

Family Support Council Meeting
February 26, 2022
Zoom Meeting
Meeting Minutes

Members present: Sarah Carlson, Amber Finnesand, Christine Kenser, Krista Bau, Bridget Leiseth, Pat Norin, Michelle Powers, Brittany Norin, Joanne Hairy Shirt, Jennifer Walker

Members absent: Letty Thelen, Dianne Baumiller

DHS Staff: Jaze Sollars, Kade Anderson, Joey Younie, Julie Hand

I. Call to Order

Bridget called the meeting to order at 6pm CT.

II. Introductions

Ice breaker – Gave name, where you are from, and current app podcast or tv show.

III. Approval of Minutes

Sarah motioned to approve minutes. Bridget seconded the motion. The motion passed with a voice vote with the correction of adding Joanne to members present.

IV. Standing Items

A. **Review of Agenda** - Bridget made a motion to approve agenda. Sarah made a motion to approve changing year to 2022, Christine seconded. The motion passed with a voice vote.

B. **Secretary Opening** – Bridget nominates Krista and Christine seconded. Krista approved with a voice vote.

C. **Grievances and Appeals Overview** – The Division of Developmental Disabilities (DDD) had 4 appeals related to family support. Two were for SMAES, one was for Environmental Accessibility and one for Respite Care. The SMAES appeals were upheld, the Environmental Accessibility appeal was revised and the Respite Care appeal is still pending.

D. **SMART Data** – Reviewed SMART data for Health and Wellness element overview. We review a sample of our participants every year. Performance measures that are listed in the Waiver are reflected in a SMART review. It is how CMS tracks how DDD is doing. We created SMART to help us track our waiver performance measures. CMS is concerned with anything that falls below 86%. Health and Wellness and Support Plan are the two sections of a SMART review. All areas in the Health and Wellness section were above 86%. The next section is the Service Plan. ISP monitoring is at 80% and falls below the 86% threshold with CMS. This is something that DDD is following up on with coordinators. DDD looks at two years worth of information so current trends may take some time to show up in the data. The Council is requesting to see the data quarter to quarter and DDD will be attempting to provide that.

V. Waiver Renewal

Waivers are essentially an agreement between the State Medicaid Agency and the Federal Government. In a waiver we are “waiving comparability”. Waivers are good for 5 years and then

they have to be resubmitted for renewal. The current waiver will be submitted by March 1st of 2022 to CMS. DDD will not be changing anything between now and June 1st of 2022.

The waiver renewal process. DDD finds certain things that they want to make changes to in the waiver. Most things during a waiver renewal are kept the same when the renewal occurs. We are basically asking to renew the waiver. If too many changes are made it would become a new waiver. Most things are not rewritten during the renewal.

Some things that were highlighted were some items on the performance measures. We are requesting specialized therapies. Through conversations with DSS it happens that Medicaid should be able to cover aquatic therapy. Families need to know how to access aquatic therapy. We had to remove it from the waiver because we cannot duplicate what is already covered by Medicaid. It will only be music, equine, and art therapy. We are currently working on determining the process with DSS.

Another big addition was the common law option, in regards to families hiring a provider. The first addition only included the common law option and we have updated that to reflect both options. Closest comparison for common law would be an independent contractor. We are working through the development of allowing the process to happen and provide guidance to families on the different options. DDD is seeking more guidance on the details on how to have this established and if it is possible to be on both options. If someone chooses both options and DDD is not sure how that would look. Can a participant hire one provider the common law route and another provider through AWC? DDD will seek guidance on an answer to this.

DDD is currently working with their legal department on the appeal/grievance process to make it a clearer process. They are hoping to have that ready by June 1st of 2022.

DDD is engaging with providers to expand the number of providers for Family Support. We are also engaging with providers to expand AWC providers.

Different states have a different number of waivers. Our waivers while they are in collaboration with DSS there is a portion that is appropriated by the state legislator. There is a portion of federal and state funds. We can only spend the amount of funds that are appropriated to us by the services that are provided in the waiver. What do we have to do get more waivers available to the public? South Dakota currently has 4 waivers but would need to get approval for funds by the state legislator. Why we have the Family Support Waiver is because of a grassroots movement by families in South Dakota. To add an additional waiver there would need to be documentation of the need. DDD monitors growth in each program and determine projections to find the budget. If we would want to expand and request more funding would need to testify in front of the legislature. There needs to be statistical need for growth. DDD has to demonstrate that they tracked it. DDD needs data to back up information if they were to expand family support programs. They did request growth in appropriations. They then host a call with DSS and DDD with CMS. This call is with CMS and DSS. CMS will then ask for more information in multiple rounds until ultimately the waiver is approved. There are usually no concerns with getting the approval back before the waiver expires.

VI. American Rescue Plan Act

What will the American Rescue Plan Act look like for our families in South Dakota? It is an act with the federal government. It is specifically targeted for HCBS waivers. It is not supposed to take the place of anything that is already happening. CMS is leading that work. The target population are those 20 HCBS providers. The provider has to be a certified Medicaid Provider. The way the funds can be spent are for workforce challenges, telehealth, and to assist with pandemic related expenses. Those are DDD's focus areas.

Each agency has to submit their plans on how they would use those funds and it voluntary by each agency. Today was the deadline to submit the application. Those funds are auditable by the

federal government. How the focus areas were selected was by sending information to providers on what areas the providers would like to see this money used for. The funds can only be spent on how Medicaid approves those funds to be spent. The agencies will be responsible for how they inform families on what is available to them. The information would likely come from the family support coordinator. DDD speculated that there wouldn't be any communication until those applications are approved.

Are the providers going to get an indirect fee? Are they allowed to have administrative costs? It shouldn't be used for administrative costs. All South Dakota Community Service Provider's (CSP) have applied for those funds. Most CSPs operate both CHOICES and Family Support Waivers. DSS is leading those applications. The request for these funds needs to be approved by CMS and must be done through an appendix K. The council is requesting to see the applications.

VII. Meeting Agreements

In the last meeting we talked about meeting agreements and how we want our meetings to be held. The meeting agreements included in the handout are what DDD uses as an example. The exclamation point should be removed on the "turn on your camera" when possible. Come prepared to start on time. Combine first and second bullets. Get rid of use chat box sub-bullet. Communicate attendance. Limit side conversations. Make point to include people attending virtually. Appreciate flexibility of hybrid meeting model, it helps meetings reach a quorum.

VIII. Planning List

1322 total participants are on the waiver with 143 on the planning list. The total number of participants decreased by 12 and the number of people on a planning list increased by 8.

LifeQuest is currently serving 189 participants and has 37 people on their planning list. They have decreased their planning list by 2 people. 1/19/21 is the longest someone has been on their planning list.

Dakota Milestones is currently serving 72 participants and has 12 people on their planning list. The majority of those are in the Southeast program. Lost a Family Support Coordinator so the new coordinator will take some time to adjust to new role before she will be adding people.

SESDAC is currently serving 119 participants and has 31 people on their planning list. 2/18/2021 is the longest someone has been on their planning list.

Benchmark is currently serving 268 participants and has 66 people on their planning list.

HACFI is currently serving 80 participants and has 13 people on their planning list.

VOA is currently serving 170 participants and has 63 people on their planning list.

LifeScape is currently serving 161 participants and has 22 people on their planning list. 6/6/2019 is the longest someone has been on their planning list.

BHSSC is currently serving 263 participants and does not currently have a waiting list. They are right at even right now.

Michelle reached out to all 8 Family Support Providers with limited success. Two agencies did very well in responding and providing additional information but overall was not a great experience. Michelle is extremely concerned on how customer service is for our waiver services. Too hard to find where the information is located on how to apply for Family Support. Usage of website is difficult. Some families may have given up. DDD acknowledges that the front door into DDD services is difficult and cumbersome. DDD is working on a single front door and have hired

an intake specialist to serve as that person to operate the front door. DDD is working on developing a workgroup for all of our services and developing a usable front door for DDD services. The workgroup will include family members and will work with DDD staff and providers. The workgroup is scheduled to kick off in May and right now there is not a specific date and will end at the end of the calendar year. They will be virtual meetings and estimated to be an hour in length.

FS Council to create sub-committee for Front Door Workgroup

Sarah Motions to recess and Christine seconds. Motion passes with a voice vote.

Sarah Motions to enter out of recess and Christine seconds. Motion passes with a voice vote. Meeting resumed at 8:33am.

Christine, Michelle, Krista, and Jennifer were appointed as being part of the sub-committee.

IX. Roberts Rules of Order and Open Laws

Jaze presented on Robert's Rules of Order. This is usually in a textbook format. In the FS council bylaws it states that the council will follow Robert's Rules of Order. In the past it has been more informal. Handout on Rules of Procedure was handed out to Council members. The handout summarized some key points from Robert's Rules of Order. Robert's Rules are the formal procedure and open meeting laws are specific laws that pertain to how an open meeting needs to operate.

X. Grievance and Appeals Process

Our family support providers are community support providers. We require our providers to enroll with us as a community support provider (csp). A csp can offer different services which could include both Choices and Family Support services. A csp hires a family support provider so when a csp hires a staff they must be familiar with the agencies grievance policy. The csp needs to have a policy and it has to be given to families annually, and families must be able to appeal through the csp grievance process. The grievance process must include information on how to contact the division. Families can also grieve directly to the state. Grievance is often used in place of complaint. So if you are having issues with your family support coordinator the grievance process would go through the csp. Each csp may have a different grievance policy.

The appeals process can be used at anytime. If eligibility or services are denied then families can appeal that decision. The service coordinator is supposed to inform families on their right to appeal. In administrative rule it pulls in multiple chapters. It pulls in DSS and DHS admin rules. Typically, the request is submitted in writing to the division and an answer should come within 30 days. If it is a fair hearing they have 30 days from the day the family receives notice from DSS. The timeline for scheduling a fair hearing can take months. There will be a lot of legal teams and the judge to all have it scheduled. Services cannot be reduced while the fair hearing process is happening. Once the fair hearing happens the judge has 30 days to make a decision and then after that the Department Secretary has 90 days to review the judge's decision and make a final decision.

Is this the only route a family could go? Why do families have to go this route? Our programs are Medicaid programs so there is a lot of DSS authority or oversight. There is no good way to separate the process from DSS. Any state action can be appealed. Is there any auditing of requests? DDD has internal monthly meetings to discuss a denial of a 799. At any point of time a family could call DDD. There is no form to fill out if you want to file a formal appeal. The family would submit in writing and explain what is needed. Creating a document that is clearer and is easy to find on our website would benefit families. It is an overwhelming thought to go straight to a fair hearing sometimes families just want to ask a question. DDD needs to be very careful on what information that the state distributes because we can't give legal advice.

XI. Family Support Council Open Positions

We have two new members, Jennifer Walker and Brittany Norin. New introduction sheets are being sent out to all council members to complete.

We still have one opening for family member over 21 and one opening for family member under 21.

DDD receives applications but does not have final say. The Governor's Office makes appointments to the Council. It may take a little bit of time to get appointments finalized.

Just keep spreading the word. There will be another under 21 vacancy in June. Something easy to spread the word on the openings would be some type of shareable flyer. Historically blurbs have been posted to Facebook.

XII. Respite Care

Recently, families have been required to provide more information on timecards and are sometimes even prompted to provide more information on the information that was already provided.

Back in 2018 respite care was one area that CMS found an issue with. CMS found that what service that was being delivered was companion care or that respite care was not being used appropriately. Companion care becomes more specific on what services can be provided. Respite Care cannot be used when parent is working or as a substitute for childcare. Respite care should be short term intermittent breaks. DDD released a guidance document about 6 months ago on clarifying what was to be put on timecards. A guidance document for families would also be beneficial.

What are families to do when care is provided 24 hours straight? DDD wants to keep a balance, want families to use it but need to be respectful of SD tax-payer dollars. A barrier that has shown up is the length of time someone is providing care is conflicting with labor laws. LifeQuest has an exemption form that families can go over the 20-hour cap twice a year.

XIII. New Horizon – Transitions Program

Speaker not able to attend. Christine motions to table indefinitely and Bridget seconds. Motion passes with a voice vote.

XIV. Public Comment

Pat motions to move 15,16, and 17 and Sarah seconds. Motion passes with a voice vote. Public Comment moved to behind "Next Meeting".

Arlene Poncelet – DD Council has openings. Two people with developmental disabilities one of parent or guardian and 2 for parent or guardians of children. Application is available on DD Council's website. Arlene will send to Jaze to distribute to the Council. The DD Council meets quarterly and the meetings move around the State.

Wednesday was Disability Awareness Day at the Capitol. They had almost double the number of people than last year. Only 9 organizations were there in person. They had almost the same amount cancel last minute due to weather. Next year in planning Arlene will try to include FS Council for Disability Awareness Day at the Capitol Feb 22nd, 2023. Many people that came in were looking to talk with representatives in person. 25 legislatures attended. All 105 legislatures knew about the day.

J. Lang – Respite Care – The Center for Independence goes by hours in a year. If I wanted to use my hours and it exceeded the 20 hours she could do that as long as it was less than the total hours she can use in a year.

XV. Council Agenda

This topic aligns with the by-law conversations. We have state laws that outline expectations of public councils. It flows through the Department of Human Services and then through DDD. We do have to abide by these laws. The laws that DDD must adhere by, advise the agenda must be posted 72 hours in advance but the by-laws state agenda should be posted 10 days in advance. Either the 10 day or 72 hours timeline would be workable but a decision needs to be made. The Council cannot change by-laws in this meeting and would need to put it on the agenda for next meeting. There would have to be first and second reading. The by-laws will be put on agenda for next meeting which would be the first reading. The next two meetings the agenda will need to be posted 10 days in advance.

XVI. Council Discussion

What is something you appreciated from this weekend's meeting? The majority of participants appreciated the hybrid model of the meeting, conversations that were had, and information that was provided.

XVII. Next Meeting

DDD's secretary can't find hotel rooms in Rapid City during the request timeframe. Rapid City won't accept the state rate. We have also been informed that some council members are having conflicts. Sarah motions to move the Family Support Council meeting from May 13th to April 29th-30th for the Rapid City Region and Janet seconds the motion. Roll Call vote; Sarah aye, Tina aye, Janet aye, Bridget aye, Amber aye, Joanne aye, Michelle aye, Brittany aye, Pat aye, Jen aye, Krista aye.

What will be on the next agenda? By-laws, presenter possibly Wayne Weston, clarity on conversations with CMS, DDD might have some draft documents on self-direction and timecard documentation for families. The agenda will need to be out 10 days before the meeting. There should be the structure of the workgroup meetings and any updates to DDD's website.

XVIII. Adjournment

Sarah made a motion to adjourn the meeting at 11:08AM, Krista seconded the motion. The motion passed with a voice vote.

X

Krista Bau
Secretary