



NEW HAMPSHIRE

COUNCIL ON DEVELOPMENTAL DISABILITIES

COMMENTS ON THE NH DEPARTMENT OF HEALTH AND HUMAN SERVICES DRAFT TRANSITION FRAMEWORK FOR FEDERAL HOME AND COMMUNITY-BASED SERVICES COMPLIANCE

February 10, 2015

I am Carol Stamatakis, Executive Director of the New Hampshire Council on Developmental Disabilities. I appreciate the opportunity to comment on the draft transition plan framework for moving toward compliance with new Federal regulations governing services funded by home and community based care waiver funds.

Our Council is established through Federal law for the purpose of expanding opportunities and improving the quality of life of people with developmental disabilities. Our Council follows the Federal definition of developmental disability that includes people with significant physical disabilities as well as intellectual disabilities. Currently and in the past our Council has had members who receive services through the Developmental Disabilities waiver and the Choices for Independence waiver. Our Council consists of roughly one-third people with developmental disabilities, one-third parents and guardians and one-third agency representatives, all appointed by the governor. At least sixty percent of the Council's membership must consist of people with disabilities and family members.

1. Composition of Transition Planning Advisory Task Force. Given the Council's status under Federal law and over 40 year history of dedication to the values that this rule seeks to implement, we recommend that our Council be represented on the Transition Planning Advisory Task Force. We also recommend strong representation by waiver participants (people with intellectual disabilities, physical disabilities, traumatic brain injuries and older adults), families and direct support professionals most directly involved in the delivery of services, as well as provider agencies.
2. Identification process. The transition plan contemplates an inventory of existing state standards, policies and regulations. The Council strongly supports the participation of the two federally designated legal advocacy and service agencies in the identification process. The Disability Rights Center is the federally designated Protection and Advocacy agency for people with disabilities. New Hampshire Legal Assistance is the provider of legal services to older adults through Title III of the Older Americans Act. Both agencies have enormous expertise and a long history of commitment to the values underpinning the new Federal rules. Other knowledgeable advocates should also be included in the inventory process.

3. Assessment. The assessment process should focus primarily on the direct personal experiences of waiver participants. Instruments should be designed to ask participants, in a safe and non-coercive environment, what they are actually experiencing in the areas that the Federal government identified as important indicia. These include the right and ability to –

- Lock their doors
- Eat meals when they choose
- Choose their roommate or whether to have a roommate
- Access the community to the same extent as others
- Access employment opportunities
- Have visitors whenever they choose

Provider input is important, but should supplement and not replace the direct firsthand reports of those receiving services. Those conducting the assessments should be trained in Social Role Valorization (SRV) or other comparable values-based training, and be highly skilled at communicating with people of all abilities, including people who are non-verbal. The Council recommends surveying all participants if possible, including all individuals in enhanced family care homes that typically serve one person. If this is not feasible, then as many people as possible should be personally interviewed, and all others given the opportunity to complete a written survey.

4. Consider future program changes in light of new federal HCBS rule. The Council recommends that a process be developed for using the new rule as a benchmark any time a change is made in a state rule or policy, or legislation is considered, that would impact a waiver program. This would include program changes made in response to budgetary directives.

5. Consider applicability of new rules to people living in their own homes. The Council would encourage the state to seek clarification from the Centers for Medicare and Medicaid (CMS) as to how the rules are intended to apply to people living in their own homes. Many people living in their own homes or with family do not currently have access to their communities or employment opportunities as envisioned by these new rules. Many individuals receiving waiver services are effectively homebound due to lack of accessible public transportation, and waiver service packages that do not include transportation supports. The Transition Plan should be expanded to build in a process for assessing the supports provided to people served by all waivers living in their own homes or with family. Day programs should be included in the assessment and the process used to evaluate them described in detail in the Transition Plan.

Respectfully submitted,

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