

Florida ARF

Advocating for Rehabilitation's Future

Terry R. Farmer
President & CEO

Dennis Haas
Board Chair

TO: Florida ARF Members

SUBJECT: Notes from Medicaid Waiver Handbook Hearing (August 19, 2003, 10:00 a.m. – 12:00 Noon.

FROM: Suzanne Sewell, DD/Medicaid Program Analyst

The public hearing on Administrative Rule Number 59G-8.200 (Medicaid Waiver Handbook) was called to order by Agency for Health Care Administrator Robert (Bob) Maryanski who introduced the panel of hearings officers and explained the format to be used for receipt of comments and testimony. Mr. Maryanski announced the hearing would not address rates. Presenters were asked to identify themselves and the agency they represented and were encouraged to submit written statements. Approximately 60 persons were in attendance. The following summarizes the oral testimony provided during the hearing.

- Florida ARF CEO/President Terry Farmer testified first and presented the Florida ARF written testimony (copy attached). Terry discussed Florida ARF's disagreement with the use of the term "medical necessity" as a key criterion for approval of services provider under the Waiver. He reminded AHCA and those in attendance that pursuant to Federal law, individuals participating in the Waiver are entitled to all of the services in the Waiver plan which will assist the individual in reaching or maintaining maximum developmental potential. Also pursuant to Federal law, the individual participating in the Waiver is entitled to "active treatment" just as he or she would be if he or she had not waived ICF/DD placement. Other topics Terry addressed in his oral testimony included: a request that references to sufficient funding be deleted as an eligibility criterion in Section 2-4 of the rule; the inappropriateness of AHCA incorporating the Mercer Rate Study within the Handbook without proper rule promulgation procedures by the Department for the rate study; and, disagreement with the AHCA Core Assurance document (Appendix C, Section 1.0, A, 1) that requires providers to comply with all (unknown) directives which are, in effect, being given the force of rule without going through the rule promulgation process.
- Two consumers' families from the Panama City area testified about the effects of the rate study and asked that In-Home Supports not be cut. DD Program Director Shelly Brantley

responded that these two cases were being reviewed individually to ensure that all appropriate assistance had been given.

- Behavior Analysis Provider Karen Wagner testified that billing guidelines for Behavior Analysis warrant further review. Ms. Wagner also asked for additional distinctions between Behavioral res hab and regular res hab. She recommended that the ten-hour cap for respite services be removed as it is not always realistic to limit the service. Additionally, she reported the minimum qualifications requirements for a respite care provider (high school diploma and two years experience) was unrealistic and was in violation of Federal Civil Rights laws regarding employment practices.
- ARC of Florida Executive Director John Hall provided written testimony and indicated support for the testimony given prior to his. He reiterated concern about AHCA and DD using the term “medical necessity” to determine services that would be provided under the Waiver. John also commented that ARC members were concerned about changes in the In-Home Supports category and the rate study being used by the Department (Mercer) that resulted in services being funded at a percentage of cost (res hab at 40%). John inquired about the status of consumers who were in Developmental Services Institutions and was advised by DD Program Director Shelly Brantley that those who had asked to leave the institutions were on the waiting list. John challenged some of the wording used regarding staffing criteria and qualifications and requested that the definition for administrative staff be amended to allow more flexibility so that in emergency situations, administrative staff could assist service staff. John asked for clarification regarding monitoring for competence and suggested that AHCA reconsider the limitation for respite care hours.
- DD Program Director Shelly Brantley responded that she would entertain public comments regarding service definitions and responded that by December 2004 the program office hoped to move to a more flexible service definition system.
- Group Home Provider Susan McCullough testified that staff minimum qualifications were too stringent for small group homes and were contrary to the family environment she provided for her residents. She urged AHCA to amend the rule to allow administrative staff to assist with personal care. Under the new rule structure, she would be required to have 75 percent of her staff have Behavioral experience. Susan stated the rule changes appear to be moving more towards funding beds versus people. Susan testified that she was not being funded to provide transportation, while her automobile insurance and other expenses were rising.
- DD Program Director Shelly Brantley responded that her office is looking at Coordinated Transportation and trying to identify ways to assist providers with transportation services and to improve billing coding standards.
- Sylvia Smith from the Advocacy Center testified that many of her agency’s concerns had been addressed, and that the Advocacy Center will be submitting written comments. Sylvia inquired about the status of Appendix F, Consumer Waiting List.
- DD Program Director Shelly Brantley responded that the Waiting List portion of the rule was being totally rewritten but would be a part of the rule.
- Support Coordinator Cathy DeQuell testified that service limitations for respite care needed to be rewritten. Cathy questioned why the proposed rule did not allow providers to provide services in their own homes and reported that this would be detrimental to several clients.

Cathy also questioned why Support Coordinators should be responsible if an unauthorized service was provided and asked that this be reviewed again. She commented that ABC problems should not result in a Support Coordinator not receiving payment.

- DD Program Director Shelly Brantley responded that she would like to see suggestions for safeguards regarding provision of respite care in a provider's home.
- Support Coordinator Adrian Chamberlin testified that not allowing 24/7 personal care was detrimental to at least two clients she served and would disrupt two very successful placements. She asked that the rule be "tweaked" in this area.
- Executive Director Brad Hunt of the Support Coordinators Association testified that his organization will be submitting written comments regarding suggested changes relative to the Service Authorization process. He expressed concern about liability issues and requested more clarity about how to obtain authorizations for emergency situations. Brad challenged changes to the General Medicaid Provider Handbook that were published in the August 15, 2003, Florida Administrative Weekly that prevent new provider enrollees from appealing rejection decisions.
- ARC of Florida Executive Director John Hall provided additional testimony stating that Fair Hearing Notices regarding service authorizations needed to be added in the rule.
- Behavior Analysis Provider Karen Wagner reported confusion about the number of billing days allowable for ADT (220?) and that Health Insurance Portability and Protection Act (HIPPA) requirements required strict adherence to confidentiality guidelines but also required release of the same information for billing purposes.
- Support Coordinator Katie Preger questioned why transportation is allowed only to Medicaid services providers and was advised by DD Program Director Shelly Brantley that the Feds would only approve transportation to Medicaid services. Katie testified that additional items needed to be added in the definition for developmental training and that consumer eye care needed to be included as a Medicaid Waiver service.

The hearing was closed by Bob Maryanski who announced that written comments on the rules would be accepted until August 22, 2003, at 5:00 p.m.