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June 17, 2022

Dear Melissa and Sandy,

Attached are the Quality Council's recommendation on He-M 507, Community Participation Services. These were approved by the Quality Council on October 20, 2021. I apologize for the delay in sending them to you.

Please let me know if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Patrick". The signature is written in a cursive, flowing style.

Stephanie Patrick
Chair, Quality Council

Quality Council Comments on He-M 507, Community Participation Services

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 development of a guide to the regulatory process in plain language to be shared widely with people with disabilities and their families.

Overall comments:

- 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 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 recommends removing references to he/him and she/her. Rather rules should reflect gender neutral language.

1) 507.01 Purpose

- Section a: The Council recommends adding “including education and training” after “vocational skills”

2) 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 have independence, but can still benefit from support in basic living skills. In addition, the definition should include training as a way to provide support.

I. Family: In this and all rules, the Council encourages the state to broaden the definition of family to include non-traditional families who may not meet this definition.

r. Personal Profile: The Council is concerned about personal development goals. For many people with disabilities, sustaining progress made is a significant goal in itself. There are concern 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 take into account that sustaining progress is an important goal.

x. Service coordinator-The Council recommends including language related to conflict-free case management (CAP) here by making the changes noted below. "Service coordinator" means a person who is chosen ~~or approved~~ by an individual and his or her guardian and designated by the area agency to organize, facilitate and document service planning and to negotiate and monitor the provision of the individual's services. **The service coordinator is not affiliated or employed by the direct service provider for the same individual, meets all requirements outlined in HeM ??? (specify rules where service coordinator requirements are outlined)** and who is ...

b. 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. There are concern 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 take into account that sustaining progress is an important goal.

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

The Council believes that this is a critical principle of community participation services which have been severely restricted since the start of the COVID-19 pandemic. It is critical that the state support providers to adapt and develop new ways to ensure safe access to the community for people with disabilities.

c. 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;

d. 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 as clarified in recent caselaw.

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.

e. 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.

f. 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 every time. We are concerned that the discussion of rights is actually just 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.

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

g. 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.

In Sections c.– f, the Council recommend that people with disabilities are informed and can influence how their personal information is stored and retained.

In Section (E)(6), the Council recommends removing references to specific editions of the SIS and HRST to allow the state to adopt new versions as needed.

In addition, the Council recommends that the policies of area agency 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.

h. 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.

i. 507.10 Staff and Provider Qualification

No comments on this section.

j. 507.11 Staff and Provider Training

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.

k. 507.12 Prior Authorization of Community Participation Services.

No comments on this section.

l. 507.13 Denial or Revocation of Certification

No comments on this section.

m. 507.14 Immediate Suspension of Certification

No comments on this section.

n. 507.15 Appeals

No comments on this section.

o. 507.16 Prior Authorization and Payment

The Council is concerned that this section may need to be amended to ensure compliance with conflict free case management and direct billing.

p. 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.