed to helping New Hampshire provide the best possible services for individuals and their families.

ADDENDUM #1 – RSA 171-A:33

TITLE XII: PUBLIC SAFETY AND WELFARE

CHAPTER 171-A: SERVICES FOR THE DEVELOPMENTALLY DISABLED

171-A:33 Developmental Services Quality Council Established; Membership; Duties.

I. There is established the developmental services quality council to provide leadership for consistent, systemic review and improvement of the quality of the developmental disability and acquired brain disorder services provided within New Hampshire's developmental services system. At least 51 percent of the members of the council shall be individuals with disabilities served by the system or parents of individuals served by the system. The members of the council shall be as follows:

(a) The commissioner of the department of health and human services, or designee.

(b) A representative of People First of New Hampshire, appointed by such organization.

(c) A representative of Advocates Building Lasting Equality in New Hampshire (ABLE NH), appointed by such organization.

(d) A representative of the New Hampshire council on autism spectrum disorders who shall be either the individual who has an autism spectrum disorder or the family member of a person who has an autism spectrum disorder, appointed by the council.

(e) A representative of the Brain Injury Association of New Hampshire, appointed by the association.

(f) Two representatives of the New Hampshire Developmental Disabilities Council, at least one of whom shall be a person with a developmental disability, appointed by the council.

(g) Three representatives of local Family Support Councils, appointed by the state Family Support Council.

(h) One direct support professional and one enhanced family care provider, appointed by the New Hampshire Developmental Disabilities Council.

(i) Three representatives of area agency boards of directors including at least 2 persons with a developmental disability or family members of such persons, appointed by the Community Support Network Incorporated.

(j) A representative of the Community Support Network Incorporated, appointed by such organization.

(k) A representative of the Private Provider Network, appointed by such organization.

(l) The director of the Institute on Disability, University of New Hampshire, or designee.

(m) A representative of the Disability Rights Center - NH, appointed by the center.

(n) Up to 5 additional members, nominated by the council and appointed by the governor.

II. The groups represented under paragraph I are encouraged to provide, according to their ability, the in-kind and other resources necessary for the council to succeed. The council may request information and analysis on quality from the department of health and human services, area agencies, and providers. The council shall have access to all non-confidential information on quality for services funded all or in part by public funds.

III. The council shall regularly review information on the quality of developmental services in New Hampshire and make recommendations for improving service quality and the quality assurance and continuous improvement systems, including, but not limited to:

(a) Standards of quality and performance expected of area agencies and provider agencies.

(b) Types of data to be collected, analyzed, and disseminated to determine whether standards are being met.

(c) Quality assurance and oversight mechanisms to be used to gather data and information.

(d) Content, frequency, and recipients of quality evaluation and improvement reports.

(e) Expectations and procedures for following up on identified areas where improvements are needed.

(f) Structures, policies, rules, and practices, including staffing or organizational changes, to ensure that the developmental services system works as intended in RSA 171-A:1, including:

(1) Ways of supporting values-based and person-centered service planning and provision, as well as problem solving, innovation, and learning;

(2) Recognizing and disseminating what is working well (best/model practices);

(3) Significant changes proposed by the department relating to, or which may impact any of, the practices, policies, standards, rates, budgets, funding formulae, or rights pertaining to eligibility or provision of supports and services under RSA 171-A; and

(4) Reviewing, clarifying, and disseminating data and information on a regular basis to bring about transparency for all stakeholders and the public.

IV. The council shall provide the department with recommendations for improving service quality and the quality assurance and continuous improvement systems, no more frequently than quarterly. The department shall respond in writing within 30 business days of receipt of the

council's recommendations with a statement indicating whether it agrees or disagrees with each of the council's recommendations. Following receipt of the department's response, the council shall place the response on the next council meeting agenda for discussion by the commissioner's designee on the council. Within 60 business days of the council meeting, discussion, and record of the discussion in the minutes, the department shall provide:

(a) For each recommendation it agrees with, a detailed plan for how the department will address the areas identified as needing improvement including the specific steps the department plans to take, along with a timeline for each step;

(b) For any recommendation it does not agree with, an explanation of the basis for its disagreement and rationale for its decision not to take action on any specific recommendation; and

(c) If the department is unable to respond to the council's recommendations within the time frames above, the department shall inform the council in writing and include the reasons for not being able respond within the time frames.

V. The quarterly limit as described in paragraph IV is not intended restrict the council's ability to comment on rules, regulations, proposals, or other initiatives impacting the quality of services for people with developmental disabilities and acquired brain disorders as needed throughout the year.

VI. The council shall make an annual report beginning on November 1, 2010 that includes its recommendations and an assessment of the actions taken in response to previous recommendations to the governor, the speaker of the house of representatives, the president of the senate, the members of the house committee on health, human services and elderly affairs and the members of the senate committee on health and human services.

VII. The meetings shall be convened by the chair or vice chair of the council or commissioner of the department of health and human services, or designee, and shall meet regularly as determined by the council. The meetings shall be open to the public and subject to the provisions of RSA 91-A, the right-to-know law. The council may establish bylaws for governing its meetings, decisions, and other operations. For the purpose of convening council meetings in compliance with RSA 91-A, a quorum of the council shall be a majority plus one member of the appointed members of the council. Members who are not able to be physically present at council meetings due to their disabilities or the disability of a family member shall be counted as attending "in person" for the purpose of the establishment of a quorum provided that each member participating electronically or otherwise is able to simultaneously hear and speak to each of the other council members during the meeting, and shall be audible or otherwise discernable to public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating.

Source. 2009, 104:1, eff. Aug. 14, 2009. 2014, 102:1, eff. Aug. 10, 2014. 2022, 158:3, 4, eff. Aug. 6, 2022. 2023, 183:1, eff. Oct. 3, 2023.

ADDENDUM #2 – NEW HAMPSHIRE DEVELOPMENTAL SERVICES QUALITY COUNCIL MEMBER LIST AS OF SEPTEMBER 2023

Agency/Organization	Representative
NH Department of Health & Human Services Bureau of Developmental Services 105 Pleasant Street Concord, NH 03301 *Nominating Entity: Secretary, NH Department of Health and Human Services*	Jessica Gorton Bureau of Developmental Services Alternate: Laurie Vachon
People First of NH 4 Park Street #214 Concord, NH 03301 *Nominating Entity: People First of NH*	Tammy Mills Alternate: Dennis Greenwood
Advocates Building Lasting Equality in NH 2 ½ Beacon Street Concord, NH 03301 *Nominating Entity: Advocates Building Lasting Equality in NH*	Sarah Tollefsen, Executive Director, ABLE NH Alternate: Krysten Evans
NH Council on Autism Spectrum Disorders	Adrienne Evans

2 ½ Beacon Street Concord, NH 03301 *Nominating Entity: NH Council on Autism Spectrum Disorders*	Co-Chair, NH Council on Autism Spectrum Disorders Alternate: Vacant
Brain Injury Association of NH 52 Pleasant Street Concord, NH 03301 *Nominating Entity: Braim Injury Association of NH*	Krystal Chase Alternate: VACANT
Direct Support Provider NH Council on Developmental Disabilities 2 ½ Beacon Street, Suite 10 Concord, NH 03301 *Nominating Entity: NH Council on Developmental Disabilities*	Donna Corriveau Alternate: VACANT

Enhanced Family Care Provider NH Council on Developmental Disabilities 2 ½ Beacon Street, Suite 10 Concord, NH 03301 *Nominating Entity: NH Council on Developmental Disabilities*	VACANT Alternate: VACANT
NH Council on Developmental Disabilities 2 ½ Beacon Street, Suite 10 Concord, NH 03301 *Nominating Entity: NH Council on Developmental Disabilities*	Isadora-Rodriguez-Legendre, Vice Chair, Executive Director, NH Council on Developmental Disabilities Alternate: Pamela Stiles James C. Piet, MS Public Relations Specialist New Hampshire Department of Education, Vocational Rehabilitation Alternate: VACANT
NH Family Support Councils Bureau of Family Centered Services 97 Pleasant Street, Thayer Building	Lisa Steadman Alternate: VACANT

Concord, NH 03301 *Nominating Entity: State Family Support Counicl*	Karen Hatch Alternate: VACANT Karen Blake Alternate: VACANT
Area Agency Board of Director Members Community Support Network INC (CSNI) 10 Ferry Street, Suite 401 Concord, NH 03301 *Nominating Entity: Community Support Network Inc*	Cathy Spinney- Region 10 Alternate: VACANT Rich Crocker - Region 3 Alternate: VACANT Ann Sanok, Region VIII Alternate: VACANT
Community Support Network Inc (CSNI) 10 Ferry Street, Suite 401 Concord, NH 03301	Marissa Berg Alternate: VACANT
Private Provider Network (PPN) 55 South Commercial Street 4th Floor Manchester, NH 03101	Emily Manire, Executive Director, Nashua Center Alternate: VACANT

Nominating entity =PPN Board Chair	
Institute on Disability 67 Regional Drive #8 Concord, NH 03301 *Nominating entity = IOD Director*	Mary St. Jacques, Institute on Disability Alternate: Jennifer Sulewski
Disability Right Center - NH 64 N. Main Street #2 Concord NH 03301 *Nominating entity = DRC-NH Director*	Stephanie Patrick (Council Chair), Executive Director, Disabilities Rights Center Alternate: Karen Rosenberg
At Large Member *Nominating entity: Quality Council*	Kelly Ehrhart (Pending Appointment by the Governor)
At Large Member *Nominating entity: Quality Council*	Sarah Koutroubas (Pending Appointment by the Governor)
At Large Member *Nominating entity: Quality Council*	
At Large Member	

Nominating entity: Quality Council	
At Large Member *Nominating entity: Quality Council*	

ADDENDUM #3 - CORRESPONDENCE ON ARPA FUNDS

ADDENDUM #4 – RECREATIONAL FUNDING CORRESPONDENCE

ADDENDUM #5 – TRAINING CORRESPONDENCE

ADDENDUM #6 – COMMENTS ON RULES AND REGULATIONS

- HEM 310 COMMENTS
- HeM 503 - ELIGIBILITY AND THE PROCESS OF PROVIDING SERVICES
- HeM 505 - ESTABLISHMENT AND OPERATION OF AREA AGENCIES
- HeM 504 - PROVIDER AND PROVIDER AGENCY OPERATIONS
- HeM 507 - COMMUNITY PARTICIPATION SERIVCES
- HeM 522 - ELIGIBILITY AND THE PROCESS OF PROVIDING SERVICES FOR INDIVIDUALS WITH AN ACQUIRED BRAIN DISORDER
- HeM 1001 - CERTIFICATION STANDARDS FOR DEVELOPMENTAL SERVICES COMMUNITY RESIDENCES
- HeM 517 - MEDICAID-COVERED HOME AND COMMUNITY-BASED CARE SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AND ACQUIRED BRAIN DISORDERS

ADDENDUM #8 – CORRESPONDENCE ON PERSON CENTERED PLANNING

New Hampshire
NHDDQC
Developmental Services Quality Council

November 21, 2022

To: AA Executive Directors

From: NH Developmental Services Quality Council

Re: American Rescue Plan funding for staff recruitment, retention and training

On October 19, 2022, the Quality Council met for its regular monthly meeting. At this meeting, Council members shared concerns and questions regarding the use of the American Rescue Plan Act (ARPA) funding for staff training, recruitment and retention.

We have reviewed your spending plans but have additional questions and concerns regarding the allocation of these funds and the impact on families.

The Quality Council is concerned about the equitable families distribution of funds to area agency employees and recruits, provider agency employers, and recruits and direct support professionals employed or recruited by PDMS families. Only one of the Area Agency spending plans (Community Crossroads) mentions payments to family employed staff. At the Quality Council meeting, only one of the family member representatives said they received funding for their PDMS staff. Other families said that they were not aware that funding might be available to them, particularly as a recruitment tool.

In addition, it is critical that family members who are working as DSPs should receive retention funds too.

The Council is writing today to share these concerns and ask that you help us understand your allocation process by answering the following questions regarding the spending of ARPA recruitment, retention and training funds in your region.

1. Have you made ARPA funds available to families who are participating in PDMS?
    a. If so, how are you informing families of the availability of these funds?
    b. If not, please explain why the staff or potential DSP staff of PDMS families were excluded from this critical funding?
2. How did you determine the proportional distribution of funding for area agency employees, provider agency employees and PDMS employees?
3. Did you ask families in your region for input about how you plan use ARPA funding to recruit, retain and train staff?
    a. If yes, how was this input solicited?
    b. In no, why was family input not solicited?

4. Did family members who are working as DSPs for their family members receive retention bonuses?

5. Could you explain your approach to the 20% admin expense allowance? Did you pass the 20% along to vendors for their use or did you retain the 20% of the initial amount you received for use by your Area Agency?

We appreciate you taking the time to respond to these questions. It is our hope to use this information 1. To see if there are time and resources available to rectify the situation with what we believe is the exclusion of PDMS families in receiving funds to assist with recruitment, retention and training, and 2. To learn from what happened and improve our collective approach for the future.

We request that you please respond in writing to nhcasdqc@gmail.com by December 10, 2022. Thank you.

cc: Ellen McCahon, Community Support Network Inc Via Email: Emccahon@helmsco.com

Jessica Gorton, HCBS Waiver Administrator III, NH Department of Health and Human Services Bureau of Developmental Services Via Email: Jessica.D.Gorton@dhhs.nh.gov

Note: Area Agency Responses are available at https://www.nhqualitycouncil.org/recommendations, received 2022.

New Hampshire
NHDDQC
Developmental Services Quality Council

January 19, 2023

Lori Weaver — Via email: Lori.A.Weaver@dhhs.nh.gov
Commissioner
Department of Health and Human Services
Brown Building
129 Pleasant Street
Concord, NH 03301

Melissa Hardy — Via email: Melissa.A.Hardy@dhhs.nh.gov
Director, Division of LTSS
Department of Health and Human Services
Brown Building
129 Pleasant Street
Concord, NH 03301

Sandy Feroz — Via email: Sandy.L.Feroz@dhhs.nh.gov
Bureau Chief, Bureau of Developmental Services
NH Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: ARPA funding for staff recruitment, retention and training for area agencies

Dear Commissioner Weaver, Director Hardy and Bureau Chief Feroz,

On November 22, 2022, the Quality Council requested information from all area agencies regarding the allocation and distribution of American Rescue Plan Act (ARPA) funding for staff training, recruitment and retention. The Council was particularly concerned about funding for employees in the Participant Directed and Managed Services program after reports that funding was not made available to the employees of PDMS families in some regions.

On December 21, 2022, the Quality Council met to review the data provided by the area agencies. The reports indicate that some area agencies did not offer funding to the employees of funding for employees in the Participant Directed and Managed Services program.

The Council understands that the Department offered flexibility to the area agencies and some area agencies did not prioritize the PDMS families in their region. While this may have been allowable under the guidance from DHHS, we feel that it is not fair to families in these regions who are facing the same

challenges recruiting and retaining staff as the area agencies themselves and provider agencies.

The Quality Council is writing to request that DHHS prioritize the employees of PDMS families if there is any unspent ARPA Funding in this program or other programs administered by DHHS. The Quality Council also wishes to specify that this should include family members who are employed as DSPs in PDMS programs in these regions.

Please respond to this request in writing to nhcasdqc@gmail.com by February 15, 2023. Thank you.

Sincerely,

Stephanie Patrick, Chair

cc: Ellen McCahon, Community Support Network Inc Via Email: Emccahon@helmsco.com

Jessica Gorton, HCBS Waiver Administrator III, NH Department of Health and Human Services Bureau of Developmental Services Via Email: Jessica.D.Gorton@dhhs.nh.gov

New Hampshire
NHDDQC
Developmental Services Quality Council

September 25, 2023

Commissioner Lori Weaver Via Email: Lori.A.Weaver@dhhs.nh.gov
Melissa Hardy, Director DLTSS Via Email: Melissa.A.Hardy@dhhs.nh.gov
Office of the Commissioner
New Hampshire Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Re: Access to Community Integration/Recreational Services for Adults and Children with Developmental Disabilities

Dear Commissioner Weaver:

The Quality Council appreciates your attendance at our August 2023 meeting and hearing of your thoughtful commitment to working with us toward making our Developmental Services System the best it can be. Although we discussed numerous initiatives and issues, this letter serves to detail the concerns around the interpretation of CMS guidelines related to services deemed recreational or diversional in nature, and the impact of those services being removed from people's service plans.

Philosophy

It is the Council's philosophy that the delivery system's primary objective should be to provide any supports needed for an individual to live and experience a life and lifestyle that is equitable to one experienced by fellow citizens who do not experience disabilities. That is, to have access to all of human life's major domains: health and safety, education, work opportunities, relationships, and social interactions, among others. By definition, social interactions for most of us include recreating with our peers. It is clear that access to all of these domains were included within the intent of RSA171-A via the following:

> *Under Section 171-A:13, the State offers the following guarantees:*
>
> *"Every developmentally disabled client has a right to adequate and humane habilitation and treatment including such psychological, medical, vocational, social, educational or rehabilitative services as his condition requires to bring about an improvement in condition within the limits of modern knowledge."*

The "…limits of modern knowledge" standard is a very high and intentionally broad standard which was explicitly written into the law to allow for the constant application of "best practices" as the system evolves and allows for very individualized services.

It was good to hear you state that you agreed with the Council in principle that access to recreation was something that must be retained given that, for most of this population, their main access to the community is via social/recreational activities with peers who do not experience disabilities. The activities are, for them, often therapeutic in nature and a necessary component to their meeting behavioral/social and other ISP goals. These opportunities foster feelings of being part of the greater society, of belonging.

The Problem

The current barrier to people keeping social/recreational goals in their service plans is CMS's refusal to provide matching Medicaid funds to pay for them. It is solely a funding issue. CMS's refusal to pay for these services does not negate the State's responsibility to provide them. The State's immediate task is to identify a sustainable funding stream solely from state dollars within the BDS budget.

Short Term Possible Solutions

The Council asks that the State identify a reliable short-term funding source so these services can be restored to individual service plans immediately. Family Support dollars are not adequate to meet the demand on an ongoing basis, and the Area Agencies were not given any additional funds in their latest contracts to absorb the costs either.

Some areas to explore are using ARPA funds; allocating any funds deemed discretionary within the BDS budget already; moving lapsed dollars into a short-term/dedicated pool of funds targeted for this purpose specifically. The Council is willing to brainstorm other ideas as they occur.

Long Term Possible Solutions

The Council would like the State to take a more active advocacy role in pushing back at CMS around its current interpretation. The interpretation is narrow and is in direct conflict with their own guidelines around what an integrated life looks like within the mechanism of a Person-Centered Plan. The Council will be available to assist in crafting the messaging if helpful.

The Council would like the State to work with our Federal Legislative Delegation to craft and promote any necessary legislation to change this particular CMS position, which they state is ensconced in law, and broaden access to matching funds for recreation.

The Council suggests DHHS include in the next biennium's budget request a specific line item to fund this part of service plans using state dollars only. The justification is that it is necessary to be compliant with the expressed intent RSA171-A.

Under the System Re-Design, can we entertain the idea of a Service Plan consisting of two distinct parts; Part A - Waiver Services. These services are ones we know are allowable for matching Medicaid funds. Part B – Non-Waiver Services. These services would be where we can put recreational services with the understanding they would be paid for with solely State dollars. Then the identified rates can be applied for billing purposes. In this way the State can comply with RSA171-A.

Summary

The Council is concerned that barriers to accessing one of life's major domains are being placed in front of this particular constituency in violation of RSA171-A and Olmstead. The result of being denied this access for the individual is even greater isolation from the community and society at large. Requiring that services can only be Medicaid eligible if they are provided by therapists et al in settings not available to the general public is a worrying reversion to "medical model" thinking. Families already are required to plug so many holes with their time and money and they are maxing out. The burdens are being increased on those least able to carry them. This has never been the New Hampshire way since the system's inception. The Council would like to foster a return to true collaboration within this delivery system – the three-legged stool approach wherein the Individual and their Family, the Area Agency/Provider Network, and the State are each a leg, relying on the other two legs to help the system thrive. The stool, the "system", cannot exist or fulfill its intentions without the support of the others.

The Council looks forward to your response by October 25, 2023, to this letter and the ideas contained within it. We ask for a written response within 30 days of receipt of this letter. We welcome your input and future collaboration toward the achievement of our collective goals.

Sincerely,

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice-Chair

STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF LONG TERM SUPPORTS AND SERVICES

BUREAU OF DEVELOPMENTAL SERVICES

Lori A. Weaver
Interim Commissioner

Melissa A. Hardy
Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

August 1, 2023

NH Quality Council

Re: Individualized Services agreements (ISA) and Person Centered Planning (PCP)

Thank you for your letter dated June 6, 2023 extending the offer to assist Bureau of Developmental Services (BDS) and New Hampshire provider agencies in developing an approach to person center planning and service agreements. BDS values the relationship with and recommendations from the Quality Council. The importance of the topics and nuances between person-centered practices and how they relate to but are different than the development of the Individual Support Agreement (ISA) are noted.

BDS agrees that working collaboratively and in partnership with the Quality Council and other stakeholders to define person-centered practices, identify opportunities to improve person-centered planning and identify mechanisms to support access to person-centered approaches is a key next step as our system continues to evolve. Given the breadth and importance of these topics, we know no one organization can achieve these things alone. We welcome the opportunity to partner with the Quality Council in this work to support individuals in New Hampshire in living their best lives.

Notably, as an initial step, BDS has begun to include some of the Quality Council's suggestions and feedback in the initial proposal of He-M 504. This includes person-centered training requirements for service provider leadership and staff, as well as BDS receiving ongoing technical assistance from organizations recognized by the National Center on Advancing Person-Centered Practices and Systems (NCAPPS).

In addition, BDS is currently in the process of procuring a vendor to conduct a statewide assessment of case management/service coordination and make recommendations for a statewide approach to the development, quality, and execution of the individualized service agreement.

BDS is also working on a procurement for a vendor to develop and provide statewide training to service coordinators, including person-centered planning. Of course, there will be opportunities for these vendors to collaborate with the Quality Council throughout the process. These contractors will be required to work with the Quality Council and other stakeholders to inform the process.

While initial steps have been taken, we know that completing this work the right way will be an iterative process with many partners. We value our partnership with the Quality Council and welcome the continued input from our stakeholders to improve the lives of every individual in our service system. BDS looks forward to providing updates, continuing this conversation in future Quality Council meetings and specifically, working to identify meaningful ways for us to partner directly in this work.

We look forward to ongoing engagement with the council and the development of statewide resources that will benefit the individuals and families that we all support.

Many Thanks,

Sandy L. Feroz

New Hampshire
NHDDQC
Developmental Services Quality Council

November 10, 2022

Sandy Feroz via mail and email Sandy.L.Hunt@dhhs.nh.gov
Bureau Chief, Bureau of Developmental Services
NH Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: Training

Dear Bureau Chief Feroz,

The NH Quality Council recently performed the exercise of identifying core and fundamental trainings that are believed to be essential for individuals, families, and related staff in the developmental disabilities service delivery system. These trainings are considered to be the backbone of understanding and implementing essential services and would serve to protect the rights of individuals. Additionally, these trainings should inform key stakeholders, as users and performers of services, with the goal of enhancing quality and performance.

It is the request of the NH DD/ABD Quality Council that the Bureau of Developmental Services earmark a portion of its annual resources so as to offer the trainings that are listed below for all stakeholders within the developmental disability service delivery system. Offering these core trainings in a statewide manner with would strengthen consistency, accuracy, uniformity, and regularity of crucial training elements. Furthermore, regular and comprehensive trainings in these fundamental areas would enhance transparency and base level knowledge of the service delivery expectations and critical decision-making components.

The following trainings are recommended to be offered at a statewide level:

- Area Agency 101 – A high level training on the historical components that have led to our present-day service delivery model. Training would also entail the role and responsibilities of the Area Agencies, RSA171:A, the hierarchy of decision-making and contracting, and tips and tools for successfully accessing and navigating services and funding.
- Participant Directed and Managed Services (PDMS) 101 – Training for families and individuals who are considering the PDMS model, including how to design services within this model, proper employer of record protocols and procedures, training expectations, and how to appropriately and effectively budget for services.
- Human Rights – Training related to He-M 202 and 310.
- Benefits training and understanding Medicaid/SSI/SSDI.

- Person Centered Planning – Comprehensive training on Chartering the Life Course, key milestones and decisions-making moments, and how to engage a wrap-around network of supports.
- Social Role Valorization – Comprehensive training on the importance and critical components of Social Role Valorization.

It is the position of the NH Quality Council that many of these trainings were once offered with regularity to stakeholders. These trainings have gradually disappeared and eroded over time, thus negatively impacting the quality of training for all stakeholders of the service delivery system. The NH Quality Council would like to see the Bureau of Developmental Services dedicate annual resources to ensure that these critical trainings are offered with regularity and uniformity.

It is the request of the NH Quality Council that the Bureau of Developmental Services respond no later than November 30th with a decision on whether resources can and will be utilized and committed for these essential trainings that would benefit all stakeholders and providers within the service delivery system.

Respectfully submitted,

Emily Manire

Emily Manire
NH Quality Council Data Committee Chair

cc: Melissa Hardy, Director, Division of Long Term Supports and Services NH Department of Health and Human Services Via Email: Melissa.A.Hardy@dhhs.nh.gov

Jessica Gorton, HCBS Waiver Administrator III, NH Department of Health and Human Services Bureau of Developmental Services Via Email: Jessica.D.Gorton@dhhs.nh.gov

Stephanie Patrick, NH Quality Council Chair Via Email: StephanieP@drcnh.org

STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF LONG TERM SUPPORTS AND SERVICES

BUREAU OF DEVELOPMENTAL SERVICES

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January 25, 2023

New Hampshire Developmental Services Quality Council, Data Committee
Ms. Emily Manire, NH Quality Council Data Committee Chair
Delivered via email: Emanire@nashuacenter.org

Re: Training

Dear Ms. Manire:

The Bureau of Developmental Services (BDS) received the New Hampshire Developmental Services Quality Council (QC) Data Committee's letter regarding recommendations for statewide trainings. BDS shares the perspective that appropriate and thorough training is essential to ensure quality in service planning and delivery as well as to ensure the health and welfare of individuals participating in New Hampshire's Developmental Services system.

In review of the recommendations, we are pleased to advise that many of the recommended trainings are already in development, including *Participant Directed and Managed Services*, *Human Rights* and *Person Centered Planning* (to include topics including social role valorization). While we are not yet able to provide details on these trainings, Jessica Gorton, the BDS Waiver Administrator and designee to the QC, will keep the Data Committee updated as these trainings develop.

Benefits training and understanding Medicaid/SSI/SSDI is outside of BDS' subject matter expertise, as these programs are overseen by the Bureau of Family Assistance and the Social Security Administration, respectively. Regarding the final recommendation, *Area Agency 101* training, there are current resources available on the NHCarepath website that offer information about our service delivery system including modules such as, *A Snapshot of New Hampshire's Developmental Services System*, *Lost in Laconia* and *A Brief History of Community Based Services in NH*. While BDS did not create these trainings, we encourage the QC to review these resources at https://www.nhcarepath.dhhs.nh.gov/partner-resources/training.htm .

We appreciate the QC's time, consideration and collaboration in making these recommendations. We look forward to ongoing conversations regarding training.

Sincerely,

Sandy Feroz, Bureau Chief, Bureau of Developmental Services
State of New Hampshire Department of Health and Human Services

New Hampshire NHDDQC Developmental Services Quality Council

January 19, 2023

Allyson Raadmae Via Email: Allyson.E.Raadmae@dhhs.nh.gov
Administrator- Administrative Rules Unit
Department of Health and Human Services
105 Pleasant Street
Concord NH 03301

Re: HeM 310, Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services in the Community

Dear Ms, Raadmae,

The Quality Council appreciates the changes that the Bureau of Developmental Services made to the proposed HeM 310 regulations in response to concerns raised by the Council in its letter to the Bureau in October 2020 prior to the development of proposed changes. While the Council was provided a brief opportunity review proposed changes to the HeM 310 regulations prior to the formal comment period, the Quality Council's initial recommendations were not incorporated, limiting the feedback that the Council could provide.

The Council has additional concerns with the proposed changes to the rule. Some of these were included in the initial comments and some are new, developed in response to specific proposed changes or additions.

In addition to the specific concerns addressed below, the Council believes that the rule must specify that information is provided to people with disabilities and families in plain language. In each mention of a notice, guide or other written documents, this must be included.

He-M 310.02 Definitions
Sexual abuse – The Council continues to be concerned about the definition of sexual abuse in this rule. People with developmental disabilities have the right to have consensual sexual relationships and we are concerned that the current definition which restricts any "contact or interaction of a sexual nature between an individual and an employee of or a consultant or volunteer for a provider agency" is too limiting. People with developmental disabilities regularly volunteer and work at provider agencies and have the right to consensual sexual relationships. We encourage the state to look toward other definitions of sexual abuse which typically rely on informed consent or hierarchical relationships.

Restraint – The Council is concerned that the definition of chemical restraint is too narrow and may create confusion, particularly in Section 2 (B). Involuntarily medicating someone to control their behavior or restrict their movement is a restraint, regardless of whether it is part of a behavior support plan or otherwise. Section b reads "Is not a standard treatment or dosage for the individual's diagnosis." The additional language does not seem necessary.

We want to be sure that chemical restraints are properly defined so that there is no confusion as to when chemical restraint is use.

We believe that the Department must add definitions of "serious bodily harm" and "substantial property damage" as these are critical to the residency agreement section.

He-M 310.03 Notice of Rights of Individuals and Applicants
In the original comments on He-M 310, the Council recommended that Area Agencies must notify the individual with disabilities about his or her rights, even if a guardian has been appointment. It's critical to empower the person with the disability by educating on that individual on their rights at every opportunity. It does not appear that this concern has been address. The Council suggests the following:
(4) Provider agencies shall advise individuals ~~or~~ and their guardians or representatives of individuals' rights upon initial participation in any service, upon any change in provider agency or community residence, and at least once a year after initial participation.

He-M 310.04 Fundamental Rights
In the original comments, the Council recommended the following:

> This section must make it clear that people with disability have same rights as people without disabilities. This section of the rule must clearly state that the individual with developmental disabilities retains all the rights guaranteed to people without disabilities. While this section specifies certain rights, it is not an exhaustive list. The person with the disability retains all rights unless specifically restricted as outlined below.
> In addition, the section should clearly state that a person with a developmental disability has the right to direct his or her life, to make small and large decisions about activities, friends, home environment, etc.
> "These rights are protected regardless of the place or residence of the person, type of service or support, ability to exercise these rights or choice to exercise these rights. It is the intent of this Chapter that these rights shall be applied in all provision of supports and services to persons with developmental disabilities."
> The rule should also clarify that area agencies, provider agencies and others are not allowed to informally restrict the rights of people with developmental disabilities. This would include any rights restrictions for safety reasons.
> The rule must clearly outline the right of individuals with developmental disabilities to:
> • Develop friendship of their choice
> • Have romantic relationships, including LGBTQ relationships
> • Engage in sexual activity with another person with informed consent from both individuals
> • Have overnight visitors
> • Text and call who they want and when they want
> • Access to the internet

In response, the Department indicated that it does not want to include a list for fear that it would be understand as an exhaustive list rather than examples, but there is already a list of rights include. The Council believes that the rights above are critical and should be included in the rule so that they will be protected.

In addition, the right to vote is not guaranteed in the current rule; only the right to register to vote. This language should be changed to make it clear that individuals have the right to vote and service providers are responsible for assisting the individual to exercise this right by providing transportation or other supports.

He-M 310.05 Personal Rights
The Council recommended adding:
The right to communicate including access to technology or interpreter or other supports to facilitate communication.

This is not addressed in the draft changes. The section on communication addresses access to mail, telephone and visitors. It does not address access to communication supports, devices or interpreters to facilitate communication. While this may be addressed in other rules, the Council believes it is also critical to articulate it here.

Section (c) reads: *Individuals shall have the right to privacy.*

The Council recommended that the rule must clearly articulate that the right to privacy applies to both person and belongings and technology. The Bureau did not make this change. Once again, the Council believes that this change is important. Unless restricted in a behavior support plan, individuals with developmental disabilities deserve privacy of their cell phones, computer, tablet and other technology.
Section (f)(7) reads: No provider agency shall photograph, fingerprint, or record any individual by audio or visual equipment unless the individual, guardian, or representative has consented following an informed decision, nor allow any third party to photograph, fingerprint, or record any individual by audio or visual equipment unless the individual, guardian, or representative has consented following an informed decision, except if such monitoring or recording is part of a treatment program for a person committed in accordance with RSA 171-B;

The Council recommended the rule must clearly specify this restriction is not intended to restrict the right of a person with a disability to be or engage in activities in public or to communicate with peers. The Council believes that this restriction could be used to restrict an individual's ability to communicate with friends or family via the internet or take photos for private use and again recommends that this be clarified.

He-M 310.06 Service Rights.
Section (4)a specifies that the individual or representative has the right to a person-centered planning process that is directed by the individual or representative, if applicable. As noted above, you cannot have a person-centered planning process if the person with the disabilities is not participating in the creation of the plan and directing the process whenever possible. It is not sufficient to have on the representative participating or to have others directing the process. If the person with the disability is, because of the nature of his/her disability, is incapable of directing his or her plan, the legal guardian must do it.

This concern was not addressed by the Bureau. This language is not strong enough. The individual must lead their person-centered planning process. With the current language, the representative could lead the process and be in compliance with the law. In some cases, the service coordinator could develop the "person centered plan" without the individual or guardian involved in the process. That is not person-centered planning.

The Council believes that all individuals can participate in the person centered planning process even if their communication is limited or there are other barriers. If the individual is not involved, the state is not engaging in "person centered" planning.

The Council recommends that the state develop a definition and principles related to person centered planning so that it is clear that everyone involved in the DD system has a common definition. This definition should be incorporated in rules and law to ensure accountability.

Section 17
The Council remains concerned that the language around the use of restraints does not clearly specify that restraints should not regularly be used as part of a treatment plan. The concern below was not addressed.
Restraint and seclusion in response to behaviors should only be used when the individual presents a direct threat to himself or others, not when other treatments have not been effective. Restraint and seclusion are not treatments – the are an intervention in response to a dangerous situation.

We encourage the state to further detail expectations regarding the use of restraint in this rule, particularly in situations involving adults. This may include:

- When the patient is no longer a danger to themselves or others, the restraints should be removed immediately.
- Restraints should not cause harm or be used as punishment.

Section 18
The Department did not incorporate the Council's suggestion below and once again the Council believes that changes to this language are critical.

Section c, the language regarding maximizing the decision-making authority of the individual is weak. Provider agencies must maximize the decision-making authority of the individual. Any exceptions to this rule must be specifically justified and subject to appeal.

The Council suggests the following language:
(c) Provider agencies shall prioritize the decision-making authority of the individual.

He-M 310.07 Termination of Services.
The right to appeal, all reasons for the decision should be provided in plain language.
This recommendation was not addressed by the Bureau. The Council does not believe that there is an expectation that communication by in plain language and recommends that it be specified below to ensure individuals and families understand their rights.

(1) Be in writing in plain language;

He-M 310.11 Behavior Change Program
The Council is concerned that representatives of individuals with disabilities are authorized to consent to the behavior change program without any expectation that the person with disabilities is involved in the development of the behavior change program. We suggest the following edit to Section C.

(c) The individual is provided the opportunity to be involved in the development of the behavior change program. The ~~A~~ individual, guardian, or representative shall agree to the terms of a behavior change program. In addition, we recommend that any program developed by provided to the individual with disabilities and their families in plain language.

He-M 310.10 Residency Agreement.
The Council recommends that the following be added:
(b)(3)(c.) Implementing the resident's approved individual service agreement including any behavior support plan;

The Council recommends adding the following to (c) prior to Section 1. Before a termination request can be submitted due to behavior challenges, the provider shall assess the resident has a behavior support plan in place and whether the behavior was identified in the plan. If yes, the provider must assess whether the behavior support plan was being implemented. If yes, the provider shall assess in place, whether alternatives were considered. This information shall be included with the eviction notice.

In addition, the Council is concerned that there are significant exceptions to a person's ability to access the appeals process (e.g. if the basis for the termination is substantial damage to property). If the reason for termination falls into one of the exceptions, the individual must move out within 72 hours of receipt of the termination notice. Also, regardless of the reason for termination, unlike NH's landlord/tenant law, if the resident loses their initial hearing, there is no mechanism to have the decision reviewed by a higher court. Individuals are not provided with sufficient due process in the current draft of the rule.

Thank you for considering these comments. If you have any questions or want further information, please feel free to reach out to me or other members of the Rules and Regulations committee of the Council.

Sincerely,

Stephanie Patrick, Council Chair

New Hampshire NHDDQC Developmental Services Quality Council

January 19, 2023

Erica Ross-Skianes Via Email: Erica.M.Ross-Skianes@dhhs.nh.gov
Program Planner III
Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: He-M 503, ELIGIBILITY AND THE PROCESS OF PROVIDING SERVICES

Dear Ms. Ross-Skianes,
Thank you for the opportunity to provide comments on the He-M 503 rules during the informal comment process. The Council appreciates this opportunity to share our thoughts and concerns early in this process.

As you may know, the Council submitted comments on the He-M 503 rules in September 2021. These comments build on those previously and additional issues identified by Council members.

Overview
It is critical that all notices and other written documents for or used by participants and family members be provided in plain language. We've attempted to add this note in specific sections, but it should be included throughout the document.

We also encourage the Bureau to use gender neutral language throughout the rule, to use them instead of his and her.

The rule must clearly define who is responsible for crisis services. The system must ensure that the rates paid to this provider are adequate to fund 24 hour on call services, even if the services are rarely used. If the rule does not specify this, we are concerned that no one will take responsibility and this could create confusion for individuals with disabilities and families who are already in a crisis.

He-M 503.02 Definitions.
Assistive technology - We believe that this definition should remain in the rule. It is important that all users understand the breath of assistive technology including both devices and services.

Person centered planning – We strongly encourage the Bureau to further define person center planning and set some basic standards that must be met for a planning meeting to be considered person centered planning. At this point, it appears that person centered planning and service planning are used interchangeably by some people, furthering confusion and lessening the use of true person centered planning.

The Council is hoping to develop a definition and standards and would be happy to share this with the department.

Termination – The definition of termination should include cessation of service by service provider

He-M 503.07 Service Guarantees.

(a) Except as provided by RSA 171-B, all services shall:

(1) Be voluntary;

(2) Be provided only after the informed consent of the individual, guardian, or representative;

(3) Comply with the rights of the individual established under RSA 171-A:13-14 and He-M 310; and

(4) Facilitate as much as possible the individual's ability to determine and direct the services he or she will receive within the limitations of federal state laws and rules.

The language in red at the end of Section 4 does not comply with RSA 171A:13 Service Guarantees. – *Every developmentally disabled client has a right to adequate and humane habilitation and treatment including such psychological, medical, vocational, social, educational or rehabilitative services as his condition requires to bring about an improvement in condition within the limits of modern knowledge.* This language should be removed.

Also, we suggest changing "facilitate" in Section 4 to "prioritize".

In Section b, we are concerned that you are deleting #2. Services should be designed to meet an individual's needs in personal care, employment and therapeutic recreation.

(2) Meet the individual's needs in personal care, employment, and leisure activities;

In Sections G and I, notifications should be provided in plain language.

He-M 503.08 Service Coordination.

(6) Monitor quality of services provided;

We encourage more specifics about the role of the service coordinator to monitor the quality of services. This is vague. What authority will the service coordinator have? What will the service coordinator be expected to do if the services are not of high quality?

The Council is concerned about the only willing and qualified provider exception overall. When this was discussed in 2019, members expressed concern about these proposed requirements. Members offered a number of suggestions to address this issue and ensure choice for people with disabilities.

Please share which area agencies will qualify under the exceptions outlined.

(2) There is a lack of another qualified provider agency located within, or willing to located within, a twenty-mile radius or thirty minute travel time of the provider agency that can provide the services required;

The Council is concerned about this language. What does it mean to be located within a 20 mile or thirty minute radius? Why is this necessary? We believe that it is critical that service coordinators meet regularly in person with the person with disabilities, but this does not require that the service coordinator live within 20 miles or a 30 minute radius. If it's to make sure that some meetings occur in person then that should be articulated in the rule. This does not ensure that in person meetings will happen. With modern technology, other work could be done virtually.

(3) There are less than ten individuals who receive HCBS waiver services in the town or city in which the provider agency is located;

This also seems like an artificial construct. Are you requiring that there are less than 10 individuals where the provider is located, not where the individual receiving the exception is located? Why is the limit 10?

(i) The documentation required in (e)(1-4) shall only be required with the initial request made by a provider agency. Subsequent requests shall not require the described documentation provided that the provider agency certifies that there have been no changes to the original documentation submitted.

We are concerned that the requirements of the provider's plan to develop or recruit additional service coordination agencies is only required at the initial application. How will the Bureau ensure that provider agencies are actually implementing this plan. At minimum, a yearly report on progress and additional barriers should be required.

Additionally in the COI workgroup, members suggested only grandfathering people who use a conflicted case manager and restricting new individuals to use this exception. We also suggested setting a time limit on this section of the rule to ensure that this exception ends in a reasonable time. We encourage the state to explore all of these options to limit these conflicts now and on an ongoing basis.

He-M 503.09 Service Planning.

(cb) The service coordinator shall hold an initial service person-centered planning meeting to determine the individual's goals and service needs in meeting those goals with the individual, the individual's guardian or representative, and any other person chosen by the individual within 15 business days of the determination selection of, and acceptance by, a service coordination entity.

It is unrealistic to hold a true person-centered planning meeting in 15 business days of the determination of eligibility. We understand the need to develop an initial service plan quickly but once again, this is not a person-centered plan. The timeline to complete a person-centered plan must be longer.

(d) The service coordinator shall document that he or she has, as applicable, maximized the extent to which an individual participates in and directs his or her person-centered planning process by:

It is impossible to complete a person-centered plan without the participation of the individual. Once again, this language must be changed. There may be circumstances when the service coordinator must complete a service plan without the participation of the individual but this is not a person centered plan.

(1) Explaining to the individual the person-centered planning process and providing the information and support necessary to ensure that the individual directs the process to the maximum extent possible;

(2) Explaining to the individual his or her rights and responsibilities pursuant to He-M 310.

(4) Eliciting information from the individual regarding his or her goals, personal preferences and service needs, including any health concerns, that shall be a focus of service planning meetings;

(5) Determining with the individual issues to be discussed during all service planning meetings; and

(6) Explaining to the individual the limits of the decision-making authority of the guardian, if applicable, and the individual's right to make all other decisions related to services.

We suggest that the state outline the principles of person-centered planning in this section and distinguish them from the requirements of a service planning meeting. Both are critical but are fundamentally different.

(e) The pPerson-centered planning process shall include a discussion regarding whether or not there is a need for a limited or full guardianship, conservatorship, representative payee for Social Security benefits, durable power of attorney, durable power of attorney for healthcare, supported-decision making, or other less restrictive alternatives to guardianship. The discussion and any recommendations shall be incorporated into the service agreement.

We are pleased that alternatives to guardianship will be discussed.

503.09 (d)(13): We are concerned about the current risk assessment process and planning. Risk assessments must be done in a manner that continues to value individual choice and freedoms. The timeframe for consideration past incidents must be defined or some criteria articulated to ensure that historical incidents don't overly impact current rights and opportunities.

Risk assessments should be re-done at a frequency that allows for the capture of more current levels of risk and that are using evidence-based tools for determining actual risk.

He-M 503.10 Service Agreements.

(6) Be distributed to the individual, guardian, or representative and all providers who are responsible for the implementation or monitoring of the service agreement.

We suggest adding the requirement that this information be provided in plain language.

He-M 503.134 Transfers Across Regions

Consider adding a timeframe in which the completion of transfer occurs.

He-M 503.167 Challenges and Appeals.

The written notice requirements do not reflect federal Medicaid notice requirements. Federal Medicaid regulations require written notice for any "termination, suspension of, or reduction in covered benefits and

services". State regulations give DD participants the right to appeal any "determination, action, or inaction by an area agency". However, providing written notice of this right is only required in a limited number of circumstances. As a result, many actions that significantly impact a participant's services go unchallenged. For example, if a participant's budget is reduced, the current regulations do not require an area agency to notify the participant of their right to appeal. The state regulations must be amended to reflect federal Medicaid notice requirements more accurately.

In addition, the notice referenced in Section d must be provided in plain language.

Thank you for the opportunity to provide these comments.

Sincerely,

Stephanie Patrick, Council Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

June 5, 2023

Erica Ross-Skianes Via Email: Erica.M.Ross-Skianes@dhhs.nh.gov
Program Planner III
Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: PART He-M 504 PROVIDER AND PROVIDER AGENCY OPERATIONS

Dear Ms. Ross-Skianes,

Thank you for the opportunity to provide comments on the He-M 504 rules during the informal comment process. The Council appreciates this opportunity to share our thoughts and concerns early in this process.

As you may know, the Council submitted comments on the He-M 503 rules in September 2021. These comments build on those previously and additional issues identified by Council members.

Overview

As we have commented previously, the Council believes that it is critical that people with disabilities and family members understand what to expect from providers who are providing high quality services and how to complain if this is not happening. We encourage the Bureau to develop information for people with disabilities and their families in plain language and to distribute it widely. We've attempted to add this note in specific sections, but it should be included throughout the document.

It is important that this information is accessible to people with disabilities in as many places as possible, including on the BDS website, area agency websites, provider websites and in offices.

In addition, the Council believes that it is important to clarify when expectations apply to providers of goods and services. We've made note of this in several sections below but would encourage additional review of the document to make sure the Bureau is not setting unrealistic expectations for providers of these goods and services that could delay or complicate access for families. For example, if a person with a disability needs a tablet, it is quicker to purchase it from a retail store, but it may not be realistic to expect that store to meet all the requirements for a provider like signing contracts as outlined in this document.

It is also important for this rule to clarify the responsibilities of the Bureau to support providers and provider agencies to meet these expectations and timelines to do so. This includes providing policies, procedures and other expectations in writing to area agencies, providers and provider agencies. While the rule does not address funding, we believe that this is very important and the state must provide adequate funding to meet these expectations.

He-M 504.03 Role and Responsibilities of Providers and Provider Agencies

We suggest further clarifying who is included in "provider" and "provider agency" to make sure there is no confusion regarding expectations for vendors of goods and services, individuals or contractors employed for maintenance of provider offices versus residential facilities, cleaning staff, etc.

(a)(2) Ensuring service delivery that is individual (and family, if appropriate and chosen by the individual),-led and promotes community involvement, relationship development, independence, societal contribution, enhancement of individual communications, and aligns with an individual's service agreement.

We suggest revising the language of Section(a)(2) to clarify that the individual should choose whether their family is involved in leading the service delivery process. In addition, providers and provider agencies must have access to resources from the state to fund community involvement if that is an expectation.

(d) In addition to (c) above, all home and community based waiver community residence and enhanced family care shared living residential habilitation provider agencies and service coordination provider agencies shall be accessible 24/7 and have an on-call system for emergency access outside of regular business hours.

The Council suggests strengthening this language to make it clear that it is not acceptable to expect service recipients or family members to leave a message or speak to an answering service after hours if this causes significant delays in reaching out to providers as needed, particularly in emergency crisis situations. We believe that people with disabilities and families need immediate access to someone with decision making authority in crisis situations.

(k) A provider agency applicant shall not be enrolled pursuant to (a)(3)-(4) above until the department has completed the screening in (h) above and has communicated a determination to the department's program integrity office in accordance with (j) above.

The Council is concerned that it seems that the BDS screening process described above will only happen once at the initial provider enrollment. Some of the expectations should happen at regular intervals to assess the ongoing quality of services. Currently area agencies are assessed every 5 years as part of their redesignation process. At minimum, we believe the same should be true for providers. In addition, the rules should make it clear that BDS can initiate screenings, governance audits or provider reviews more frequently if needed based on suspected abuse, neglect or failure to provide quality services.

(l) In addition to the reasons set forth in He-W 520.06, the department shall deny an application for provider agency enrollment due to any of the following reasons:

(2) Any reported abuse, neglect, or exploitation of an individual by an applicant, provider, provider agency, or community participation services staff, if:

a. Such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161-F:49;

b. Such person(s) continues to have contact with the individual; or

c. A waiver has not been received pursuant to He-M 500;

The Council believes that this section needs additional work. Abuse, neglect or exploitation of a person with a disability should be grounds to terminate a license and not just deny an application. In addition, a-c are confusing. Section a seems to imply that reporting an incident is grounds for termination. The language as written does not provide sufficient protections for participants.

(4) A provider agency staff has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the provider agency to comply with department rules;

This requirement is confusing. It seems more important that a provider takes action to prevent and address these situations as soon as possible and providers should be held accountable to do so.

He-M 504.04 Provider and Provider Agency Participation

The expectations in this section are critical. At times, it is difficult to distinguish between expectations of providers and provider agencies at their initial applications versus at renewal. We encourage the state to review these sections to make sure the expectations for each process are clear and achievable. In addition, as noted above, please assess the expectations for pass through providers. A chart would be helpful for people with disabilities, families and advocates.

(d) Each participating provider agency must complete a New Hampshire criminal records check no more than 30 days prior to hire for each:

(1) If the provider's primary residence is out of state, a criminal records check for their state of residence must be completed.

(2) If the provider has resided in New Hampshire for less than one year, a criminal records check for their previous state of residence must be completed.

(e) Each participating provider agency must complete the Division of Children, Youth and Families (DCYF) state registry check for all employees working directly with individuals, prior to the staff beginning work.

(f) Each participating provider agency shall comply with the provisions of RSA 161-F:49 with regard to checking the names of prospective or current employees, volunteers or subcontractors against the Bureau of Elderly and Adult Services (BEAS) state registry.

The Council is concerned about the language in this section. We strongly believe that criminal and registry checks are critical for individuals interacting with people with disabilities. The proposed rule is

confusing about what staff are required to complete each of these requirements: employees, volunteers, people working directly with individuals. Volunteers don't seem to be covered as providers. Home providers are not employees. Consistency is important. There should be a process to determine when background checks are necessary for volunteers and who pays for the checks.

In addition, we encourage the state to retain the process for employees to work provisionally while these checks are being completed as they can take several weeks. We encourage the state to consider allowing staff to work after signing an attestation that they will pass all the checks. To protect the recipients of services, these individuals must be supervised during this time. This is also an opportunity for hands-on training during this period. With this in place, there should be a prohibition against circumventing the rule using an alternate job title.

We also believe that these checks should be completed on a regular basis in case new information is found, at least once every 2 years for individuals working directly with people with disabilities. Also, these employees should be expected to report any criminal issues to their employer quickly in between checks and that providers are required to immediately request a waiver if needed. We suggest that BDS articulates a strict timeline for reporting.

(g) Each participating provider shall report to the appropriate department authority any participant who is suspected of being abused, neglected, exploited or self-neglecting, in accordance with the adult protection law, RSA 161-F:46.

The Council believes that this is a critical requirement and it must be clear that all providers are required to make these report as soon as they become aware of the suspected abuse, neglect, exploitation or self-neglect. It seems to get lost in the other requirements when it is placed where it is. The rule should clearly state that employees of providers are mandated reporters.

The Council encourages the state to set timelines and expectations to move quickly through the initial process when appropriate. NH needs new providers who are providing quality services and we do not want a provider to be discouraged from opening in NH because of perceived delays in getting started. The rule allows 90 days to complete the MMIS process and Bureau screening. This seems like it may inhibit new providers.

The Council encourages the Bureau to further define the responsibilities of the area agencies, service coordinators and the Bureau to monitor quality of providers and take action if there are issues. We are unclear if this is the responsibility of the area agency or the service coordinator. How will they do this? If not, who is accessing quality and how will they do so? What powers will the monitoring organization have to take action if participants are at risk or services are not high quality? We encourage further work in this area. It is important that there are consequences for poor quality services and the rule outlines that obligation of provider agencies to address quality concerns.

In addition, it is critical that the Bureau educates people with disabilities and families about the quality that they should expect and how to complain if services are not high quality.

(w) An enrolled provider shall immediately notify, in writing, the department, and any applicable area agencies and service coordination agencies of their decision to terminate their status as an enrolled provider and update the MMIS.

Providers should also be expected to notify the people they serve, their legal guardians and supporters.

He-M 504.06 Pass-Through Billing

As noted above, the Council has concerns about the practicality of these requirements for providers of individual goods like tablets or communication devices. We believe individuals should be able to access these goods quickly and easily once they are authorized and encourage the Bureau to minimize the red tape for these providers, especially mass-market retailers. It is also important that families are not expected to pay for these devices and wait for reimbursement.

He-M 504.11 Provider and Provider Agency Staff Requirements

(d) All providers shall participate in at least one person-centered thinking course per year.

The Council strongly supports this requirement.

He-M 504.13 Discontinuation of Services by Provider or Provider Agency

(a) An enrolled provider that is not delivering services in conjunction with a Residency Agreement, in accordance with He-M 310.10 (c), shall immediately provide the individual, guardian, and service coordinator, with a written 30-day notice that clearly describes the basis for the provider agency's decision to discontinue service provision and all reasonable efforts made by the provider agency to work with the participant and guardian to maintain such service provision.

The Council encourages BDS to consider different timelines for different types of services. Thirty-day notices may not be adequate for some services, particularly with the shortage of providers. In addition, families should not be expected to step in to provide these services.

(d) An individual or guardian may request an appeal the decision to termination of services of a notice provided in accordance with (c) above, unless the reason for discontinuation of services is due to the provider agency's:

(1) Inability to provide services in accordance with the individual's assessed needs, including health and welfare, as outlined in the individual's service agreement;

(2) Inability to provide services in accordance with the individual's client's rights pursuant to He-M 310; or

(3) Cessation of operations.

The right of a participant to appeal decisions to terminate services is critical and options 1 and 2 should be grounds for appeal. The Council is particularly concerned that exception 1 above is too broad and could be used by providers to avoid appeals in almost all circumstances. At minimum, the standard for not meeting someone's assessed needs should be specific and clearly defined. We need providers to accept individuals with high needs and do not want to discourage this possibility, but the rights of individuals must be protected.

When appeals are allowed, it is important that participants are notified of their right to appeal, the notice is in plain language and includes all the reasons for the decision and services are continued during the appeals process.

As this is a new process, we encourage the Bureau to assess whether it's working after a year.

He-M 504.14 Waivers

As noted in previous rules comments, the Council recommends that information about any current waivers be available on the provider's website. This could include all waivers received, trended data on specific rules waivers and information about efforts to come into compliance with the waivered rule. The rules should also set specific timelines for the Bureau to respond to waiver requests, ideally within 72 hours.

Thank you for the opportunity to provide these comments.

Sincerely,

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice-Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

July 27, 2023

Erica Ross-Skianes Via Email: Erica.M.Ross-Skianes@dhhs.nh.gov
Program Planner III
Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: PART He-M 507 COMMUNITY PARTICIPATION SERVICES

Dear Ms. Ross-Skianes,

Thank you for the opportunity to provide comments on the He-M 507 rules during the informal comment process. The Council appreciates this opportunity to share our thoughts and concerns early in this process.

As you may know, the Council submitted comments on the He-M 507 rules in September 2021. These comments echo and build on those previously and cover additional issues identified by Council members.

Overview

In addition to the specific comments on He-M 507 below, the Quality Council wants to encourage BDS to provide additional support to people with disabilities and families to understand the regulations and regulatory process. Simple changes like adding the title/topic when a rule references another rule would help with ease of understanding.

We also encourage BDS to develop or support the development of a guide to the regulatory process in plain language to be shared widely with people with disabilities and their families. We are pleased that BDS is developing a process to develop plain language versions of rules and look forward to learning more as the process develops.

It is critical that these rules and all rules governing developmental services consider the needs of all individuals receiving services including people with low and high support needs, to ensure that people with the highest needs or unique needs are able to access supports. Many community based services including community participation services are not universally designed.

The Quality Council appreciates the removal references to he/him and she/her. Rules should reflect gender neutral language.

507.01 Purpose

(a): The Council recommends adding “including education and training” after “vocational skills”

(d) Promote personal choice and control in all aspects of the individual’s life and services, including the involvement of the individual, to the extent they are able, in the selection, hiring, training, and ongoing evaluation of their primary staff and in determining the quality of services; and

The Council recommends further clarity regarding the expectation with people with disabilities have choice or control over the hiring of support staff persons who work for provider agencies. Whenever possible, the person with disabilities should provide input, but the ultimate decision must be made by the agency. However, it is important that people with disabilities are involved in the evaluation of all their staff and in determining the quality of services provided. This should not be optional.

507.02 Definitions

b. Acquired Brain Disorder: The Council is concerned that the rules require that the acquired brain disorder must “Occur prior to age 60”. We would appreciate more information about why individuals who meet the other criteria cannot be served if their brain injury occurs after age 60? What alternative services are available to people who are 60 and older? We strongly believe that community participation services should be provided to as many people as possible as they enable individuals with acquired brain injuries and other disabilities to remain at home for as long as possible.

c. Basic living skills: The definition should be expanded to allow for activities to improve the life of the person with disabilities. Not all participants will be able to acquire, improve or maintain independence, but they can still benefit from support in basic living skills and should be able to access them. In addition, the definition should include training as a way to provide support and it should be clear that basic living skills activities are available regardless of the individual’s living arrangement.

x. Service coordinator-The Council recommends removing the clause “approved by” as people with disabilities and their legal guardians must select their service coordinator. It is not appropriate for someone else to make the selection. Also, as noted in the Quality Council’s comments on other rules, the Council does not believe that the provisions to address conflict of interests for service coordinators are sufficient.

In addition, we recommend that definitions of community, community based and exclusively be added to this rule so there is no confusion about these important aspects of community participation. We are not sure that the definition of sheltered workshop is necessary.

507.03 Service Principles

As noted above, the Council is concerned about personal development goals, particularly as articulated in (a)(4). For many people with disabilities, sustaining progress made is a significant goal in itself. We are concerned that individuals are encouraged to develop plans with unachievable goals that set them up for failure. We recognize that training should emphasize improvements, but goals for basic living skills must also value sustaining progress.

(b) Community participation services shall be primarily provided in community settings outside of the home where the individual lives.

(c) Services in (b) above shall not be provided exclusively in settings outside of the home where the individual lives.

The Council believes that integrated community participation services are important for robust lives for people with disabilities. It is critical that the state support providers to adapt and develop new ways to ensure access to the community for people with disabilities, in alignment with each individual's person centered plan. Community participation services could be provided in the home of a friend; they should not be required to be provided only in a public space. The most important thing is that services align with a true person centered plan as outlined in previous correspondence from the Council.

We recommend further clarity of this section.

507.4 Covered Services

In Section a, the Council recommends adding that "services shall be provided in the least restrictive environment possible".

In Section(b), the Council recommends adding the following (in bold).

The following services shall be covered:

(1) Instruction and assistance to learn, improve, or maintain:

a. Social and safety skills in different community settings;

b. Decision-making regarding choice of and participation in community activities;

c. Life skills as applied to community-based activities, such as purchasing items and managing personal funds;

d. Good nutrition and healthy lifestyle;

e. Communication skills and abilities including non-verbal communication;

f. Self-advocacy and rights and responsibilities as citizens; and

g. Any other skill identified by the individual or guardian during service planning and related to the individual's participation in, or contribution to, his or her community;

Many individuals can benefit from skill building related to verbal and non-verbal communication and the Council recommends that this is added.

(5) Supports related to enabling the individual to explore, and participate in, a wide variety of community activities and experiences in settings that are available to the general public;

This is a very important part of community participation services. The Council is concerned that the Department is not complying with this requirement in recent policy changes regarding access to community activities which are available to the general public. The state must continue to support participation in community activities which are available to the general public as this is critical to true community integration. The Council does not believe that this is happening now.

507.05 Non-covered Services

In Section (a)(4), the language regarding noncovered services for children who are in school should be updated to reflect the responsibility of this program to provide services to individuals who are under 21, including those who are still in school.

The Council is also concerned with the addition of both "(5) Post-secondary education regardless of whether it leads to a degree; and (6) Private tutoring." While we understand that services which can be funded by vocational rehabilitation are, we believe that the state should allow for the possibility that some post-secondary education and private tutoring services will be needed, as outlined in an individual's person centered plan.

In Section B, the Council does not believe that the 120 day restriction on covered services is reasonable. Services must be individualized, and each individual's circumstances are different. Some individuals may need additional services, particularly related to employment. People with disabilities often need ongoing support for retraining, jobs change, supervisor changes etc. Others may need intermittent help or check ins to maintain employment.

507.06 Certification

In Section c, the Council recommends removing the address. Rules and policies should allow for multiple options for submission including by email or other electronic transmission.

507.07 Operating Requirements

While not specifically addressed here, the Council believes that people with disabilities and families must be fully informed about rights and choices over time. We are concerned that the discussion of rights is actually just a box that is checked, sometime in advance of any meeting or discussion. The state must ensure there is a robust discussion of rights each year and more frequently if needed.

In Section B, the Council recommends that a discussion of employment and volunteer opportunities occurs each year with every person who is receiving services, not just those receiving community participation services. Many individuals with disabilities can work or volunteer even if their access to the community is limited. If not appropriate here, please ensure that HeM 503 clearly requires an annual discussion of volunteer and employment goals and opportunities.

The Council recommends that Section F be expanded to provide additional protections for people with disabilities in terms of termination of services.

507.08 Organization and Administration

In Section (B)(2), the Council recommend that the rule outlines a process in which the person with the disability and family can have more input and influence in emergency planning for the individual(s) with disabilities. At minimum, policies regarding emergency planning must consider individual needs and desires of the person with disabilities. People with disabilities and supporters must develop strategies for emergencies in advance of the emergency, not once the emergency is happening. They must understand their provider's emergency plan as a whole and the individualized plan to keep them safe. If this is not the appropriate place, this requirement must be included somewhere in the DD rules.

In Section (B)(2), the Council recommends that any policy regarding individual rights also include details regarding how the provider will communicate rights to people with disabilities in ways that are appropriate for them.

In Sections c.– f, the Council recommend that people with disabilities are informed and can influence how their personal information is stored and retained. Individuals with disabilities must be informed of how to request a copy of their records.

In addition, the Council recommends that the policies of area agencies and service providers which guide decisions for people with disabilities are made available to the public on the provider's website and by request. The Council recognizes that personnel policies and administrative policies may not be appropriate to be shared with the public but people with disabilities and families must have access to policies that are being used to guide decisions about eligibility, services and other decisions directly impacting people with disabilities.

507.09 Oversight and Quality Improvement

Section (c)(8), "The community participation services director and service coordinator shall determine whether the following criteria are being met and, if not, take appropriate action:" including "Individuals, and guardians if applicable, are satisfied with services". The Council is concerned about how this is verified and recommends addition specifics regarding the assessment of satisfaction. This should include requiring multiple ways to provide feedback: mail, phone to a designated person, email, web form, NCI survey. Anonymous feedback must be considered. It should specify that people with disabilities can call their service coordinator at any time to request a meeting if dissatisfied with services. Finally, this process must be published on the service providers website and shared with families at each service planning meeting.

In addition, the community participation services director and service coordinator must make sure that people with disabilities are informed about formal and informal appeals processes if they do not agree with a decision.

507.10 Staff and Provider Qualifications.

(g) Except as allowed in (h)-(i) below, the provider agency shall not hire a person:

(1) Who has a:

a. Felony conviction; or

b. Any misdemeanor conviction involving:

1. Physical or sexual assault;

2. Violence;

3. Exploitation;

4. Child pornography;

5. Threatening or reckless conduct;

6. Theft;

7. Driving under the influence of drugs or alcohol; or

8. Any other conduct that represents evidence of behavior that could endanger the well being of an individual;…

If there are misdemeanor offences which would not require a waiver from BDS, they should be specified to make sure the standard in section 8 is being applied

(k) All personnel hired in accordance with (h) and (i) above shall sign a statement annually, which is maintained in the personnel file, stating that since the time of hire they:

(1) Have not been convicted of a felony or misdemeanor in this or any other state, and

(2) Have not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person.

We believe that all employees must sign an annual statement that they have not had a conviction or finding over the last year. It's important that BDS makes sure this requirement applies to everyone, including people who have received a waiver for either of these things in the past.

(l) In instances when obtaining the checks required in (f)(1)-(6) would delay a provider agency's ability to have the person in (b) begin to provide community participation services a provider, the provider agency may obtain a self-attestation from the person to attest that they have not:

(1) Committed a felony or misdemeanor in this or any other state; and

(2) Had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person.

The Council is concerned that allowing a person to work with a person with disabilities alone after the completion of only a self attestation is too liberal. We support the idea of allowing a person to start working, particularly to start training, prior to the completion of the required checks, but believe these individuals should work with someone else whose checks have been completed.

<u>507.11 Staff and Provider Training</u>

In Section (b) (1), the Council recommend that the timeframe for "shadowing" during orientation be more specific (e.g. during the first 30 days of hire) prior to working with any individual with disabilities independently. Shadowing should be a minimum of 2 day and required for all new hires.

In addition, shadowing of family member should be allowable to meet this requirement if they are providing direct care services even if they are not paid.

In terms of training requirements, the Council recommends that BDS set standards for training, develop expectations regarding the achievement of measurable competencies and ensures consistency of training for service providers across the service delivery system. In addition, the Council believes that service providers should regularly assess the outcomes of training provided and

opportunities for improvement, including gathering feedback from people being trained and people with disabilities who are being served.

In addition, the rule should specify that additional training will be provided when needed to support the specific needs of the person with disabilities including communication needs via ASL or other means of communication.

In Section (2)(b)(2-6), the Council recommends that service providers must include input from people with disabilities families in training topics provided to staff, both globally and for specific trainings. This includes training related to independence, choice, improved skills, addressing challenging behavior and health and safety practices as these can be very specific to the individual.

In Section (6), the Council believes there is a need for more training in these areas specifically with individuals with disabilities and better alignment of these trainings between area agencies.

He-M 507.13(a)(4)

(4) An applicant, provider, provider agency, or community participation services staff or contractor has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the provider agency to comply with department rules and the provider agency failed to take appropriate action to address and respond;

Again we noted in other reviews that this language seems unclear as to what “illness or behavior” would, if left unaddressed, rise to the level of the department denying or revoking a Certification.

507.17 Waivers

The Council believes that people with disabilities and families could benefit from additional information regarding waivers, including what is and is not in statute and therefore eligible for a waiver. The Council suggests a one-page document with this information.

As noted in previous rules comments, the Council recommends that information about any current waivers be available on the provider’s website. This could include all waivers received, trended data on specific rules waivers and information about efforts to come into compliance with the waivered rule. The rules should also set specific timelines for the Bureau to respond to waiver requests, ideally within 72 hours.

Thank you for the opportunity to provide these comments.

Sincerely,

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice-Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

June27, 2023

Erica Ross-Skianes Via Email: Erica.M.Ross-Skianes@dhhs.nh.gov
Program Planner III
Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: PART He-M 522 ELIGIBILITY AND THE PROCESS OF PROVIDING SERVICES FOR INDIVIDUALS WITH AN ACQUIRED BRAIN DISORDER

Dear Ms. Ross-Skianes,

Thank you for the opportunity to provide comments on the He-M 522 rules during the informal comment process. The Council appreciates this opportunity to share our thoughts and concerns early in this process.

These comments build on comments submitted on recent rules impacting people with developmental disabilities and additional issues identified by Council members.

Overview

We encourage the Bureau to develop information for people with acquired brain disorders and their families about the content of this rule in plain language and to distribute it widely. We've attempted to add this note in specific sections, but it should be included throughout the document.

It is important that this information is accessible to people with disabilities in as many places as possible, including on the BDS website, area agency websites, provider websites and in offices.

He-M 522.02 Definitions

We believe that it is important to retain the definition of assistive technology in order to explicitly state that assistive technology includes evaluations, goods and services.

He-M 522.06 Determination of Eligibility for Medicaid Home- and Community-based Care Services.

(d) If the bureau determines the individual is not eligible for services under He-M 522.03 (b), the notice shall include the specific legal and factual basis for the determination, including a specific citation to the applicable law or department rule and the bureau shall advise the individual, guardian, or representative in writing of the appeal rights under He-M 517.09.

The Council suggested that this provision also specify that the notice be written in plain language.

He-M 522.07 Periodic Review of Eligibility.

(a) If there is reason to believe that the individual's level of cognitive functioning or adaptive behavior has changed and the person no longer has an acquired brain disorder as defined in He-M 522.02(a), or a need for services pursuant to He-M 517.03(a)(4)(b)., the area agency shall notify the individual receiving services, or the representative or guardian if the individual has one, and arrange for a reassessment of eligibility. The individual, representative, or guardian shall have the right to submit additional evaluations, letters, or other information regarding continued eligibility which shall be considered by the area agency or department prior to issuing a decision.

The Council suggests that the rule specifies that the individual be notified in all circumstances and that the rule also allows for notification of an individual's supporter.

(c) In each instance where the reassessment leads to a denial of eligibility, the area agency shall in writing;

This notice should be written in plain language.

He-M 522.08 Service Guarantees.

(a) All services shall:

(1) Be voluntary;

(2) Be provided only after the informed consent of the individual, guardian, or representative;

(3) Comply with the rights of the individual established under He-M 310; and

(4) Maximize as much as possible the individual's ability to determine and direct the services they he or she will receive within the limitations of federal and state laws and rules.

The language in red at the end of Section 4 does not comply with RSA 171A:13 Service Guarantees. – Every developmentally disabled client has a right to adequate and humane habilitation and treatment including such psychological, medical, vocational, social, educational or rehabilitative services as his condition requires to bring about an improvement in condition within the limits of modern knowledge. This language should be removed.

(2) Meet the individual's needs in life skills to promote independent living adult basic education:

a. Including educational activities with the purpose of assisting the individual in attaining or enhancing community living skills or adaptive skill development to assist the individual in residing in the most appropriate setting for his or her needs; and

b. Not including post-secondary education regardless of whether it leads to a degree;

The Council is concerned about this restriction on post-secondary education. While we recognize that much post-secondary education could be funded by vocational rehabilitation, we do not understand why this rule is so restrictive. With the recent establishment of programs like UNH4U, post secondary education for individuals with disabilities is even more likely. We recommend that this restriction be removed.

(f) The area agency shall notify each individuals, annually, that they have a right to choose their service coordinator.

In reality, this notification is often done as part of the quarterly or annual service plan meeting. While we recognize this is an opportunity to directly address any concerns, service coordinators should also notify individuals in writing in plain language about this right and how they can obtain a different service coordinator or service coordination agency.

(j) An area agency shall ensure that the service coordinator creates service agreements for all individuals for whom funding for medicaid home- and community-based care services is available pursuant to He-M 517.

It is unclear what the area agencies are supposed to do if this is not happening. What power will they have to ensure compliance with this requirement?

(h) Provider agencies shall inform individuals and applicants of their rights under these rules in clearly understandable language and form.

The Council supports this requirement that individuals and applicants are notified of their rights in plain language.

(i) For individuals who require a positive behavior plan, emergency physical restraint shall only be approved for safely responding to situations in which the individual presents with imminent credible risk of significant harm to self or others by providers who are trained and certified in recognized intervention modalities.

The Council supports this limitation on the use of restraint.

He-M 522.09 Service Coordination.

(6) Monitor quality of services provided;

The Council suggests that the rule should specify what actions service coordinators are expected to take if they determine that services are not of high quality. This is very important to a high quality service system.

(13) Participate in risk management activities by:

a. Participating in and presenting to committees and other groups related to risk management including, but not limited to, local human rights committees, statewide and local risk management committees, and community of practice to determine application of assessment recommendations received;

b. Ensuring participation in risk management training activities; and

c. Ensuring participation in clinically specialized trainings that enable successful completion of and participation in risk management activities.

This section is not clear. What are these activities? Are the service coordinators expected to participate in risk management training activities themselves or make sure that the individual or provider does so? The Council has the same questions about Section c.

(d) A service coordinator shall not:

(2) Have a felony conviction;

We encourage the state to look closely at these requirements and whether a single felony conviction, particularly many years ago, should serve as a reason to restrict someone's ability to work as a service coordinator. As we understand it, the state registry for abuse and neglect only tracks people for 7 years. We encourage the state to look closely at the prohibition on a felony conviction to determine if exceptions to this restriction are appropriate.

(e) A service coordinator who provides, or is employed by the provider agency that also provides direct services to the individual, shall be determined the only willing and qualified provider and permitted to provide service coordination and direct service if the following criteria are met:

(1) The community in which the provider agency is located is designated as rural pursuant to the department's division of public health services;

The Council is concerned about the only willing and qualified provider exception overall. When this was discussed in 2019, members expressed concern about these proposed requirements. Members offered a number of suggestions to address this issue and ensure choice for people with disabilities.

Please share which area agencies will qualify under the exceptions outlined.

(2) There is a lack of another qualified provider agency located within, or willing to located within, a twenty-mile radius or thirty minute travel time of the provider agency that can provide the services required;

The Council is concerned about this language. What does it mean to be located within a 20 mile or thirty minute radius? Why is this necessary? We believe that it is critical that service coordinators meet regularly in person with the person with disabilities, but this does not require that the service coordinator live within 20 miles or a 30 minute radius. If it's to make sure that some meetings occur in person then that should be articulated in the rule. This does not ensure that in person meetings will happen. With modern technology, other work could be done virtually.

(3) There are less than ten individuals who receive HCBS waiver services in the town or city in which the provider agency is located;

This also seems like an artificial construct. Are you requiring that there are less than 10 individuals where the provider is located, not where the individual receiving the exception is located? Why is the limit 10?

(i) The documentation required in (e)(1-4) shall only be required with the initial request made by a provider agency. Subsequent requests shall not require the described documentation provided that the provider agency certifies that there have been no changes to the original documentation submitted.

We are concerned that the requirements of the provider's plan to develop or recruit additional service coordination agencies is only required at the initial application. How will the Bureau ensure that provider agencies are actually implementing this plan. At minimum, a yearly report on progress and additional barriers should be required.

Additionally in the COI workgroup, members suggested only grandfathering people who use a conflicted case manager and restricting new individuals to use this exception. We also suggested setting a time limit on this section of the rule to ensure that this exception ends in a reasonable time. We encourage the state to explore all of these options to limit these conflicts now and on an ongoing basis.

He-M 522.10 Service Planning for Individuals Eligible for Medicaid Home- and Community-based Care Services.

(c) In instances when an individual has been determined eligible pursuant to He-M 522.05(d), and declines services available pursuant to He-M 522.03(a) and home and community based waiver services, the area agency shall assign a service coordinator within 30 days.

This requirement is confusing. Why is the service coordinator assigned? The individual with the disability should be able to select their own service coordinator.

(g) The person-centered service planning process shall include a discussion regarding whether or not there is a need for a limited or full guardianship, conservatorship, representative payee for Social Security benefits, durable power of attorney, durable power of attorney for healthcare, supported-decision making, or other less restrictive alternatives to guardianship. The discussion and any recommendations shall be incorporated into the service agreement.

The Council supports the inclusion of supported decision making and other less restrictive alternatives to guardianship.

(m) All service planning shall occur through a person-centered planning process that:

This should read “person-centered service planning process” to describe this process more accurately. This section of the rule and the rule in its entirety must articulate the differences between a person-centered service plan and a person-centered plan, as the Council has proposed for the developmental disabilities system.

b. Ensuring that plans created pursuant to He-M 505 are reviewed with evaluators to consider ongoing appropriateness and opportunities for modification of restrictions following initiation of risk management related strategies. Such considerations may be made through reassessment or through a consultative review of other documentation and updated data related to the individual’s progress.

The Council supports this addition.

(21) h. Includes a statement of the individual’s and guardian’s satisfaction with services;

This statement is confusing. The Council is not sure that asking one question at a meeting is the best way to measure true satisfaction with services or service quality.

(un) The service coordinator, or designee, shall be responsible for monitoring services identified in the service agreement pursuant to He-M 522.11 and for assessing individual, guardian, or representative satisfaction at least annually for basic service agreements and quarterly for expanded service agreements.

As noted previously, it is important that service coordinators be empowered to take action id services are not of high quality or otherwise meeting the needs of the person with the acquired brain injury. In reading this rule, it is not clear what the service coordinator is expected to do if problems are identified.

He-M 522.11 Service Agreements for Individuals Eligible for Medicaid Home- and Community-based Care Services.

(10) Guardianship and representative payee information;

We suggest the following revision:

Guardianship, supporter and/or representative payee information if applicable;

He-M 522.17 Challenges and Appeals.

(c) The following actions shall be subject to the notification requirements of (d) below:

(1) Adverse eligibility actions under He-M 522.05(d) and (ml), He-M 522.06(a), and He-M 522.07(b);

(2) Proposed service agreements or service agreement amendments if the individual, guardian, or representative disapproves pursuant to He-M 522.11(g); and

(3) A determination to terminate services under He-M 522.156(e).

The Council is concerned about the failure to notify individuals with acquired brain injuries about their right to appeal. We suggest the following language to replace the language in italics above.

Individuals or their legal representatives and service coordinators shall be provided with a written document explaining the right to appeal any determination, action, or inaction of a provider or provider agency.

He M 522.18 Waivers.

As noted in previous rules comments, the Council recommends that information about any current waivers be available on the provider's website. This could include all waivers received, trended data on specific rules waivers and information about efforts to come into compliance with the waivered rule. The rules should also set specific timelines for the Bureau to respond to waiver requests, ideally within 72 hours.

Thank you for the opportunity to provide these comments.

Sincerely,

Stephanie Patrick

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice-Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

July 27, 2023

Erica Ross-Skianes Via Email: Erica.M.Ross-Skianes@dhhs.nh.gov
Program Planner III
Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: PART He-M 1001 CERTIFICATION STANDARDS FOR DEVELOPMENTAL SERVICES COMMUNITY RESIDENCES

Dear Ms. Ross-Skianes,

Thank you for the opportunity to provide comments on the He-M 1001 rules during the informal comment process. The Council appreciates this opportunity to share our thoughts and concerns early in this process.

As you may know, the Council submitted comments on the He-M 1001 rules in May 2018. These comments repeat and build on those previously and cover additional issues identified by Council members.

Overview

In addition to the specific comments on He-M 1001 below, the Quality Council wants to encourage BDS to provide additional support to people with disabilities and families to understand the regulations and regulatory process. Simple changes like adding the title/topic when a rule references another rule would help with ease of understanding.

We also encourage BDS to develop or support the development of a guide to the regulatory process in plain language to be shared widely with people with disabilities and their families. We are pleased that BDS is developing a process to develop plain language versions of rules and look forward to learning more as the process develops.

The Quality Council recommends adding language that reiterates that personal choice should be provided in the same way in group homes and other structured settings as in home settings. This must include:

- more opportunities for input from individuals with developmental disabilities and their families
- more education and training related to, as well as enforcement of, the right to personal choice in all settings, and

- a focus on person centered planning training, including the use of person center planning to develop and direct services.

The Quality Council appreciates the removal references to he/him and she/her. Rules should reflect gender neutral language.

He-M 1001.02 Definitions

(ab) Supervision: The Council recommends additional work on this definition as it is not easy to understand as written. In addition, the individual with disabilities should be involved in the approval of a provider, not just their legal guardian.

He-M 1001.03 Administrative Requirements.

(g) Prior to working with any individual in a community residence, the provider agency, with the consent of the person and all household members, as appropriate, shall:

(1) Obtain at least 2 references for the person;

(2) Submit the person's name for review against the registry of founded reports of abuse, neglect, and exploitation to ensure that the person is not on the registry pursuant to RSA 169-C:35, and submit the person's name against such registry every 2 years after hire;

(3) Complete a criminal records check, no more than 30 days prior to the home opening, to ensure that the person and all adult household members, excluding individuals, have no history of fraud, felony, or misdemeanor conviction;

a. If a person's primary residence is out of state, complete a criminal records check for their state of residence;

b. If a person has resided in New Hampshire for less than one year, complete a criminal records check for their previous state of residence;

(4) Complete a motor vehicles record check to ensure that the potential provider has a valid driver's license; and

(h) In instances when obtaining the checks required in (g) (2)-(4) would delay a provider agency's ability to have a provider, staff or contractor begin providing services, the provider agency may obtain a self-attestation from the prospective provider, staff or contractor to attest that they have not:

(1) Committed a felony or misdemeanor in this or any other state; and

(2) Had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person.

(i) Self-attestations obtained in accordance with (h) above shall be accepted while the provider agency is awaiting the results of the checks required in (g) (2)-(4) above, but not be valid for more than 90 days. Individual and guardian approval must be obtained if a provider, staff or contractor will work directly with an individual and not under the supervision of a provider, staff or contractor with completed checks.

The Council recommends that regular criminal and driving checks be completed every two years for all individuals who are or may be working directly with people with disabilities. The Council also recommends that DCYF checks be completed as part of the initial and ongoing background check process.

In Section (3)(b), the Council recommends clarification that background checks in all states where the individual has lived in the past year must clarify that criminal records checks are completed for all the places the individual has lived in the past year.

The Council is concerned that allowing a person to work with a person with disabilities alone after the completion of only a self attestation is too liberal. We support the idea of allowing a person to start working, particularly to start training, prior to the completion of the required checks, but believe these individuals should work with someone else whose checks have been completed.

(o)(10) Signature of the individual(s) and ~~or~~ legal guardian(s) indicating agreement with the employment and date signed;

The Council recommends that the signature or other consent of the individual receiving services is obtained whenever possible.

(x) An individual's rights in accordance with He-M 310.09 shall be protected.

The Council recommends that the rule clarifies that all the rights outlined in He-M 310 shall be protected including the rights in He-M 310.09.

He-M 1001.06 Health and Safety.

(u) For each individual unable to evacuate their his or her residence within 3 minutes, a fire safety plan shall be developed and approved by the individual or guardian, provider, service coordinator, and residential administrator that identifies:

(1) The cause(s) for such inability;

(2) The specific assistance needed by the individual and to be furnished by the provider; and

(3) A training approach to reduce the evacuation time to 3 minutes or less.

The Council recommends that fire safety plans be completed for all individuals in community residences, not just those who are unable to evacuate in three minutes or less. There are two critical components of all fire safety plans. First, plans must identify who will assist the individual to evacuate if needed and how. Second, the plans must identify what support or training will be provided to the individual if they are unable to evacuate in a timely manner without assistance. It is also important that the person with the disabilities and others who they choose are involved in emergency planning as they may have information that should be considered.

He-M 1001.08 Individual Records.

(c) Each individual's record shall include:

(6) Medical information including:

a. The names, addresses, and telephone numbers of the individual's physician, dentist, therapists, and any other licensed practitioners;

b. Medical orders;

c. Medical history;

d. The dates of medical testing, to include, but not be limited to, colonoscopies, mammograms, pap smears, PSA tests, bone density tests, dental work, and eye exams;

e. A copy of the nurse-trainer assessment and approval for medication self-administration as required by He-M 1201.05, if applicable;

f. A copy of the annual physical of the individual pursuant to He-M 1001.06 (a);

g. Known allergies, if any;

h. A copy of the individual's DNR order, if applicable;

i. Health Risk Screening Tool (HRST) monthly data tracker information;

j. Other pertinent medical information; and

k. A medication log completed at the residence pursuant to He M 1201.08 for all current medications; and

l. Any correspondence involving the individual and the provider agency

The Council recommends clarifying "l" above to specify the correspondence that must be included in the medical record. It is important to maintain records that contain important information, but it may not be realistic to maintain every piece of correspondence including emails and text messages.

He-M 1001.15 Denial of Certification.

(a) The department shall deny an application for certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:

(1) Any reported abuse, neglect, or exploitation of an individual by an applicant, residence administrator, provider, staff member, or person living in a community residence, if:

a. Such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161:F-49 or RSA 169-C:35;

This section is confusing. Does this apply to situations where a provider is operating under a temporary certificate and an incident of abuse, neglect or exploitation is reported? As we understand the process, incidents of abuse, neglect or exploitation are reported on the state are reported on the registries when they are founded. If a provider takes immediate action to terminate the staff person, we are not sure that the denial of an application for certification should be required.

(4) (4) An applicant, provider, staff member, or person living in the community residence has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the community residence to comply with department rules and the provider agency failed to take appropriate action to address and respond;

The Council suggests further clarification as to what illnesses or behaviors may be included. We support the inclusion of the provision that holds provider agencies accountable if they fail to take appropriate action.

He-M-1001.16 Revocation of Certification.

(7) The certificate holder or a staff member or person living in the community residence has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the community residence to comply with department rules and the provider agency failed to take appropriate action to address and respond;

The Council's comments above also apply to this section.

He-M 1001.19 Waivers.

As outlined in previous comments, the Council believes that people with disabilities and families could benefit from additional information regarding waivers, including what is and is not in statute and therefore eligible for a waiver. The Council suggests a one-page document with this information.

As noted in previous rules comments, the Council recommends that information about any current waivers be available on the provider's website. This could include all waivers received, trended data on specific rules waivers and information about efforts to come into compliance with the waivered rule. The rules should also set specific timelines for the Bureau to respond to waiver requests, ideally within 72 hours.

Thank you for the opportunity to provide these comments.

Sincerely,

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice-Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

April 7, 2023

Erica Ross-Skianes
Program Planner III, Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: HeM 505 Comments

Dear Erica,

Thank you for the opportunity to comment on the proposed changes to HeM 505, Establishment and Operations of Area Agencies.

As you may know, due to the short timeline for comments (15 business days), the full Quality Council was unable to review and comment on the proposed changes. Instead, the Council reviewed comments on the current rule and tasked the Rules and Regulations committee with finalizing the comments on behalf of the Council.

As time allows, the full Council will review the proposed changes to HeM 505 during the formal comment process and send additional comments as needed.

He-M 505.02 Definitions

(k) Consumer
The Council is concerned about the current definition of consumer. This term is more typically used to describe the user of services and does not include their relatives or guardians. We recommend that BDS reviews how "consumer" is used throughout the rule to be sure that the voices of people with disabilities are specifically included.

In addition, the Council recommends that "supporter" is included in the definition to reflect the use of supported decision making and that support is included throughout the rule wherever there is a reference to guardian or other places where appropriate.

He-M 505.03 Role and Responsibilities of the Area Agency

The Council is concerned about a number of the new responsibilities of the area agency as outlined Section a. In a number of these, it is not clear who has the responsibility to take action when problems are identified. What is the responsibility of BDS? What is the responsibility of the area agency? If the area agency is expected to address issues, what is their authority, particularly now that service providers will be contracting directly with Medicaid?

a(7) Providing oversight and management of the provider network by:
a. Coordinating and monitoring the provider network to support the needs of the catchment region as outlined in the agency's area plan, developed pursuant to He-M 505.02 (f).
b. Communicating relevant service delivery system updates to providers.

The Council is concerned about this language and the implied responsibility of the area agencies to ensure the state has an adequate network of providers. In addition, there are practical concerns with how this will be operationalized considering that area agencies may be serving people across the state as will provider agencies.

In terms of 7(b), is every area agency expected to communicate with every provider in the state? Will providers receive the same update multiple times from different area agencies? This seems difficult to manage and inefficient.

a(13)d Assessing annual satisfaction with, and review and continuous improvement of, quality of services.

This is another provision of concern. How are area agencies expected to ensure continuous improvement of services when they are not providing the services? What will happen if an area agency determines that quality services are not being provided? Will they have the authority to do anything besides make a referral to BDS? We recognize that the details of these processes will likely be outlined in policy documents, but we are concerned that this does not create an adequate framework to guide how this will actually work in practice.

a(13)f. Collaborating with the Community Mental Health Center that serves the region to ensure coordinated service planning and delivery for individuals accessing or wishing to access services from both service systems.

The Council does not believe that this is happening now in most areas of the state and we are concerned that this brief mention of this as the responsibility of the area agency will not change the status quo. This is a large gap in services for individuals with some of the most significant disabilities.

a(14) Increasing access to employment by:

a. Acting on employment trends, as identified by the Bureau.
b. Participating in the employment leadership committee pursuant to He-M 518.
c. Providing data to the Bureau regarding employment of individuals not less than quarterly.

The Council strongly supports efforts to increase the employment of individuals with disabilities. We are concerned about how this will be operationalized. What are the area agencies expected to do to "act on employment trends"? How will area agencies gather data? Gathering data seems more appropriate to expect from service coordinators. We strongly encourage the state to devote additional resources to expand all opportunities to increase employment of people with disabilities, including opportunities for career advancement, higher wages and more hours.

a(15)f Ensuring area agency availability 24/7 in order to support critical incident assistance.

The Council is concerned about crisis management. People with disabilities and families facing a crisis need one number to call for help, not three or four. We strongly believe that the rules should identify one organization who is responsible for organizing crisis support so that people with disabilities will know who to call and that person can figure out all the details of which organization is responsible for what.

a(16)e Promoting advocacy programs on behalf of individuals including ensuring the delivery of two trainings per year on advocacy and individual rights.

Who will be required to go to these trainings? Are you intended that area agencies support self advocacy organizations or family advocacy organizations with this provision? The Council strongly supports this requirement, but believes the language needs to be clearer and stronger.

a(20) Managing guardianship activities by:
a. Providing technical assistance regarding guardianship needs for individuals.
b. Completing the request for the establishment of a public guardian if a service coordinator is not available.

This section should also include a requirement that the area agency provides technical assistance regarding supported decision making and alternatives to guardianship and that the area agencies maintain a list of attorneys who can assist families if needed.

a(22) Completing information gathering via survey by:
a. Disseminating and coordinating the annual National Core Indicator satisfaction surveys.
b. Reviewing survey results to identify areas of quality improvement.
c. In partnership with BDS, distributing and reviewing survey results to ensure continuous quality improvement for our comprehensive service delivery system.

The Council supports gathering information about the quality of services via the National Core Indicator satisfaction survey, but this language does not indicate who is responsible for actually acting on areas where quality improvement is needed or how they will be held responsible for such. In addition, the Council would like to receive regular reports on the data gathered and action taken from BDS and the area agencies.

(d) When possible, the area agency shall utilize generic, integrated services, rather than establish separate services for people with developmental disabilities or acquired brain disorders.

The Council is concerned about the use of the word "generic" in the above. The Council recommends replacing it with "community-based". In addition, we believe this is an opportunity to emphasize that these services should be developed through the use of person centered planning.

(e) The area board shall establish policies and procedures for the governance and administration of the area agency and all service components of the area service delivery system. Policies shall be developed to ensure efficient and effective operation of the local service delivery system and adherence to requirements of state and federal funding sources, the area plan, and rules and contracts established by the department. Policies shall be developed to ensure that the area agency avoids any conflict of interest and any appearance of conflict of interest in its business relationships.

The Council is very concerned about transparency of area agency policies and procedures and believe that all policies and procedures impacting families or governance should be published on the area agency website and made available to people with disabilities and families by request. This same requirement should be included in the provider rule that's being written now.

Additionally, the Council believes that it would be helpful to clarify that the agency's strategic plan may be used to satisfy this requirement as long as it meets required criteria in this section and throughout the document.

The next section of the rule involves governance and the area agency Board of Directors. The Council is concerned that this language, "(*4) Members shall be representative of the agency's different consumer groups and entire area*" is not sufficient to insure the inclusion of the diversity of voices for a strong Board.

The Council recommends that BDS and area agencies consider incorporating requirements for best practices related to Board membership for non-profit organizations in the Board requirements. This may include consideration of term limits, requirements that Board members live in the area agency catchment area, racial and ethnic diversity of members, diversity of geographic region and diversity of disability. The Council strongly recommends that BDS adds a requirement that the Board must include at least one person with a disability who is

supported by that DADS entity as a full voting member of the Board, in addition to the requirement that 1/3 of the Board is made up of consumers as currently defined.

The Council supports the requirement that area agency Board members be trained in person centered thinking at start of membership. We recommend that BDS develop a list of approved person-centered trainings for Boards of Directors and are willing to assist with developing this list.

In the section regarding the Executive Director, the Council recommends that the Area Agency Executive Director is evaluated annually and in writing by the Board of Directors.

(p)(2)(d) Free from conflict
The Council strongly supports the addition of this provision to the rule.

Section (u) addresses the area agency plan. The Council recommends that the plan includes a regular (at least annual) report of actions taken and progress made to comply with conflict free case management requirements as required in He-M 503 for all agencies requesting an exception to conflict free case management requirements.

The Council recommends that the area agency plan is posted on the area agency website; that the area agency regularly updates progress on the goals in the plan and this is also published.

The Council recommends that the rule requires regular meetings with people with disabilities who receive services, family members and other interested parties regarding plan development and progress.

In terms of Section y (eligibility), the Council will discuss the eligibility process at a future meeting to determine if a workgroup on eligibility may be helpful at some point in the future. No specific changes to this section are recommended at this time.

He-M 505.08 Redesignation

(f) Approval of an area agency's request for redesignation shall be granted if, based on the following information, the area agency is found to be in compliance with (e) (1)-(9) above:

(1) Public comments generated by forums with the board of directors, self-advocacy groups, and the family support council regarding the area agency's demonstrated ability to provide local services and supports to individuals and their families;

(2) A comprehensive self-assessment of the area agency's current abilities and past performance;

(3) Input from a wide range of people, agencies, or groups who are either recipients, providers, or people who collaborate in the provision of services and supports;

(4) Documentation pertaining to area agency operations available in the area and at the department; and

(5) Input from department staff who have direct contact with and knowledge of area agency operations.

The Council recommends that this section include more specifics about who is asked for input during the redesignation process. This should include a requirement that area agencies directly ask the following groups for input: People First of NH, NH Council on Developmental Disabilities, Disability Rights Center – NH, ABLE NH, local self-advocacy organizations, provider agencies and any statewide or local organizations who may provide useful feedback to improve area agency services.

We support the required community forums and encourage area agencies to host forums in person and via Zoom or other web-based meeting software to insure broad participation of people with disabilities and families and that these forums be recorded and made available.

Finally, the area agency must broadly distribute a survey to recipients of services, family members and others as an additional way of gathering feedback.

He-M 505.13 Waivers

The Council recommends that information about any current waivers be available on the area agency website. This could include all waiver received, trended data on specific rules waivers and information about efforts to come into compliance with the waiver rule.

Finally, depending on the rule being waived, waivers for five years seems too long. The Council recommends that BDS examine whether this duration is appropriate for all rules.

The Council also recommends that these recommendations be added to the new provider rule and to He-M 503 rules if appropriate.

Conclusion

In addition to the comments on specific sections of the rule above, the Council has several additional concerns. First, it is unclear in this document how the area agencies will be able to assist if a person with disabilities or family is dissatisfied with their services or if there are other issues with services in their region. If area agencies are suppose to address or rectify concerns, they must have the authority to do so. If not, BDS should be expected to make changes.

Second, the Council recommends that the state ensure that area agencies have sufficient funding to implement these recommendations if there are additional costs.

Finally, the Council is concerned about the amount of time allowed for informal feedback on rule changes of this magnitude. The Council requests that BDS commits to further discussion with the Council and all stakeholders in one year to address any unanticipated challenges with these changes.

Thank you for your consideration of these comments. Both the Rules and Regulations committee and the full Council are happy to meet to discuss these issues further if that would be helpful.

Sincerely,

Stephanie Patrick, Chair

Isadora Rodriguez-Legendre, Vice Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

September 20, 2023

Erica Ross-Skianes Via Email: Erica.M.Ross-Skianes@dhhs.nh.gov
Program Planner III
Office of Client and Legal Services
New Hampshire Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Re: PART He-M 517- MEDICAID-COVERED HOME AND COMMUNITY-BASED CARE SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AND ACQUIRED BRAIN DISORDERS

Dear Ms. Ross-Skianes,

Thank you for the opportunity to provide comments on the He-M 517 rules during the informal comment process. The Council received the draft rule for informal comment on August 18, 2023 and could not complete this draft until the next scheduled Quality Council meeting on September 20, 2023. We hope that you will still consider this feedback in the informal drafting process.

Overview

In addition to the specific comments on He-M 517 below, the Quality Council wants to encourage BDS to provide additional support to people with disabilities and families to understand the regulations and regulatory process. Simple changes like adding the title/topic when a rule references another rule would help with ease of understanding.

We also encourage BDS to develop or support the development of a guide to the regulatory process in plain language to be shared widely with people with disabilities and their families. We are pleased that BDS is developing a process to develop plain language versions of rules and look forward to learning more as the process develops.

It is critical that these rules and all rules governing developmental services consider the needs of all individuals receiving services including people with low and high support needs, to ensure that people with the highest needs or unique needs are able to access supports. Many community-based services including community participation services are not universally designed.

The Quality Council appreciates the removal references to he/him and she/her. Rules should reflect gender neutral language.

He-M 517.02 Definitions

(i) "Community integration" means:

(1) Participation in a wide variety of experiences in settings that are available to and used by the general public;

(2) Participation in natural relationships with one's family, friends, neighbors, and co-workers; and

(3) Expansion of one's personal network of friends to include individuals who do not have disabilities.

The Council encourages the Bureau to explore alternative definitions for community integration. For example, this definition from Utah more closely reflects the Council's understanding of community integration.

> "Community integration is the opportunity for individuals with disabilities to live in the community and be valued for their uniqueness and abilities to the same extent as others without disabilities. Community integration means actively working to not only bring individuals into the community, but also ensuring that they are able to contribute to the development of the community and feel like they are an integral part of it."
> https://medicaid.utah.gov/Documents/pdfs/ltc/hcbstransition/Files/Community%20Inclusion%20and%20Integration%20Flyer.pdf

(s) "Natural supports" means people such as family, relatives, friends, neighbors, and clergy, and social groups such as religious organizations, co-workers, and social clubs, available to provide comfort and help as part of everyday living as well as during critical events.

The Council encourages the Bureau to examine this definition more closely. In our understanding, natural supports are typically provided without compensation and this is not reflected in the definition. Also, natural supports should provide support to the person with disabilities. This may or may not include comfort or help. Finally, the support to be provided and supporter must be chosen by the person with disabilities. Not everyone who is available will be an appropriate supporter.

(z) "Representative" means:

(1) The parent or guardian of an individual under the age of 18;

(2) The legal guardian of an individual 18 or over; or

(3) A person who has power of attorney for the individual.

The Council recommends that this rule incorporates the assistance of a supporter for a person with developmental disabilities wherever necessary. In a supported decision-making agreement, the person with disabilities retains the authority to make their own decisions but can request and receive assistance from a supporter. We recommend that it be added to the definitions and to the following sections of the waiver as appropriate.

The Council recommends adding definitions of person center plan and person-centered service plan in this rule or one of the other DD rules. These definitions should reflect the concepts from the

Council's letter on person centered planning sent on July 6, 2023 and available at https://www.nhqualitycouncil.org/_files/ugd/78293e_837cdb5428b145e1a5e8371242593c0d.pdf.

The Council recommends standardizing definitions over all the DD rules whenever possible and linking to one another. This will minimize confusion.

He-M 517.03 Eligibility.

(d) To request a redetermination of the level of care in 517.03(a)(4)???? above, a "NH bureau of developmental services functional screen for waiver services" electronic form shall be submitted via NH Easy (add link) not less than 30 days but not more than 45 days prior to expiration of the current level of care determination.

The 15-day window for the submission of this form seems very narrow. The Council recommends that BDS reconsider this to allow for additional flexibility in the submission of this form.

He-M 517.04 Provider and Provider Agency Participation.

(b) An OHCDS or provider agency shall allow the department or area agency to examine its service and financial records at any time for the purposes of audit or review.

The Council recommends that this provision be rewritten to clarify which organizations can access records and for what purpose.

He-M 517.05 Covered Services.

(a) All home and community-based waiver services provided shall be specifically tailored to, and provided in accordance with, the individual's needs, interests, competencies, and lifestyle as described in the individual's service agreement.

The Council recommends that this provision be rewritten to include a reference to an individual's person-centered plan if applicable. In addition, we recommend that the sentence be divided or otherwise rewritten in plain language.

(b) Services provided pursuant to He-M 517 shall be:

(1) Designed to maintain and enhance each individual's natural supports;

The Council is concerned about this language. Natural supports are very important to people with developmental disabilities, but our current system relies too much on natural supports (families) when paid supports are not available due to workforce shortages or adequate rates. We are concerned that this is the first item on the list and could be read to place an unfair burden on families, as in the current system.

(2) Responsive to the individual's changing needs and choices within the limitations of federal and state laws and rules;

(3) Provided only after the informed consent of the individual and/or their guardian or representative if applicable;

The Council believes that /or in the sentence above should be included. Individuals with disabilities should provide informed consent to their services whenever possible.

(4) Free from conflict in accordance with He-M 503 or He-M 522;

(5) Delivered by any willing and qualified provider agency or provider that is freely chosen by the individual or individual's guardian or representative; and

As noted above, the provider should be chosen by the individual. The Council believes that "or" should be replaced with "and".

(d) Service coordination services shall:

(1) Be provided pursuant to He-M 503or He-M 522;

(2) Include the following:

(d:2 a) Coordination and facilitation to assist individuals in gaining access to needed services and resources, as well as needed medical, social, educational, and other services, regardless of funding source, as of all supports and services delineated in the service agreement, including;

1. System navigation including identifying, providing information about, and assisting families to access available services as well as community resources, including but not limited to;

2. Person-centered service planning including coordination and facilitation of services and the development of a service agreement pursuant to He-M 503.09 and 503.10 or 522.10 522.11;

3. Monitoring and ongoing review of services and individual outcomes, in accordance with He-M 503.10 or 522.11 to include assessing and reassessing service needs, goals and outcomes;

4. Monitoring of services for quality in accordance with 503.10 or 522.11;

The Council believes that there is still some confusion regarding the role of the service coordinator, area agency and bureau to measure the quality of services and take action.

5. Monitoring to ensure health and welfare in accordance with 503.10 or 522.11; and

6. Assistance in identifying available provider agencies and providers;

The Council recommends adding "Coordination of the development of the person centered plan" to this list of responsibilities.

c. 24/7 access for outreach regarding individuals supported

The Council recommends that this section include the specific language regarding 24/7 access for service coordinators or references the provision in He-M 504.

(e) Residential Habilitation services shall :

(1) Be provided pursuant to He-M 1001, He-M 525, or He-M 521, as applicable;

(2) Include individually tailored supports to assist with the acquisition, retention, or improvement of community living skills including but not limited to:

a. Meal preparation;

b. Eating;

c. Bathing;

d. Dressing;

e. Personal hygiene;

f. Medication management;

g. Community inclusion;

h. Transportation;

i. Social and leisure skills; and

The Council recommends adding a reference to hobbies and fun activities to this provision.

j. Adaptive skill development.

The Council is not sure what this is and recommends revising or adding a definition and adding examples like budgeting, time management, self-advocacy.

In addition, the following skills should be added to this list:

- organizing/domestic skills/housekeeping/keeping personal space clean
- self determination/independence

(3) Include assistance to the individual to enable them to reside in the least restrictive setting most appropriate to their needs;

(4) Be provided in the home or outside of the home;

(5) Be reimbursed at a daily rate;

(6) Except as allowed by (7) below, all community residences shall be certified pursuant to He-M 1001. Community residences that serve 4 or more people shall also be licensed by the bureau of health facilities administration in accordance with RSA 151:2, I, (e) and He-P 814;

(7) A residence funded under the home and community-based care waiver that provides services to persons with acquired brain disorders and is licensed as a supported residential care facility or a residential treatment and rehabilitation facility under RSA 151:2, I, (e) shall not be required to be certified as a community residence pursuant to He-M 1001;

(8) Residential habilitation services described in He-M 521.03 and provided in the family home of an individual who is 18 years of age or older shall be certified pursuant to He-M 521.09; and

(9) Services provided through a participant directed and managed services method of delivery shall be certified pursuant to He-M 525.

While this might not be the appropriate location, the Quality Council recommends that the Bureau outlines expectations for the closure of residential facilities in rule including timelines for voluntary closure whenever possible to ensure smooth transitions for residents but also make sure that providers are willing to accept residents who may be more challenging to serve. The Council recommends additional conversations with people with disabilities, family members, providers, case managers and area agencies as these standards are developed.

(f) Community participation services shall:

(1) Be provided in accordance with He-M 507.04;

(2) Include the following as required outlined inby the individual's service agreement:

a. Instruction and assistance to learn, attain, improve, or maintain:

1. Social and safety skills in different community settings;

2. Decision-making regarding choice of and participation in community activities;

3. Life skills as applied to community-based activities, such as purchasing items and managing personal funds;

4. Good nutrition and healthy lifestyle;

The Council recommends adding "communication skills" to this list.

(g) Supported Employment services shall:

(1) Be provided in accordance with He-M 518;

(2) Be available to any individual who:

a. Has a goal or desired outcome related to n employment goal; and

b. Is not authorized and funded by the NH department' of education's bureau of vocational rehabilitation for the same supported employment service;

(3) Consist of assistance provided to individuals to:

a. Improve or maintain their skills in employment activities; or

b. Enhance their social and personal development or well-being within the context of vocational goals;

(4) Include referral, evaluation, and consultation for adaptive equipment, environmental modifications, communications technology or other forms of assistive technology, and educational opportunities related to the individual's employment services and goals;

(5) When combined with another employment service, transportation and training in accessing transportation, as appropriate, to and from work; and

(6) Be reimbursed at a quarter hour rate.

The Council recommends advocacy to improve the quality of vocational rehabilitation services in the state. Vocational rehabilitation services are generally matched by federal funds at a much higher rate (approximately 79% compared to 50%) than Medicaid expenditures. It is important that supported employment services in the DD waiver supplement and not supplant vocational rehabilitation services. The Council recommends further discussion about improving supported employment services for people with developmental disabilities.

(h) Respite care services shall:

(1) Be provided pursuant to He-M 513;

(2) Consist of the provision of short-term assistance and care for individuals unable to care for themselves because of the absence or need for relief of the family who lives with and normally provide care for the individual;

(3) Be provided in or out of an individual's home;

(4) Not exceed 20% of an individual's total funding for services when provided through a participant directed and managed program as outlined in 517.07 below and He-M 525;

(5) Be authorized by the bureau in excess of the limitation in (4) above upon written request which shall include documentation supporting the need and the correlation of the request to the individual's service agreement; and

(6) Be reimbursed at a quarter hour rate.

The Council is concerned about how respite services are provided. Some concerns include the 20% cap for PDMS families, reporting requirements, TB test requirements. We recommend further discussion as the new waiver is developed, including discussions with people who are using this service. We need a system that is flexible and able to meet a variety of needs.

(i) Environmental and vehicle modification services shall:

(1) Include modifications or adaptations to the individual's home environment including:

a. Installation of ramps;

b. Installation of grab bars;

c. Widening of doorways to accommodate the participant's wheelchair or other mobility access equipment; and

d. Other adaptations authorized by the bureau that are necessary to ensure the health and safety of the individual or that are needed to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

The Council recommends adding "ongoing service, maintenance and repairs of home and vehicle modifications" to this list. Many modifications like wheelchair lifts, adaptive vehicle controls and others require ongoing maintenance to be used safely. Ongoing maintenance may actually cost less over the long term.

(2) Include modifications or adaptations to the vehicle used by the individual in order to enable them him or her to:

a. Travel in greater safety;

b. Access the community; and

c. Carry out activities of daily living;

The Council recommends adding additional criteria to allow access to these services with approval from the Bureau even if the proposed service does not meet one of these criteria.

(k) Community support services shall:

(1) Be available for an individual who has developed, or is trying to develop, skills to live independently within the community;

The Council believes that maintaining or sustaining skills to live independently is also important and should be allowed under this service.

(2) Consist of assistance, excluding room and board, provided to an individual to:

a. Improve or maintain their skills in basic daily living and community integration; and

b. Enhance their his or her personal development and well-being; and

(3) Not exceed 30 hours per week.

(4) Be provided for up to 24 consecutive months while an individual is residing with their family;

(5) Be authorized by the bureau in excess of the limitation in (3) and (4) above upon written request which shall include documentation supporting the need and the correlation of the request to the individual's service agreement; and

(36) Be reimbursed at a quarter hour rate.

(l) Assistive technology shall:

(1) Include an item, piece of equipment, certification and training of service animal, or product system, used to increase, maintain, or improve functional capabilities of an individual, including, but not limited to, the following:

a. Devices, controls, or appliances, specified in the individual service agreement that enable the individual to increase their ability to perform activities of daily living, or perceive, control, or communicate with the environment in which they live;;

b. The evaluation of the assistive technology needs of an individual, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual;

c. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology or devices;

d. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

e. Coordination and use of necessary therapies, interventions, or services associated with other services in the service agreement;

f. Training or technical assistance for the individual or the individual's family members, guardians, advocates, or authorized representatives;

g. Training or technical assistance for professional or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of an individual; and

h. Training and certification of a service animal, defined in federal regulations implementing the Americans with Disabilities Act, 28 C.F.R. § 36.104 as "service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability."

The Council encourages the Bureau to explore the use of miniature horses as service animals as outlined in 28 CFR 36:302. The Council also encourages the Bureau to allow for funding for ongoing expenses for service animals including veterinary services, pet insurance, food and additional training. These ongoing expenses should not be covered by the cap or there must be an exceptions process if necessary.

(n) Community Integration Services shall:

(1) Be services designed to support and enhance an individual's level of functioning, independence and life activities, to promote health and wellness as well as reduce or eliminate the activity limitations and restrictions to participation in life situations caused by a disability shall include, but not be limited to the following:

The Council believes that this sentence is confusing and does not reflect plain language. In addition, the Council recommends replacing "and" with "or" to read "support or enhance". Community integration services may not always enhance functioning.

a. Water safety training;

b. Community based camperships; and

c. A pass or membership for admission to community based activities only when needed to address assessed needs.

(2) When including community based activity passes, be purchased as day passes or monthly passes, whichever is the most cost effective;

(3) Not exceed $ 8,000 annually ;

(4) Be authorized by the bureau in excess of the limitation in (3) above upon written request which shall include documentation supporting the need and the correlation of the request to the individual's service agreement; and

(5) Require a licensed healthcare practitioner's recommendation when any single community integration service, other than a campership, is over $2,000.

The Council has had a number of discussions about the importance of community integration services for people with developmental disabilities and will be considering a separate letter on this service at the September 20, 2023, Council meeting.

In addition, the Council is concerned if these services can only be paid via reimbursement as this may limit access to these funds for people with limited resources. Some people who need an ongoing service may not have the funds to pay for the first month or two while the Medicaid payments are being processed. We recommend that this be handled like individual goods and services.

(o) Individual goods and services shall:

(1) Include equipment or supplies that address an identified need in the service agreement, and meet at least one of the following requirements:

a. The good or service decreases the need for other Medicaid services;

b. The good or service promotes inclusion in the community; or

c. The good or service increases the individual's safety in the home environment.

(2) Include payment through the home and community based services waiver if:

a. The individual and their family do not have the funds to purchase the item or service;

The Council is very concerned about this requirement. First, it is not reasonable to expect the family of an adult with developmental disabilities to purchase individual goods and services that are required for developmental disabilities services. Second, how is the person with developmental disabilities expected to demonstrate that they do not have funds to purchase the needed good or service. To qualify for the DD waiver, participants must be eligible for Medicaid. If this is a federal requirement, the Council recommends additional work on how this is implemented in New Hampshire.

b. The item or service is not available through other sources.

The Council recommends that "available" be replaced by "covered".

(3) Not exceed $1,500 annually;

(4) Be authorized by the bureau in excess of the limitation in (4) above upon written request which shall include documentation supporting the need and the correlation of the request to the individual's service agreement;

(5) Have an anticipated finite period of time to be utilized; and

(6) Include a determination on the frequency of purchase of individual goods and services in accordance with the documented continued need of the item and the ability of the item to continue to meet that need.

(p) Non-medical transportation shall:

(1) Be services designed specifically to improve the individual's and the caregiver's ability to access community activities within their own community in response to needs identified through the individual's service agreement, including, but not limited to:

a. Orientation service using other services or supports for safe movement from one place to another;

b. Travel training such as supporting the individual and family in learning how to access and use informal and public transport for independence and community integration;

c. Transportation service provided by different modalities, including public and community transportation, taxi services, transportation specific to prepaid transportation cards, mileage reimbursement, volunteer transportation, and non-traditional transportation providers; and

d. Prepaid transportation vouchers and cards.

(2) Payment for non-medical transportation shall be limited to:

a. $5,000 annually; or

b. $10,000 annually for individual's who require specialized transportation such as a vehicle that:

1. Can accommodate a wheelchair or similar;

2. Has lift capabilities; or

3. Allows for the individual to not be within reach of the driver.

(3) Be authorized by the bureau in excess of the limitations in (2) (a)-(b) above upon written request which shall include documentation supporting the need and the correlation of the request to the individual's service agreement;

(4) Be limited to transportation needed:

a. To access a waiver service that is included in the individual's service agreement; or

b. To access other activities and resources identified in the individual's service agreement.

(5) Not be available to individuals under the age of 16 for public transportation expenses.

The Council recommends that the Bureau explores support for providers to purchase vehicles to provide this service. In addition, the Council hopes that this service will be available throughout the state before and after traditional business hours and on the weekend. Finally, the Council recommends consideration of the purchase of gift cards for Uber, Lyft, taxi and other on demand transportation services as the individual must pay for the trip when it is provided. These companies are not arranged to accept delayed payment via Medicaid. As noted above, this may restrict individuals with limited resources from accessing this service.

(g) Personal emergency response services (PERS) shall:

(1) Consist of smart technology devices that enable individuals to summon help in an emergency including but not limited to:

a. Wearable or portable devices that allow for safe mobility;

b. Response systems that are connected to the individual's telephone and programmed to signal a response center when activated;

c. Staffed and monitored response systems that operate 24 hours a day, seven days a week;

d. Any device that informs of elopement; and

e. Monthly expenses that are affiliated with maintenance contracts or agreements to maintain the operations of the device or item.

(2) Include non-smart technology items, such as seatbelt release covers, ID bracelets, and GPS devices;

(3) Not exceed $2,000 annually;

The Council supports the addition of this service.

(r) Wellness coaching shall:

(1) Include planning, directing, coaching, and mentoring individuals with disabilities in community based, inclusive exercise activities in accordance with the recommendations of a licensed recreational therapist or a certified personal trainer;

(2) Include specific goals in the individual's service agreement which are developed by a wellness coach, including activities that are carried over into the individual's home and community;

(3) Consist of demonstration by a wellness coach on exercise techniques and form to include observation of individuals and explanation to them of corrective measures necessary to improve their skills;

The Council is concerned that this restriction regarding exercise techniques is too limiting. Wellness coaching could and should also cover cooking classes, meditation and other activities not related to exercise. In addition, this should cover yoga classes, dance classes and other community based group activities that promote wellness.

(4) Include collaboration between a wellness coach and the individual, their family and other caregivers, and with other health and wellness professionals as needed;

(5) Not exceed $5,000 hours annually; and

(6) Be authorized by the bureau for hours in excess of the limitation in (5) above by written request, which shall include the recommendation of a licensed professional and documentation supporting the need and the correlation of the request to the individual's service agreement.

The Council encourages the Bureau to explore how this is being provided, including the burden on personal trainers, instructors and others to navigate the Medicaid system for payments for a class. We do not want the providers to face hurdles which would discourage them from including people with developmental disabilities.

In addition, it's important that adaptive sports are included as are community activities available to the general public for a fee.

Finally, the Council encourages further discussion with service coordinators about the availability of this service as it seems like there is much confusion, particularly when wellness coaching is an option to pay for services previously funded under community integration.

He-M 517.06 Acute and Remote Setting Services.

(a) Upon request, services in (d) and (e) below shall be provided in an acute care hospital when each service is:

(1) Identified in an individual's service agreement;

(2) Provided to meet needs of the individual that are not met through the provision of hospital services;

(3) Not a substitute for services that the hospital is obligated to provide through its conditions of participation or under federal or state law, or under another applicable requirement; and

It is important to make sure providers understand when it is appropriate that acute services are provided in a hospital and that the hospital meets its obligations to provide services to patients.

(4) Designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functional abilities.

(b) If services in (d) are provided pursuant to (c) below, then those services shall be reviewed by the team at the quarterly meeting to ensure this method of service delivery continues to meet the individual's needs.

(c) Upon request, services in (d) below shall be provided remotely under the following conditions:

(1) This method of service delivery meets the assessed needs of the individual;

(2) The individual, guardian, or representative chose this method of service delivery;

(3) This method of service delivery is reviewed by the team at the quarterly meeting to ensure that it continues to meet the individual's needs; and

(4) The chosen method of service delivery is in compliance with Health Insurance Portability and Accountability Act requirements.

The Council believes that personal health information as defined in HIPPA is protected. However, some waiver services like personal training, coaching or others may not require the sharing of personal information as defined in HIPAA. These providers should not be expected to invest in a HIPAA compliant service delivery system as this can only discourage them from providing the service.

(d) Services that may be provided through a remote method of service delivery pursuant to (c) above shall include:

(1) Community participation services;

(2) Residential habilitation;

(3) Service coordination, except home visits pursuant to He-M 503 or He-M 522 for residential services;

(4) Supported employment;

(5) Assistive technology;

(6) Community integration services;

(7) Community support services;

(8) Crisis response services;

(9) Individual goods and services;

(10) Specialty services; and

(11) Wellness coaching.

(e) Services that may be provided in an acute care hospital pursuant to (a) above shall include:

The Council recommends that the Bureau take steps to make sure families are not caught in the middle of billing disputes between hospitals and waiver services providers. This can cause unnecessary delays in the provision of services.

(1) Community participation services;

(2) Residential habilitation;

(3) Respite;

(4) Service coordination;

(5) Supported employment;

(6) Assistive technology;

(7) Community support services;

(8) Crisis response services;

(9) Environmental and vehicle modification services;

(10) Individual goods and services;

(11) Personal emergency response services;

(12) Removable prosthodontic services;

(13) Specialty services; and

(14) Wellness coaching.

He-M 517.07 Out of State Service Provision

(a) Services outlined in (c) below shall be provided outside of New Hampshire as follows:

(1) When the only safe and accessible setting is outside of New Hampshire;

(2) Only until a setting is available in New Hampshire;

(3) The services are approved by the bureau in accordance with (b) below; and

(4) The services are outlined in the individual's service agreement to reflect the amount, scope, duration and frequency of the service and the oversight and monitoring of the service agreement.

(b) Out-of-state service provision shall be requested via written request to the bureau which shall include:

(1). A transition plan with a timeframe for return to New Hampshire;

(2) Verification that the provider agency meets criteria in accordance with He-M 504, He-M 506, He-M 507, and He-M 518, as applicable;

(3) Demonstration that the provider is in good standing through licensing or certification reports from the previous 5 years, or the maximum number available for providers established within the previous 5 years, from any in-state or out-of-state entity, including deficiency reports and compliance records;

(4) A plan that will be articulated in the service agreement to demonstrate how an individual will access acute care as well as ongoing medical and clinical needs that are not covered by the home and community based waiver; and

(5) A plan that will be articulated in the service agreement for oversight and monitoring of the service plan in accordance with He-M 503 or He-M 522.

(c) Services that may be provided out-of-state pursuant to (a)-(b) shall include:

(1) Community participation services;

(2) Residential habilitation;

(3) Supported employment;

(4) Assistive technology;

(5) Community integration services;

(6) Community support services;

(7) Crisis response services;

(8) Environmental and vehicle modification services;

(9) Individual goods and services;

(10) Non-medical transportation;

(11) Personal emergency response services;

(12) Removable prosthodontic services;

(13) Specialty services; and

(14) Wellness coaching.

The Council recommends that the Bureau add an exception for people living in border cities to access out of state services. Sometimes, these are the closest available services.

(n)He-M 517.08 Participant Directed and Managed Services shall:

(a) Services that are accessed through the participant directed and managed method of service delivery shall:

(1) Be provided pursuant to He-M 525;

(2) Be available for individuals and their families in order to improve or maintain each individual's health and their his or her experiences and opportunities in work and community life;

(3) Consist of assistance and resources within a flexible process that allows the family and individual to control, to the extent desired, the service provision, including, for each service:

a. The type;

b. The amount;

c. The location;

d. The duration; and

e. The service provider agency and provider;

(4) Be based on an individual service agreement written proposal that includes:

a. A description of the services to be provided that also specifies the expenditures to be made;

b. A line-item budget; and

c. A process for measuring the individual's degree of satisfaction with the services provided;

(5) Not be provided by the spouse of an individual, except as provided in 517.10(g) below, or the parent of an individual where the individual is a minor child;

(6) Be provided by persons qualified pursuant to He-M 504 He-M 506.03 and He-M 525, as applicable in cases where services are provided by relatives other than parents or by friends; and

(7) Be reimbursed in accordance with the process for each monthly for services provided as outlined in 517.05.

(b) Participant directed and managed services documentation shall include:

(1) Individual records, including:

a. Information about the individual that would be essential in case of an emergency, including that information specified in 517.09 (b)(1);

b. The portion of the individual's service agreement pertaining to participant directed and managed services, with any revisions;

c. Monthly progress notes;

d. Monthly notes describing the family's satisfaction with the services; and

e. Monthly financial statements provided to the individual and family by the service coordinator; and

(2) Detailed description of all services provided, including:

a. The date;

b. The activity or type of service;

c. The location;

d. The duration;

e. The provider agency and provider; and

f. Documentation required for the services provided as outlined in 517.09.

The Council is concerned that PDMS services are subject to caps that are not included for traditional services. This seems unfair. The Bureau needs to make sure that families are fully informed about their legal obligations as employers if they utilize PDMS services. With the new process to request additional funding, PDMS should not need to be used as a means to pay staff more or for providers to pass off their responsibilities to recruit and hire staff. The Council supports the work of the PDMS committee in this area. The Council believes that the provision of PDMS services could be improved and suggests focus groups with PDMS families, providers, and service coordinators to identify issues.

He-M 517.08 Non-Covered Services.

The following services shall not be fundable under home and community-based care waivers:

(a) Educational services or education programs for individuals who are under 221 years of age that are the responsibility of the local education authority;

(b) Post-secondary education, regardless of whether it leads to a degree;

(c) Sheltered workshop services; and

(d) Custodial care programs provided only to maintain an individual's basic welfare.

The Council recommends deleting "provided only to maintain an individual's basic welfare" and defining custodial care. This is confusing.

(e) Services that are recreational or diversional in nature; and

As noted above, the Council is considering a letter with concerns about this restriction at its meeting on September 20, 2023.

(f) Services which are available under the medicaid state plan; and

(g) Experimental or prohibited treatments.

He-M 517.097 Documentation.

The Council encourages the Bureau to talk to providers and service coordinators about documentation requirements. We recognize that some documentation is necessary but it also takes away from time to actually support the person with developmental disabilities.

(8) Copies of correspondence within the past year with the individual or guardian, service providers, physicians, attorneys, state and federal agencies, family members and others in the individual's life with whom the service coordinator has corresponded; and

The Council is particularly concerned about this provision as it seems very broad. In addition, the Council is concerned about the overuse of encrypted emails that are automatically deleted after a short period of time. The extra clicks and lack of ability to look back are difficult for families. Encrypted emails should be used when protected information is being shared, but not for basic emails like emails about scheduling appointments.

He-M 517.09 Appeals.

The right of a participant to appeal decisions to reduce, deny or terminate services is critical. The language here, referencing He-M 517.03 and He-M 517.08 (h), allows for appeals only related to eligibility decisions and prior authorizations. This is too narrow.

When appeals are allowed, it is important that participants are notified of their right to appeal, the notice is in plain language and includes all the reasons for the decision, and services are continued during the appeals process.

He-M 517.11 Waivers.

The Council believes that people with disabilities and families could benefit from additional information regarding waivers, including what is and is not in statute and therefore eligible for a waiver. The Council suggests a one-page document with this information.

As noted in previous rules comments, the Council recommends that information about any current waivers be available on the provider's website. This could include all waivers received, trended data on specific rules waivers and information about efforts to come into compliance with the waivered rule. The rules should also set specific timelines for the Bureau to respond to waiver requests, ideally within 72 hours.

Additional General Comments

The Council recommends more detailed descriptions of services and provider qualifications in the waiver or somewhere in rule.

The service definitions included here can be confusing and it seems like some overlap. When the new waiver is written, the Council recommends clarifying the purpose and functions of each service. However, we want to make sure that no one loses services in this clarification.

The Council believes that maintaining and sustaining goals is important, and this should be allowed in all services possible. In practice, the Council believes that some individuals are required to create new goals each year to gain skills and the value of maintaining skills is not recognized. This is frustrating and discouraging. Additionally, the development of goals should start with the development of a true person-centered plan that is used to inform the service agreement.

In addition, the Council wants to encourage the Bureau to assess individual's goals each year. It is not okay to copy and paste the same service agreement without a discussion of current hopes, dreams and needs.

The Council believes that it is important to educate people with disabilities and family members about the new waiver services and is willing to help to do so.

Thank you for the opportunity to provide these comments.

Sincerely,

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice-Chair

New Hampshire
NHDDQC
Developmental Services Quality Council

July 6, 2023

Melissa Hardy, Director
Division of Long-Term Services and Support
NH Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Via Email:
Melissa.A.Hardy@dhhs.nh.gov

Sandy Feroz, Bureau Chief
Bureau of Developmental Services
NH Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

Via Email:
Sandy.L.Feroz@dhhs.nh.gov

Re: Person Centered Service Agreements and Person-Centered Plans (PCP)

Dear Director Hardy and Bureau Chief Feroz,

The NH Developmental Service Quality Council (Quality Council) is committed to supporting policies and practices that ensure that individuals with disabilities can obtain a meaningful life in the community. Based on recent exchanges involving the Bureau of Developmental Services related to person-centered planning for individuals with intellectual and developmental disabilities, we are reaching out to provide some clarification and support to aid the delivery of superior services to individuals and their families in supporting this vision of community integration.

We want to work with you to ensure that individuals have access to both person-centered service agreements necessary for identifying needs and supports that contribute to a community-based life, as well as Person-Centered Plans (PCP) that capture an individual's hopes, dreams and vision for their life in the community, which may include things that can't be funded through Medicaid. Each of these is philosophically different and serves a fundamentally different purpose. We are asking for your support in messaging the clear difference between these two things:

Person-centered Individualized Service Agreements (ISA) - We recognize that assessing support needs and providing service agreements following the principles of person-centered planning is necessary to inform a person's individual requirements for supports allowable and provided through Medicaid and other funds. We agree that it's important to ensure that service agreements are created using person-centered thinking/planning tools and resources, and that a template may be a good way to drive this assurance for service coordinators. We would like to also recommend that all service coordinators receive training in person-centered thinking and planning to support the creation

of service agreements that are truly utilizing the principles of person-centered planning.

Person-Centered Plans (PCP) - Person-centered planning is a discovery process that involves a trained facilitator, necessitates group planning sessions that include the individual and people identified by the individual, and yields a tangible Person-Centered Plan as a work product. The opportunity to develop a PCP should be made available to all individuals with disabilities who want it, separate and apart from a person-centered service agreement. The financial resources needed for PCP facilitation, development and monitoring should be made available through state-funded services for people with disabilities. We believe it's important to point out that a true PCP includes all the elements necessary for an individual to have an integrated and meaningful community-based life. This includes a person's hopes, dreams and participation in community-based groups and activities that may or may not involve Medicaid-funded services. A PCP includes an expectation for someone to have authentic community inclusion and self-determination.

We want to collaborate with you to ensure that individuals with developmental disabilities have access to both person-centered service agreements for the provision of paid supports and services, and true Person-Centered Plans that support their vision for a good life in every possible way. It is especially important to us that individuals and families impacted by disabilities have clear information about how these are different and be made aware of the opportunity to request a Person-Centered Plan. It is also important that the facilitators of those PCPs be appropriately trained in facilitation skills using Nationally recognized models and best practices identified by the National Center on Advancing Person-Centered Practices and Systems (NCAPPS), such as:

- Charting the Life Course Frameworks
- The Learning Community for Person Centered Practices
- Graphic Facilitation, Organizing, Recording, and/or Communication

We would be happy to work with you to identify additional resources regarding minimum standards and best practices, as well as training resources to aid this work. We would also like to collaborate in informing individuals with disabilities and their families about how they can request a Person-Centered Plan in NH. Please let us know your availability for discussing the requested actions and how we can assist. We would like to hear from you by August 1st, 2023 so we can schedule a meeting with the person-centered planning work group of the Quality Council and create an action plan.

We look forward to working together on communication strategies that can reinforce the difference between person-centered service agreements and Person-Centered Plans, and in developing resources for communicating the availability of PCPs to individuals and families impacted by disabilities.

Sincerely,

Stephanie Patrick, Council Chair

Isadora Rodriguez-Legendre, Council Vice Chair