

Wisconsin Long Term Care Advisory Council
Meeting of January 13, 2015
Lussier Family Heritage Center, Madison

Minutes

Members present: Beth Anderson, Heather Bruemmer, Teri Buros, Carol Eschner, Tom Hlavacek, Robert Kellerman, Mary Krueger, Geri Lyday, Lauri Malnory, Audrey Nelson, Barbara Peterson, Ginger Reimer, Maureen Ryan, John Sauer, Beth Swedeen, Kate Wichman, Christine Witt

Members absent: Jim Canales, Devon Christianson, Hugh Danforth, Dan Idzikowski (represented by Lea Kitz), Maria Ledger, Tom Moore (represented by Kate Van Camp), Stephanie Sue Stein (represented by Linda Murphy)

Others present: Michael Blumenfeld, Jody Brassfield, Vicki Buchholz, Curtis Cunningham, Kari Engelke, Wendy Fearnside, Tamara Feest, Juan Flores, Brett Gall, Bill Jensen, Lea Kitz, Margaret Kristan, Carrie Molke, Linda Murphy, Gerianne Prom, Brian Shoup, Mark Stein, Kate Van Camp, Kelly Von Oepen, Alice Page, Diane Poole, JoAnna Richard, Amy Weiss, Beth Wroblewski, Janet Zander, Cheryl Zautcke

Call to Order and Welcome. Heather Bruemmer called the meeting to order at 9:30 am and welcomed members and guests.

Approval of Minutes. Minutes of the November 2014 meeting were approved on a motion by Beth Anderson, seconded by Maureen Ryan.

Charge to the Council

Brian Shoup, Administrator of the Division of Long Term Care, informed members that Secretary Rhoades was unable to attend this meeting and will be coming instead to the meeting in March. She anticipates giving a formal charge to the Council at that time. The Secretary's focus for long term care for 2015 will be on employment and dementia capability. Council reappointments, new appointments and membership changes will be announced based on the future direction for the Council.

Recognition of David Scribbins

Heather Bruemmer informed members that David Scribbins has resigned from the Council. This will be a loss to the Council, as David was able to share from personal experience as a Family Care member and from his service on a variety of other related councils and committees. He will be missed.

Department of Health Services Updates

- ***Division of Long Term Care Priorities for 2015.*** Brian Shoup identified the following priorities for the Division of Long Term Care:
 - Ongoing reforms to the Department's managed long term care programs.
 - Implementation of Family Care and IRIS in northeast Wisconsin.
 - Innovations in children's long term care programs.
 - Strengthening the Intensive Treatment Program capacity at the Centers for People with Developmental/Intellectual Disabilities.
 - Expanding use of Lean, Six Sigma, NIATx and other quality and process improvement methods.
- ***Chief Policy Officer Position.*** Brian Shoup announced Beth Wroblewski's appointment as Chief Policy Officer for the Division of Long Term Care. Beth will continue to serve as the Division's lead person for the Long Term Care Advisory Council. In addition, she will serve as the Division's liaison with the Centers for Medicare and Medicaid Services (CMS), work on developing a tribal long term support system and reforms in the children's service system, and participate in all innovations and changes in Division programs.
- ***Tribal Waiver.*** Beth Wroblewski provided the update. The tribal waiver application has been submitted to CMS with a requested April 1, 2015, effective date. A total of 1,500 waiver slots were requested. While CMS does not object to having Tribes operate a waiver, it has indicated that enrollment cannot be limited to tribal members. Each of Wisconsin's 11 Tribes will determine whether to participate in the waiver, the boundaries of its catchment area, and the number of people it plans to serve in the waiver. Tribal waiver boundaries must follow county borders and waiver services must be open to people from the entire catchment area. Waiver slots will be allocated among the participating Tribes based on each Tribe's capacity. The tribal waiver may have waiting lists, even if Family Care and IRIS serving the same area do not.

Department staff are meeting with the Tribes about what is needed to manage the waiver. Tribes have indicated varying degrees of interest and readiness.

In a related effort, Tribes are in the first year of planning for a tribal Money Follows the Person (MFP) program and have identified direct care work force and lack of suitable housing as potential barriers. The Menominee and Lac du Flambeau Tribes are working on caregiver training curriculum development with their technical colleges.

- ***Employment.*** Employment for people with disabilities is a priority for the Department and something that Beth Wroblewski will be actively engaged in as Chief Policy Officer. Camille Rodriguez and Janet Estervig are working on an employment work plan.

- ***Intensive Treatment Program.*** The Department is developing a strategic plan for the Intensive Treatment Programs (ITPs) at the Centers for People with Developmental/Intellectual Disabilities. All MCOs are looking at how to use the ITPs as a resource for dealing with people with challenging behaviors and needs. Two areas of attention include working on shortening the average length of stay and ensuring fidelity to the interventions developed in the ITP in order to avoid readmissions.

Council members asked whether there is a need for increased ITP interventions in order to support people with challenging behaviors in the community. Geri Lyday said that, with the closing of Hilltop, people in Milwaukee are acutely aware of the need for community support and for options when community placements do not work out. Linda Murphy said that the Milwaukee Department of Family Care has had a positive experience working with Southern Center in two situations. Both involved frequent phone meetings between the residential provider and experts at the Center to develop behavior management plans, and both had good outcomes.

- ***Ted Bunck Retirement.*** Brian Shoup paid tribute to Dr. Ted Bunck, who is retiring as Director of the Bureau of Center Operations on January 14. Dr. Bunck pioneered the use of quality improvement techniques at all three of the Centers for People with Developmental/Intellectual Disabilities and has had a lasting impact on the Department and its customers.
- ***Companionship Exemption from U.S. Department of Labor Wage and Hour Rule.*** The Department is monitoring the legal status of the exemption of home care workers from overtime requirements in the wage and hour rules under the Fair Labor Standards Act. In December 2014, the U.S. Department of Justice informed states that they must determine their own policies and procedures regarding the applicability of the exemption to third party employers. The issue in Wisconsin is whether the exemption applies to caregivers for members of the IRIS and Family Care self-determination programs who are hired and paid through a fiscal intermediary. There will be more to come on this issue.
- ***Home and Community Based Services Transition Plan.*** The transition plan describes how all of Wisconsin's Medicaid long term care waivers will come into compliance with the CMS final rule on community settings. The Department will submit its transition plan to CMS by the end of January. The plan is currently open for public comment.
- ***IRIS Update.*** The Department is moving forward with contracts for multiple IRIS Consultant Agencies (ICAs) and Fiscal Employer Agents (FEAs) in the IRIS program. It is also developing the information technology system to enable IRIS

participants to manage their individual service plans and link to the third party administrator to pay claims.

Provider Assessment Tools for Determining Compliance with CMS Community Settings Requirements

- ***Residential Provider Assessments.*** Diane Poole from the Bureau of Managed Care gave an update. A draft assessment tool for determining compliance with CMS community settings requirements has been developed and is open for comments through January 16. The assessment tool was developed based on initial guidance provided by CMS indicating that settings for Medicaid home and community based services (HCBS) waiver services must include the same opportunities for and access to community resources that are available to individuals not receiving Medicaid HCBS services. The Department will review all comments and distribute a revised assessment tool to providers in February.

Residential providers will need to complete a separate assessment for each of their facilities. Providers are not “grandfathered” or otherwise exempted from the community settings requirements. MCOs and the Department’s Bureau of Long Term Care Financing will conduct site visits and quality reviews. Non-compliant providers will have an opportunity to submit a compliance plan and come into compliance by June 9, 2017. Family Care members will have to transfer out of non-compliant settings by September 30, 2018.

Council members had the following observations and comments:

- The criteria for integration are incompatible with most adult family homes and community based residential facilities (CBRFs).
- The ability to access transportation is essential to integration. People are having trouble accessing rides and, therefore, accessing services. Local transit systems are balking at serving Family Care members.
- Distinguishing long term care needs from other needs of the individual can be difficult. It would be unreasonable to say, for example, that Family Care should never pay for a trip to the mall.
- People may live in an integrated setting and still not have integrated services.
- The impact of the rule on residential facilities on the grounds of institutions and on lockable units in memory care CBRFs will be issues.
- Providers are worried that they will be “caught” by the rules.
- Wisconsin has a long tradition of community care. There is concern that a strict interpretation of the rules will adversely affect the good things that Wisconsin has achieved.

Margaret Kristan said that the Department has pressed CMS about these kinds of concerns and will continue to partner with CMS as it works through the process.

Brian Shoup indicated that where the Department has discretion, it will inject a reasonable person's perspective.

- ***Non-Residential Provider Assessments.*** Kari Engelke from the Bureau of Long Term Care Finance gave an update on compliance with the home and community based services rule for providers of prevocational, day and other non-residential services. The non-residential provider assessment tool is in the early stages of development. It should be completed for public comment in March and for implementation in May 2015. The tool will include both a general section that applies to all non-residential providers and setting-specific sections for the different types of providers. The assessment will look at the characteristics of the settings, not of the services provided.

Council members expressed their belief that true community integration requires attention to individual situations and needs and to the services provided, in addition to service settings. Beth Wroblewski informed members that CMS instructed states not to include person centered planning in their transition plans because it is already an expectation in the Medicaid waivers.

Family Care and IRIS Implementation in Northeastern Wisconsin

Carrie Molke, Margaret Kristan and Curtis Cunningham gave an update and answered questions. Two managed care organization (MCOs) – Care Wisconsin and the Lakeland Care District -- have been selected to provide Family Care services in the seven counties and two tribes in northeastern Wisconsin, beginning in June 2015. IRIS will be implemented in the region at the same time, with TMG acting as the IRIS Consultant Agency and iCare as the Fiscal Employer Agency. All current waiver participants (approximately 2,700 people) are to be enrolled by the end of 2015 and all wait listed individuals enrolled within 36 months from the first day of enrollment by county. Implementation will be staged county by county. Tribal enrollments are scheduled last, to give time for approval and implementation of the Tribal Waiver. ADRCs in the area will ensure functional and financial eligibility, provide enrollment counseling, and manage the wait list. Community informational meetings are being held for participants and service providers in the area.

Comments from the Public

An opportunity for public comments was offered. There were none.

Federal Aging and Disability Policy

2015 is the 25th anniversary of the Americans with Disabilities Act; the 50th anniversary of Medicare, Medicaid and the Older Americans Act; and the 80th anniversary of the Social Security Act. The Council took this opportunity to review some of the history and current activities in federal aging and disability policy.

- ***Older Americans Act (OAA).*** Carrie Molke gave an overview of the Older Americans Act, which was established in 1965 and is celebrating its 50th

anniversary this year. OAA created a mission of providing home and community based services. Its scope has been expanded over the years to include transportation, information and assistance, nutrition, health promotion, legal assistance, long term care ombudsman services, family caregiver support, elder abuse prevention and advocacy. ADRCs were formally recognized in the OAA in 2006. Funding cuts resulting from sequestration will be felt in Wisconsin's OAA programs beginning this year.

Council members expressed concern about the lack of a focal point for aging in Washington D.C. following the reorganization that created the Administration for Community Living in the U.S. Department of Health and Human Services.

- ***White House Conference on Aging.*** The White House Conference on Aging is held every 10 years and provides an opportunity for stakeholders and the public to discuss and provide input to the development of national policies on aging. Typically, events are hosted at both the state and national level. The 2015 White House Conference will be a virtual forum on the web, together with an in-person event in Washington D.C. sometime in July. Plans are being developed.
- ***Elder Justice Act.*** Alice Page from the Office on Aging provided an update. The Elder Justice Act, signed in 2010, is the first federal initiative to deal with elder abuse. The Act included enhancement of adult protective services and ombudsman programs, training for nursing facility surveyors, and creation of a national nurse aide registry, among others. However, little funding for the initiatives created by the Act has been approved and its promise remains largely unrealized.
- ***Americans with Disabilities Act (ADA) Legacy Project.*** Maureen Ryan from the Wisconsin Coalition of Independent Living Centers gave the update. The Legacy Project is gathering historical documents and stories and working with the Wisconsin Historical Society to establish a collection and exhibits on disabilities. A bus will be touring the state to promote disability awareness and celebrate the 25th anniversary of the ADA. The bus will stop in Milwaukee on June 24th and in Superior on July 7th. A date for a Madison stop is being planned. An advocacy day for people with disabilities will be held on March 17 in Madison.
- ***Achieving a Better Life Experience (ABLE) Act.*** Maureen Ryan gave an update. The ABLE Act, passed in December 2014, encourages people with disabilities and their families to save their own money to pay for disability-related expenses, including health care, housing, education and other needs. The Act permits people with disabilities to have a tax-free savings account of up to \$100,000 to use for these purposes, without losing Medicaid eligibility. To be eligible, the disability must have occurred before the individual reaches the age of 26.

- **Workforce Innovation and Opportunities Act (WIOA).** Joanne Richard, Deputy Director of the Division of Vocational Rehabilitation in the Department of Workforce Development, gave an overview of Workforce Innovation and Opportunities Act, which was signed into law in July 2014. It is one of the few pieces of federal legislation to pass Congress unanimously. The Act covers federal employment programs funded by the U.S. Department of Labor and the U.S. Department of Education. It requires states to develop a unified state plan for these programs, including Vocational Rehabilitation; Job Service; adult education and literacy; and workforce programs for adults, youth and dislocated workers.

A major focus of the Act is on getting youth onto an employment track while still in school and while resources are available. Vocational Rehabilitation will be able to offer work exploration, work experience, exploration of employment opportunities, and self-advocacy skills training in the schools, as well as working directly with employers on placement and training. Vocational Rehabilitation will also act as gatekeeper for entry into sub-minimum wage and sheltered workshop employment by conducting individual assessments to determine the appropriateness of sub-minimum wage work. This focus is consistent with the direction that Wisconsin has been taking on employment issues.

Maureen Ryan said that all players need to be at the table during WIOA implementation and suggested that the state host a summit with a broad representation of employment partners.

Subcommittee Reports

- ***Employment Subcommittee Report.*** Beth Swedeen, Employment Subcommittee Chair, gave the report. The Subcommittee met with the DHS Employment Team and made the following recommendations:
 - Work to increase the number of integrated employment providers, especially for people with complicated needs and in those areas of the state where there are no available providers.
 - Include employment benchmarks in the Department's MCO and ICA contracts.
 - Provide employment data to the Wisconsin Long Term Care Advisory Council.
 - Inform and reassure stakeholders about the impact of CMS' home and community based settings rule on employment.
 - Strengthen coordination between the children's and adult long term care waivers.
 - Clarify what is involved and who is responsible for person centered planning.

- ***Dementia Subcommittee Report.*** Tom Hlavacek, Dementia Subcommittee Chair gave the report. The Subcommittee met by phone and will meet in person following this Council meeting. Issues that have come up include expansion and changes to the Alzheimer's Caregiver Support Program, strengthening crisis intervention systems, and whether the Governor's budget will include funding for the Dementia Care Specialist program and crisis intervention. The Alzheimer's Association will have its advocacy day at the capitol on April 21, 2015.
- ***Transportation Subcommittee.*** Council members brought up the possibility of reconvening the Transportation Subcommittee.

Council Business

- ***Motion Regarding Medicaid Expansion.*** On a motion by Kate Wichman, seconded by Tom Hlavacek, the Council unanimously approved sending a letter to the Secretary of Health Services requesting that she encourage the Governor to revisit expansion of the Medicaid program to cover individuals up to 138% of the federal poverty level. Ms. Wichman will have the letter drafted.
- ***Topics suggested for the March meeting:***
 - Group C eligibility for Medicaid long term care
 - Presentation on InvestaCare
 - Intensive Treatment Programs at the Centers for People with Developmental/Intellectual Disabilities
 - Presentation by Carrie Porter on transportation status and issues and decision about whether to reconvene the Transportation Subcommittee
 - Biennial budget proposal
 - Cost of stays at the Centers for People with Developmental/Intellectual Disabilities and repurposing of the Centers
 - Financial performance of Family Care and PACE/Partnership MCOs and IRIS
 - Update on bringing acute and primary care into long term care programs, activity relating to dual eligible for Medicare/Medicaid, and status of PACE/Partnership in Wisconsin
 - Recommendations from the Challenging Behaviors workgroup
 - The idea of having a quality metrics scorecard for MCOs, to be used by ADRC customers who are choosing among MCOs

Meeting adjourned at 3:30 p.m.

Handouts

- *Enrollment Counseling and Implementation Schedule for Family Care and IRIS in Northeast Wisconsin, 1/12/15*
- *[Workforce Innovation and Opportunity Act] WIOA and Vocational Rehabilitation: Sections of Interest for Long Term Care*
- *Update: Wisconsin Long Term Care Advisory Council Subcommittee on Employment, January 2015*