



COMMONWEALTH of VIRGINIA

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DBHDS Settlement Agreement Stakeholder Group

DRAFT Minutes

October 22, 2012

1:00 – 4:00 p.m.

House Room 3, State Capitol Extension
Richmond, VA

I. Welcome and Introductions

Jim Stewart, Commissioner, called the meeting to order at 1:05 p.m. and asked members to introduce themselves. Following the introductions, he noted there would be a public comment period during the last 15 minutes of the meeting, approximately 3:45 p.m. and indicated a signup sheet was available.

II. Update on the Revised Settlement Agreement and Review Materials Distributed to Families

Heidi Dix, Assistant Commissioner for Developmental Services, reviewed the letter sent from Commissioner Stewart to families/authorized representatives of individuals in training centers. She stated that another letter would be coming from her in the near future.

III. Overview of the Settlement Agreement Overview of Discharge Process:

- a. 12 week process
- b. Data to date
- c. Feedback from Independent Reviewer on process

Beginning at 1:10 p.m., Jae Benz, Director of Training Center Discharges and Community Integration, provided a detailed presentation on the discharge process. At the end of her presentation, the following questions were asked:

- What is the definition of essential supports? Ms. Benz explained they are supports related to health and safety of the individual.
- Heidi Lawyer, Executive Director of the Virginia Board for People with Disabilities, asked if DBHDS is taking steps to identify people who reside in nursing homes. Ms. Dix responded that DBHDS has been developing first *how* to identify those individuals, and then would communicate with families.
- Angela Stevens, designated representative for Hope House, asked about the pre-move meeting. Ms. Benz confirmed that everyone, including the individual and other members of the personal support team are part of the pre-move meeting.
- Chuck Walsh asked how the providers are going to cover the cost of overnight visits for those considering placements? Ms. Benz answered that providers generally consider that a cost of doing business.

- Jamie Liban, Executive Director of The Arc of Virginia, asked if data was or would be collected on barriers and how would that data be used as a tool at the local, state, and regional level. Ms. Benz responded that it is collected individually and by aggregate. As a follow up question, Ms. Liban asked if there was an effort to target the population living on the waiting list for assistance similar to the efforts that have been made with the training center discharge process, particularly for those who might consider homes with five or more beds, or nursing home, and barriers they may be facing? Ms. Benz responded that Regional Support teams are being put in place this winter and they must focus on not only training center individuals who are experiencing barriers, but those in the community.
- Katherine Olson, representative of Voices of Virginia, asked for clarification on shadowing. Ms. Benz explained that the provider comes to the training center and follows the individual for the day.
- Marisa Loais, a Developmental Disability Peer Advocate, asked for more information about Survey Monkey, and if individuals are encouraged to go out? Ms. Benz responded that some families and individuals need support all the way through the process, while some move very quickly – based on personal preference.
- Pat Bennett asked what uniform standards applied across all group homes? She asked because while she is trying to keep an open mind, she is alarmed at the great variance among providers. Ms. Benz explained that there are Licensing and Human Rights regulations that apply to all community services (see links below). Also, calls can be placed to the Office of Licensing for specific information about a particular provider. Staff visit and review the location and will work with a family/authorized representative and individual until everyone is comfortable with the placement.
(Children’s Residential Facility Regulations: <http://lis.virginia.gov/000/reg/TOC12035.HTM#C0046>;
Licensing Regulations: <http://lis.virginia.gov/000/reg/TOC12035.HTM#C0105>;
Human Rights Regulations: <http://lis.virginia.gov/000/reg/TOC12035.HTM#C0115>)
- Dave Wilber, vaACCSES President, asked about the provider aspect of Survey Monkey and how it is being used?? Ms. Benz clarified that a provider must be in the database as a provider and then would have access to have access to the list of individuals needing services.
- Vicki Beatty, family member of an individual receiving services in the community, indicated she was ‘hung up’ on the issue of accountability. If it is a red flag for the DOJ Reviewer for someone to be in a home with five or more beds or to be in an ICF, how does it get weeded down to the least restrictive setting? Ms. Beatty compared the analogy to that of special education classes – some parents believe their children are ‘safer’ in a special classroom rather than being fully integrated with other students. Ms. Benz stated that the setting is what the family member/authorized representative requests and some are more comfortable having the individual in those kinds of settings.
- Ms. Lawyer asked if, when a family chooses a more restrictive setting, whether they still receive information on less restrictive settings. Ms. Benz replied that they do.

IV. START Update (Systemic Therapeutic Assessment Respite and Treatment)

Beginning at 1:58 p.m., Bob Villa, START Manager, provided a brief update on the statewide implementation of this program that is intended to prevent or minimize crisis for individuals in the community. At the end of his presentation, the following questions were asked:

- Ms. Lawyer asked if there as a time limit for respite, and if so what would happen if an individual reached that deadline and was not stable? Mr. Villa stated that the Settlement Agreement set a 30-day deadline, but if at the end of that time was reached a person could appeal to stay for a bit longer. However, a discharge plan must be in place from the time the respite begins. Staff will work with the family/provider as well as the individual throughout the process.
- Ms. Liban asked which region with a respite program in place would cover for those regions that

are still making preparations to implement their own program? Mr. Villa responded that all 5 Regional Programs work together and an individual could be served in different regions, depending on capacity. Additionally, the regions are hiring staff to respite staff to work with individuals in their own homes.

- Ms. Stevens asked if staff assess the needs of the individuals before the need actually arises in order to prevent crises? Yes, this is ongoing, especially in Southwestern Virginia and a major premise of the program.
- Ann Bevan, President of the Virginia Association of Private Providers, asked whether Regions 1 and 2 are offering consultation while they are working through the Licensing process? Yes; they have been asked to offer recommendations to numerous questions.

V. Employment First Plan

Beginning at 2:15 p.m., Adam Sass, Community Resource Manager for Employment Services, provided a brief update on Employment First initiative which requires individuals to have integrated day opportunities, including supported employment. At the end of his presentation, the following questions were asked:

- Ms. Loais asked if staff and employers were encouraged to talk to individuals at the individual's level of understanding about employment. Mr. Sass indicated that was the case and that the question had to be presented in an experiential way, i.e. 'would you like to try.' She then asked if an individual is unable to communicate in the 'normal' way, is their best way to communicate used? Yes.
- Ms. Liban asked if the Department of Aging and Rehabilitative Services (DARS) data was used for groups or individuals? Yes? Data collection for non-waiver funded participants is not included as a requirement in the Settlement Agreement, but we have it. It is very encouraging that there is already a large population working in integrated settings in the community and we hope to tap into those existing sources of employment and increase the opportunities.
- Ms. Bennett asked for an explanation of the target population, because for example, her daughter does not seem appropriate for a supported employment setting. Also, are these 'real' jobs, because everyone does not have the same level of ability? Mr. Sass responded that the ultimate priority is to have all individuals access employment in a fully integrated setting. However, every individual is different and their attributes and needs must be met appropriately.

Commissioner Stewart initiated a break in the meeting to reconvene in 10 minutes.

BREAK

VI. Overview of DOJ Implementation Structure

Beginning at 2:48 p.m., Ms. Dix and Kathy Drumwright, Assistant Commissioner for Quality Improvement and Monitoring, provided an update on 18 identified "projects" related to implementation of the Settlement Agreement. All projects are coordinated through a day-to-day management team consisting of Ms Dix, Ms. Drumwright and Directors of the DBHDS Offices of Developmental Services and Community Integration. This team reports to the Commissioner and Deputy Commissioner and providers at least semi-annual updates to an oversight team including the Office of the Secretary of Health and Human Resources, the Department of Medical Assistance Services, and the Department of Planning and Budget.

VII. Overview of Overview of Expenditures and Budget for FY12-FY14

Beginning at 3:06 p.m., Commissioner Stewart provided a review of a one page spreadsheet of expenditures and budget related to implementation of the Settlement Agreement. Categories include: Facility Transition Costs, Community ID and DD Waivers, Program of Individual and Family Supports, Rental Subsidies, Crisis Stabilization, Facility Closure Costs, Administration, Quality Management, Independent Review, and Facility Savings.

- Ms. Liban stated that it was recognized that increases in provider reimbursement rates for supported employment were not included in last year's budget. Mr. Stewart responded that was correct and the figures in this table do not include a rate adjustment. DBHDS, DMAS and HHR are aware of the concerns.

VIII. Workgroup Activity Update

At 3:10 p.m., Ms. Dix provided an update on the workgroups formed to support implementation of the requirements of the Settlement Agreement: Provider ID/DD Measures; Regional Community Support Centers; Case Management; Provider Training; Individual and Family Supports Program; Case Management Training; and a new workgroup added since April - Independent Housing Options.

IX. Public Comment

Commissioner Stewart opened the Public Comment Period and reminded speakers of the three minute time limit. He noted that comment could be submitted in writing. Beginning with the first name on the signup sheet, the following speakers provided comment:

1. Randy Lassiter, father of an individual at Southeastern Virginia Training Center, stated that the alleged approved document referred to as the Settlement Agreement, in Section 3.C.9., calls for a plan to cease residential operations at four of the five training centers by the end of State Fiscal Year 2021, to be submitted within one year of the date the agreement was signed. Mr. Lassiter asked where the authority lay to have already begun implementing the requirements in the agreement without the adoption of a plan.
Mr. Stewart responded that the biennial budget adopted by the 2012 General Assembly did lay out the overall finances, and an initial plan was provide to the General Assembly in February.
Mr. Lassiter replied that a final plan has not been submitted.
Mr. Stewart elaborated that the signing of the Settlement Agreement and the Governor's direction provided the authority to move forward.
2. Jack Bruggeman, brother and co-guardian of an individual at Northern Virginia Training Center, conveyed a list of questions and concerns:
 - a. Ms. Benz had stated during her presentation that NVTC was operating at capacity. If all current residents of training centers want to stay in them, how would DBHDS provide those services in the midst of the other implementation efforts?
 - b. The need to raise provider rates is especially an issue in Northern Virginia, and he wondered if community capacity will be there when the proposed closure date comes.
 - c. Regional Community Support Centers are essential for success in the community, but he is concerned that planning and funding is not set out in the Settlement Agreement.
 - d. If placement in the community fails, what options are provided to the Authorized Representative?
 - e. If a provider closes the home where an individual was placed, what options are provided to the Authorized Representative? For example, Day Habilitation Services – the Waiver payment was not enough; Fairfax County subsidizes to make it viable.
 - f. Is licensing the only group making unannounced visits? How often?
3. Jane Powell, sister of an individual at Central Virginia Training Center, stated Mr. Bruggeman's comments covered most of her questions. However, she wished to address the letter to families [dated September 27, 2012] which seems to have been written in contradiction to the terms of the Settlement Agreement. Families were expecting a letter stating their right to continue training

center services for their family members, yet this letter states that Virginia's plan hasn't changed to downsize four of the five training centers. Further, she requested the need to communicate on a sixth grade level without system jargon and in a tone that does not make people feel coerced to move their family member out of a training center. Finally, communication needs to make clear so that family members understand that they would be waiving their right to ICF placement, in order to be fully informed of all involved in the choices.

4. Linda Gregg, mother of an individual at Northern Virginia Training Center, stated that NVTC is safe, near family, provides the supports her son needs, has coverage 24/7. The around the clock coverage is very important because her son is nonambulatory, nonverbal, functions at the level of a 3-6 month old, can eat only pureed or ground food. However, eating is one thing he clearly enjoys. The staff have been there 25 years, 8 years, and more recently 4 months because of what is happening with plans for closure. She looked into community group homes – specifically Chimes and CLA. They are wonderful programs for higher functioning people, but they are not safe for her son because at night there is one person for four residents. In the training center, staff provide 15 minute bed checks so that if her son has respiratory distress they notice it right away and can call 911, etc. If her son were at a community placement like those she visited, he would contract double pneumonia. It costs too much to keep him safe in the community.
5. Atul Gupta, parent of an individual at Central Virginia Training Center, expressed concern that staff presentations and comments were as if all residents of the training center were 18 years old or older. He conveyed a list of questions and concerns:
 - a. Virginia is behind in providing pediatric services to individuals with severe intellectual and developmental disabilities, so how can there be enough coverage in the community?
 - b. The processes described today all have arrows going forward step by step, but what happens if a match doesn't work?
 - c. The financial viability of providers is a great concern because they can go in and out of business. It also brings up the point of being in the business at all – the perspective of being an entrepreneur versus a calling. More emphasis from Licensing needs to be placed on the latter. He called for the financial statements of the providers to be available online.
 - d. He noted that when Mr. Stewart was the Inspector General, he started an initiative for quality and now wonders what happened to that effort.
 - e. Training centers are the choice as a safety net.
6. Jennifer Fidura, Virginia Network of Private Providers, wanted to add to the comments by Mr. Walsh about providers absorbing the cost of doing business, and parents about the capacity, quality and staffing. Once the budget comes from the Governor in December, VNPP would do what we can to push for an increase in rates, fund services and the added burdens from the Department of Justice. VNPP would also be looking at ways to incentivize smaller settings. She appreciates that the rate does not support smaller settings right now.

Closing Questions: Mr. Stewart asked members if they had any final questions.

- Ms. Loais had a question for Mr. Villa - are START staff getting to know clients at the Training Centers and how do you reach people when families are resistant to START and the services? Mr. Villa responded that START staff are getting to know people in the training centers; very concerned about individuals' privacy, but they also want to focus on the individuals and getting them support and will try and work with families.
- Cathleen Lowery, sister of an individual at Southside Virginia Training Center, spoke to the responsiveness of DBHDS and CSB staff. She received a letter in January about considering

community placement for her sister on a Saturday, made calls to staff on a Monday, and within 48 hours was receiving answers to her questions. She started doing her ‘homework’ making calls to providers. She spoke with Ms. Benz and wasn’t initially happy about the options, but all the staff listened to her story and responded. She stated that she has seen the need for downsizing and she sees the opportunity to move her sister –and to move her closer to where family lives– a blessing. She emphasized that there are people to go to for answers, though family might have to be a little aggressive to have all considerations heard. She is not afraid of the outcome for her sister and wants to give families a little bit of hope about life outside of the training center.

- Ms. Lawyer stated there was a report last week from DMAS about the potential decrease in Medicaid funding from 300% of poverty level to 267%. The idea of decreasing this funding clearly is inconsistent with where the state is going with the DOJ Settlement Agreement and it is a huge disincentive to employment.
- Michelle Johnson, ID Director for Henrico CSB, asked if the post-move monitoring would include employment and/or day support monitoring Ms. Benz confirmed that it does.
- Ms. Beatty stated that, she might be naïve, but her son is now 17 years old with developmental disability, but the schools started working with him at 14 years old to consider employment. She is curious how much the Department of Education is involved in this employment first planning process. Mr. Sass responded that DOE is represented on the SELN and that ideally employment services are a continuation of DOE efforts. Ms. Beatty asked if family members were on the committee? Mr. Sass replied that they were but there is not great attendance.
- Ms. Liban followed up on that comment to state that The Arc participates on the committee and that those attending are family members.
- Mr. Wilber followed up on Ms. Beatty’s comments to ask about barriers to employment and whether DARS vendorship and CARF accreditation are barriers? Mr. Sass answered that rather than the CSB, there is a partnership with CSBs and CARF accredited vendors in some places to make it work, but it is still an ongoing concern.
- Ms. Bevan asked whether the performance measures would be available to view. Mr. Sass indicated it would be on the DBHDS website and would be emailed to this committee.
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X. Future Meeting Topics and Next Meeting Date

Commissioner Stewart offered a tentative date of Monday, January 7th for the next meeting date, and noted the General Assembly Session would start two days after.

XI. Adjournment

There being no further business, the commissioner thanked everyone for taking time to meet today and adjourned the meeting.