

Residential State Supplement (RSS)
Legislative Review Workgroup
October 9, 2013 Meeting Minutes

In attendance: Adam Anderson, Ohio Department of Mental Health & Addiction Services
Jonathan Baker, Ohio Department of Mental Health & Addiction Services
Roma Barickman, Ohio Department of Mental Health & Addiction Services
Marc Baumgarten, Ohio Department of Mental Health & Addiction Services
Angie Bergefurd, Ohio Department of Mental Health & Addiction Services
Kueiting Betts, Ohio Department of Mental Health & Addiction Services
Missy Craddock, Ohio Department of Mental Health & Addiction Services
Marty Falin, Ohio Adult Care Facility Association
Liz Henrich, Ohio Association of County Behavioral Health Authorities
Janet Hofmann, Ohio Department of Aging
Selina Jackson, Ohio Department of Health
Ellie Jazi, Ohio Department of Mental Health & Addiction Services
Beverley Laubert, Ohio Department of Aging
Darryl Lumpkins, Ohio Adult Care Facility Association
Jody Lynch, Ohio Department of Mental Health & Addiction Services
Mark Mayle, Ohio Adult Care Facility Association
Grace Moran, Ohio Department of Aging
Beth Oberdier, Disability Rights Ohio
Janel Pequignot, Ohio Department of Mental Health & Addiction Services
Michaela Peterson, Ohio Department of Mental Health & Addiction Services
Rod Pritchard, Ohio Association of Area Agencies on Aging
Daniel Schreiber, Ohio Office of Budget & Management
Brandon Sturgill, Ohio Department of Mental Health & Addiction Services
Rick Tully, Governor's Office of Health Transformation

Welcome and Introductions

Ellie welcomed the workgroup members and attendees introduced themselves.

Approval of Meeting Minutes

The October 2, 2013 minutes were approved as written.

Review Progress

Ellie discussed the workgroup's progress in the legislative review process. The three Community Forums are scheduled in the next couple of weeks and the workgroup members will review that feedback and the results of the consumer phone survey during the meeting scheduled October 30th. The final recommendations will be reviewed at the last workgroup meeting on November 13th.

Ellie recapped the following items that have general consensus among the workgroup:

- Open RSS enrollment to consumers who are already living in Adult Care Facilities (ACF's) and Adult Foster Homes (AFoH's);
- Examine potential costs to the RSS Program if the number of eligible individuals increased; and
- Review options for the Level of Care (LOC) determination due to need for Protective LOC.

Allowable Fees, Disparity Issues, Quality Standards

The workgroup members reviewed and discussed the budget developed and presented by the Ohio Adult Care Facility Association (OACFA).

- Ellie reminded the members the current allowable fees for Adult Family Homes (AFaH's) and Adult Foster Homes (AFoH's) are \$774/ month, and Adult Group Homes (AGH's) and Assisted Living are \$877/ month. The allowable fees cover the required accommodations, supervision, and personal care services.
- Marty indicated the budget shows the deficit of running homes. The presented line items listed fixed costs and variable costs and what OACFA thinks the reimbursement should be for home operators. Most of the home operators don't utilize a payroll (employees are paid on cash basis), the presented figures reflect running a payroll. Darryl shared that he runs two ACF's and is not able to hire a staff with current funding.
- Marty explained the calculation for the AGH wage figure \$5,760. (30 days x 24 hours x \$8/hour)
- Roma asked about the "Annual Bed Fee". Marty explained Area Agencies on Aging requires home operators to pay a bed fee, \$10 per bed, per year. Beverley indicated the Ombudsman Office has a bed fee of \$6 per bed, per year.
- The reported operating cost per resident is \$1,686.26 per month for AGH and \$1,862.84 per month for AFH in the presented figures, assuming they are operating at full bed capacity.
- Marty inquired why the allowable fees for residents that live in AFaH's/AFoH's are less than residents in AGH's and Assisted Living. Rod indicated it has always been this way, about \$100 difference between the two, but no workgroup members know the reason why.
- Adam asked if the presented figure is sufficient to meet the operators' needs. Marty stated that with the presented numbers there would be quality improvement in the homes. In addition to funding increases, Rod indicated training is needed for facility operators in order to improve quality. Marty agreed but stated that most of the home operators can't afford staffing in order to attend training.
- In regards to hiring staff to insure better quality and serve clients with a higher level of needs, Rick inquired if making licensure and statutory changes are in the scope of work in this workgroup. Marc responded it is possible if the final recommendations would affect RSS program or licensure. Assuming all ACF residents receive the RSS payment, Janet expressed that the RSS program is only providing half the amount of what home operators need to serve clients with the current level of licensure, based on the received budget from OACFA. It could make things worse by increasing licensure standards, unless RSS program provides more reimbursement. Marty stated if home operators were able to hire staff, then they could provide better assistance to individuals with higher level of needs.
- Angie requested clarification on the OACFA budget line items for Wages, Wages (Manager), and Employer's SSI & Medicaid Match. Because of a typo, Marty and Mark confirmed it should be Employer's SSI & Medicare Match, not Employer's SSI & Medicaid Match, and the figure should be \$1,200. The line item Wages is for staff person, Wages (Manager) is for home operators, and the listed figures are the net dollar amounts.

- Mark indicated that operators currently receive \$16 - \$18 per day for ACF residents not enrolled in RSS. Darryl indicated that payment is accepted for about 60% of the ACF residents in Hamilton County. Rod stated that those operators have even less income.
- Workgroup members expressed gratitude to OACFA for providing the budget.
- Ellie reviewed the following items that were discussed at the last meeting:
 - Track data for individuals that don't meet the protective level of care but are out in the community.
 - Possibly expand upon the rules to let individuals apply for the RSS program when they meet the protective level of care, but are not in nursing homes.
 - Have AAA's complete level of care determinations for individuals already out in the community. Grace informed Ellie that if that is the situation, OhioMHAS will need to line up with Medicaid as this would be a reimbursable service.
 - The need to review Initial & Annual Health Assessment created by OhioMHAS Licensure and Certification Office.
- Workgroup members reviewed and discussed the sample of Initial & Annual Health Assessments. Janel indicated these two forms are examples and are not required forms for providers. Ellie indicated the level of care determination will need to be more in depth. Per OAC 5101:3-3-06 rule for the Protective Level of Care, the key components include: less than 24-hour support; supervision of one activity of daily living (ADL) or supervision of medication administration; assistance with three instrumental activities of daily living (IADL); supervision of mobility, bathing, grooming, toileting, dressing; assistance with meal preparation, and community access.
- Ellie reiterated that if residents were assessed and did not meet level of care, then those individuals would not receive RSS, but they also would not have to leave their current residence.
- Marty indicated some of the county boards that provide housing subsidies also have step-down programs. Clients are evaluated every six months and the ultimate goal is to be able to transfer clients from Group Homes to independent living.

Assisted Living

- Ellie stated that about a quarter of RSS recipients reside in Assisted Living/Residential Care Facilities. During the brainstorm session at the first meeting, there were concerns that Assisted Living does not fulfill the program's goal of de-institutionalization and whether we should continue to refer RSS consumers to those settings. Assisted Living is not considered an institutional setting to some, but it is not approved clients for Home Choice program. Adam explained as assisted living facilities are larger in size, they do not provide leases under tenant/landlord law. Only a limited amount of assisted living facilities in Ohio provide tenant/landlord leases as these facilities were converted from affordable housing and were able to retain some of the original setups. Home Choice program does help people move to Assisted Living, but generally, Assisted Living is not a qualified residence for the Home Choice program.
- Beth stated there are several Residential Care Facilities (RCF's) with approx. 180 beds. These RCF's could be a unit in nursing homes or old nursing homes with unlocked doors. Beth indicated this issue needs to be addressed so people are not institutionalized in these facilities.

Ellie indicated there were 261 (22%) of RSS consumers who lived in RCF's/Assisted Living at the end of SFY2013, but there is no data about how many different buildings these RSS consumers live in. It was suggested it would be good to know where these individuals reside. Rod stated that historically, RCF's were eligible settings for RSS clients, but many could not afford Assisted Living because there was no waiver at the time. Ellie indicated one of the received suggestions during the brainstorm session at the first meeting is to see if these consumers are better served receiving the Assisted Living Waiver rather than RSS. Janet indicated the LOC determination would be appropriate for these consumers.

Janet pointed out there is no minimal level of care for RCF's, but there is a protective level of care requirement for RSS participants. It is consumers' personal choice to decide whether they would like to reside in Assisted Living and RCF's are capable of providing that level of services.

Rod asked Beth if it is the facility size that designates it as an institutional setting and if so, what is the limit of number of units. Beth expressed that consumers should not be placed in any facilities looks like nursing homes with unlocked doors and they should have their own apartment and bathroom. Janet stated the Assisted Living Waiver requires private units and private bathrooms, which Adam indicated were need for Home Choice also.

- Brandon inquired if the rules were changed, what would happen to the 261 RSS consumers that already live in RCFs/Assisted Living. Janet indicated there should be a way to grandfathered in, such as Community Alternative, so people would not be disenrolled from RSS.

Ellie asked if there should be a new standard for new RSS applicants if they choose RCF's so the current RSS consumers won't lose their benefits. Janet indicated there are two distinct issues, quality (i.e. privacy, autonomy, locking door) and number of licensed units. Rod expressed the facilities should meet additional standards in order to be qualified for the RSS program, like the facilities for the Assisted Living Waiver program, above and beyond the licensure requirement. For the Assisted Living Waiver program, the Ombudsman Office is responsible for seeing if these facilities meet standards. Adam indicated that we should get a sense of the severity of the issue before we develop a plan to approach. Knowing where these 261 RSS consumers live could be the first step. Ellie asked if Disability Rights Ohio has an "RCF watch list". Beth indicated there is an outdated list and will share this list with OhioMHAS to update.

Issues for Community Forums

- Three Community Forums will be conducted at Heartland Behavioral Healthcare (10/16), Summit Behavioral Health (10/22) and Cuyahoga County ADAMHS Board (10/25) before the next workgroup meeting on 10/30. All licensed home operators, state legislators and boards have been invited to attend. Janet indicated the Ombudsman program and Centers for Independent Living might be interested in attending these community forums. OhioMHAS will send the Community Forum information to workgroup members and workgroup members can forward the invitation to appropriate personnel.
- Grace asked if the group will be able to hear the perspective from the Assisted Living Association and assisted living providers. Ellie responded as the focus has been on ACF's, the RSS Legislative Review invitation was not sent to that group, but OhioMHAS could send the invitation to them as well.

- Ellie indicated the purpose of the Community Forums is to provide an overview, highlight the key issues about disparities among residents, allowable fees, and quality concerns. Angie expressed that these Community Forums would be operated similar to a public hearing format (not debate format) in order to receive public feedback on specific themes.

Angie asked whether it is more useful to provide an overview, goals and high level themes or ask participants specific questions. Janet expressed not all Community Forum participants would have the same knowledge base of the RSS program. Mark expressed not all participants would know the difference between ACF's and nursing homes. Marty anticipated that the stories of struggles and challenges would be the type of feedback that OhioMHAS would receive from the home operators. Angie expressed that OhioMHAS would like to understand the information about the struggles and challenges from home operators, but it is also important to figure out a way to get constructive ideas and suggestions. Janet anticipated that most of the suggestions would be about increasing payment for home operators. Jody expressed the information on money usage will be needed as it is important to have constructive conversations and have clear recommendations.

At the beginning of each community forum, Adam suggested that OhioMHAS should acknowledge the fact about home operators' challenge and struggling on money. This shows the home operators that OhioMHAS is aware of the problem, then letting home operators know that constructive ideas and recommendations in different areas are needed in order to move forward together.

- Marty indicated that input from the clients could also benefit the RSS Legislative Review process. Ellie indicated that OhioMHAS is conducting phone surveys for ACF residents, both RSS and non-RSS residents. Bev inquired about the type of questions that have been asked in the phone survey. Ellie stated the questions address about differences in personal needs allowances, how well residents' needs are being met, differences in lifestyles between residents with RSS and those not in RSS, overall satisfaction with the RSS program (for those enrolled in RSS), and their choices of residences. The results from the consumer phone survey and community forums will be presented at the next workgroup meeting on 10/30 and available online.