

Olmstead Advisory Committee
June 16, 2006
10:00 am - 4:00 pm
California Department of Health Services

Meeting Minutes

Present:

- Kimberly Belshé, Secretary, California Health and Human Services Agency
- Brenda Premo, Chair, Olmstead Advisory Committee
- Sarah Steenhausen, Staff, California Health and Human Services Agency
- Ann Boynton, Undersecretary, California Health and Human Services Agency
- Linda Anderson, Contra Costa County
- Tony Anderson, The Arc of California
- Elaine Batchlor, LA Care Health Plan
- Richard Chambers, CalOptima
- Bill Chrisner, The Dayle McIntosh Center
- Judy Citko, California Coalition for Compassionate Care
- Deborah Doctor, Protection and Advocacy, Inc.
- Nancy Hall, Community Resources for Independence, Santa Rosa
- Barbara Hanna, California Association for Health Services At Home
- Mary Jann, California Association of Health Facilities
- Joan Lee, Gray Panthers of California
- Gwen Lewis-Reid, Los Angeles County Department of Mental Health
- Bryon MacDonald, World Institute on Disability

- Sunny Maden, Family Member and Advocate
- Carl Maier, Inland Empire Health Plan
- Jackie W. McGrath, Alzheimer's Association, California Council
- Lydia Missaelides, California Association of Adult Day Services
- Marty D. Omoto, California Disability Community Action Network
- Cheryl Phillips, M.D., Geriatrician, Sutter Health
- Teddie-Joy Remhild, Personal Assistance Services Council, LA County
- Donald Roberts, Department of Developmental Disabilities Consumer Advisory Council
- Elizabeth Rottger, California Association of Area Agencies on Aging (by telephone)
- Tony Sauer, Nevada-Sierra Regional IHSS Public Authority
- Timothy Schwab, SCAN Health Plan
- Kate Wilber, University of Southern California
- Kathie Zatkan, Alameda County Network of Mental Health Clients

Welcome and Introductory Remarks by Kim Belshé, Secretary, Health and Human Services Agency, and Brenda Premo, Chair, Olmstead Advisory Committee

Secretary Belshé welcomed members to the meeting and provided an overview of the meeting agenda. Secretary Belshé introduced new members to the Committee including Teddie-Joy Remhild of the Personal Assistance Services Council of LA County, Kathy Kelly of the Family Caregiver Alliance (not present), and Carl Maier of the Inland Empire Health Plan. Secretary Belshé announced that David Heckler will no longer be able to serve on the Committee, and thanked him for his participation. Finally, Secretary Belshé acknowledged the Committee's ongoing efforts and hard work through the Diversion and Assessment/Transition work groups.

State Update

Secretary Belshé provided an update on budget items of interest to the Committee, including the Governor's action on the May Revise. She anticipates that the state will have a budget by July 1. She discussed the state's revenue outlook, which has improved in recent months. The Governor has made it a priority to pay down the state's debt, fulfill obligations for education spending, and to hold the line on creating new funding obligations. Much of the new revenue that has come in is "one-time" in nature, which creates challenges for programs that require an ongoing funding source. Health and Human Service Agency departments require on-going funding, making it difficult to address funding needs with one-time dollars.

Secretary Belshé provided an update on the closure of Agnews Developmental Center. In order to ensure there is adequate community capacity to meet the residents' needs, the closure will be delayed from June 2007 to June 2008.

Secretary Belshé concluded with an update on the Governor's Initiative to End Chronic Homelessness, as outlined in the May Revise.

Agenda Item #3: Budget and Legislation Review

Secretary Belshé asked the committee for comments on particular priorities, noting that certain Olmstead-related items have been added to the budget including an MSSP augmentation, PACE augmentation, and the Supported Employment Program/Work Activity Program increase. Secretary Belshé indicated that the budget discussion is and will continue to be an important opportunity for members to provide feedback and input on Olmstead-related budget items, and to inform the Administration's thinking as it relates to the long-term care system. Members expressed strong support for the MSSP augmentation, the PACE augmentation, the SSI/SSP COLA, and the SEP/WAP augmentation. Other members expressed disappointment that the Administration's acute and long term care integration proposal was taken out of the budget as well as the corresponding legislation (AB 2979 Richman) that has since failed passage in the Assembly Appropriations Committee.

ACTION: The committee will continue to track the budget items related to Olmstead, including cost-savings proposals, and will provide ongoing input and feedback to the Secretary on these matters.

Legislation Review

Members discussed various Olmstead-related Budget items and suggested that some bills be added to or deleted from the list. The Secretary would like to hear from members on the Olmstead-related legislation that is a priority for the committee. Members commented on specific legislation including AB 2979 (Richman). Other members expressed concern about AB 2357 (Karnette and Yee) regarding the outpatient commitment law. Other members expressed significant concern regarding AB 2536 (Montanez). Members also discussed AB 2014(Berg). The author's office indicated that they will continue to work with stakeholders but that the bill would be held in committee this year, for reintroduction next year. Members provided comment on the merits of Health and Human Services Agency department reorganization. Some members contend that reorganization could lead to positive outcomes for seniors and adults with disabilities if it incorporates the Olmstead principles and emphasizes home and community-based services.

Secretary Belshé indicated that HHS Agency continues to work with its departments to use the Olmstead Filter in the related legislative analyses.

ACTION: Sarah Steenhausen will continue to update the list of legislation to reflect the Olmstead-related bills that committee members suggested be added to the list. The list of legislation tracks all legislation related to Olmstead, including those bills that advance its objectives (consistent with the Olmstead filter), or limit its objectives (inconsistent with the Olmstead filter). Members will send Sarah any Olmstead bills they are tracking so that Secretary Belshé can solicit input on individual bills as necessary.

Agenda Item #4: Work Group Discussions and Reports

Assessment/Transition Work Group

The work group is charged with analyzing the problem and the barriers related to assessment and transition out of institutions; assisting in efforts to identify, develop and implement a uniform or coordinated assessment tool and protocol; and highlighting issues to consider for the Secretary of the Health and Human Services Agency as the state moves forward with implementation of the Olmstead decision.

Tony Sauer, Chair of the Assessment/Transition Work Group, led the discussion, providing an overview of the work group's efforts since the last full committee meeting. The work group continues to monitor the findings of the state's current Money Follows the Person pilot project, focus on the issue of access to IHSS assessments in nursing homes, and examine other states' transition practices. Sarah Steenhausen provided an overview of the issues associated with accessing IHSS assessments in nursing homes or hospitals, noting that many counties contend they cannot perform these assessments due to lack of resources. Members also expressed concern at the wait time before a person receives any IHSS assessment whether in the home or nursing home. The committee will continue discussions with counties in an effort to ensure that all counties provide IHSS assessments to consumers in nursing homes and hospitals.

Kate Wilber provided an overview of her findings from the study she and others recently completed on consumer preference to transition out of nursing homes, and the related policy implications. These findings can be applied to future Money Follows the Person (MFP) efforts in California. She also summarized findings from a recent national MFP conference and other states' experience with MFP and transition. Significant issues identified by states included the need for a flexible budgeting system, lack of access to affordable and accessible housing, and the need for rebalancing institutional and home and community-based long term care expenditures.

Tony Sauer provided an overview of the research completed on other states' nursing home transition efforts, highlighting a few best practices for the committee's consideration.

ACTION: Secretary Belshé asked the the work group to identify the priorities that are most critical to advancing the goal of transitioning people from nursing home to community settings. She asked that the work group outline policy issues, problem, barriers and potential solutions for consideration at the next full committee meeting in September.

Diversion Work Group

The Diversion work group discussed the ongoing priorities it raised at the March 3 full committee meeting, and identified two additional priorities for the committee to consider.

1. Establish Home and Community-Based Services as part of the State Medicaid Plan (originally presented at the March 3 meeting): Opportunities are presented by the Federal Deficit Reduction Act to develop home and community-based services that are part of the state Medicaid plan, rather than the waiver. The Deficit Reduction Omnibus Reconciliation Act of 2005 authorizes a new home and community-based services (HCBS) initiative. Under the Act, states will be able to submit a state plan amendment to cover home and community based services (HCBS), effective January 1, 2007. This new option will offer the flexibility of a 1915 (c) waiver and the benefits of using the state plan. The Act allows states for the first time to offer home and community-based services under the state plan but with the flexibility available in 1915 (c) waivers. The Diversion Work Group recommended that the state monitor the implementation of this provision and analyze the potential for streamlining and integrating existing waivers into the state plan.

Bob Mollica of the National Association of State Health Policy provided the Committee with an overview of the HCBS State Plan Amendment provisions of the federal Deficit Reduction Act (DRA), as well as other states' efforts. The work group has identified inclusion of HCBS as part of the State's Medicaid Plan rather than a waiver as a policy priority.

Mr. Mollica discussed some of the benefits and limitations of the HCBS SPA, as outlined in the DRA. He anticipates the introduction of a technical clean-up bill that could clarify some of the issues raised in the current provisions of the HCBS SPA. Mr. Mollica summarized the main components of the HCBS SPA provision as follows:

- **Services**: Under current HCBS Waiver provisions, states can provide a variety of waiver services, and have the ability to define each service offered and include "other services". Under the HCBS SPA provisions, however, states are not allowed to provide other services and can only include services specifically outlined in current law. Therefore, states do not have the same flexibility to design HCBS SPA services as they do with current waiver provisions. CMS is working to create some flexibility for states within given categories of services. This flexibility is to be a component of the regulations that CMS is developing for this new option.
- **Income Eligibility**: HCBS SPA provisions are only applicable to individuals with income levels below 150% of Federal Poverty Level (states do not have the choice to extend eligibility to anyone above 150% FPL).

- **Needs Criteria**: The SPA option removes the requirement that individuals meet the institutional level of need criteria to receive HCBS services. States are required to set needs based criteria for HCBS SPA services. They are also required to set more stringent criteria for institutional services (hospital, ICF-MR and nursing home) than for the SPA services. This requirement may be met by raising the institutional level of need criteria and retaining (or lowering) the community level of need; or by keeping the current institutional level of care and lowering the community level of need criteria. The criteria for institutional and HCB services requires an assessment of the individual's support needs, and may take into account the individual's inability to perform 2 or more ADLs (bathing, dressing, eating, transferring, toileting and continence), or the need for significant assistance to perform ADLs and other risk factors as the State may determine. Another section of the DRA says that States shall use the 2 ADLs criteria.

Mr. Mollica suggests that before California move forward with an HCBS SPA, the state wait until the federal Centers for Medicare and Medicaid Services issues the HCBS SPA template and guidance. He believes CMS is interested in making this opportunity as widely available as possible.

2. Address the Institutional Bias and Revisit California's Realignment System*(originally presented at the March 3 meeting)*: The Work Group places a high priority on establishment of policy options that would address the institutional bias at the local level and provide incentives to counties for diversion and transition efforts. Under the current realignment system, counties are required to pay a 17.5% match for IHSS services, the state pays 32.5%, and the federal government pays 50%. For nursing facility services, however, counties do not pay a share-of-cost; the state pays 50% and the federal government pays 50% of the cost of services under Medicaid. The committee noted that the realignment policy fails to provide incentives for the successful transfer or diversion of individuals from nursing homes. The work group encouraged the state to develop incentives for counties that work to transition people out of nursing homes as has been done in other states.

3. Rate Augmentation for MSSP: The Work Group supports increasing the funding for MSSP to enable providers to keep up with rising program costs. The work group supports a proposal that has been included in the budget to increase the MSSP budget. Secretary Belshé indicated that she would

duly note the recommendation as the Governor considers the final budget in a few weeks. The Administration does not have a formal position on the proposal at this time.

4. Develop and Implement Two Diversion Pilot Programs*(originally presented at the March 3 meeting)*: The Diversion work group supports the establishment of two pilot programs that would focus primarily on diverting individuals who are hospitalized and at-risk of institutionalization. The work group presented findings of a recent study released on the importance of hospital- to-home transitions, as follows: (Excerpt “*From Hospital to Home: Improving Transitional Care for Older Adults*, Health Research for Action, UC Berkeley, 2006.)

What is Transitional Care? Transitional Care is provided to a patient as they transition from one care setting to another.

Why is Transitional Care Important? Care Transitions are an increasingly critical health and social problem for seniors and their caregivers. Hospitalization can be a turning point in the lives of seniors (and younger persons with disabilities), whose physical and mental health often deteriorate after discharge. Many older adults experience breakdowns in care during the transition from hospital to home. This results in high rates of poor outcomes and re-hospitalization. Patients and caregivers are on the receiving end of a badly fragmented system of care, and both medical and caregiving support during the hospital-to-home transition are inadequate.

Framework for Effective Transitional Care

- Multidisciplinary teams to ensure that services are in place before patient is discharged
- Discharge planning begins at (or before) admission, includes caregiver in unit of care
- Risks/needs of patients assessed at several stages
- Home assessment/modification done before discharge
- Caregiver support
- Follow-up calls and 24-hour telephone support
- Caregiving training
- Information for patients and caregivers
- Provider training in culturally competent, effective transitional care

The work group will continue to consider options for developing a diversion pilot project, and will focus its recommendations to present at the next full committee meeting on September 15, 2006.

5.Community Outreach and Education for Olmstead: Judy Citko of the California Coalition for Compassionate Care presented on this work group priority. The Diversion Work Group places a high priority on the development of a public education campaign as a way to increase public awareness and education about the alternatives to institutionalization and the availability of home and community-based services. The campaign would serve to educate the public, providers, state workers, advocates, family members, caregivers, and consumers about the Olmstead decision and an individual's right to home and community-based care as well as caregiver issues.

The work group will continue to refine this priority and bring it forward for more discussion at the next full committee meeting on September 15, 2006.

6.Caregiver Support: Tony Anderson of the ARC of California and Jackie McGrath of the Alzheimer's Association presented this priority. This issue focuses on improving the availability of and access to paid caregivers, and supporting non-paid family caregivers through provision of respite services and other means of caregiver support.

Consumers often are unaware of or cannot access public or private caregiver programs, at times leading to premature or inappropriate institutionalization. In addition, family caregivers suffer from stress and burnout, impacting their ability to provide care for a loved one.

Tony Anderson concluded by noting that the work group will continue to work out the details to present at the September 15, 2006 full committee meeting.

ACTION: Secretary Belshé encouraged the work group to continue to focus the identified policy areas. Specifically, Secretary Belshé suggested that the work group focus on those policy recommendations where there is an immediate opportunity for action.

Agenda Item #5: Implementation update and discussion

Representatives of the Departments of Health Services, Social Services, and Transportation provided updates and answered questions on the following issues:

- a. Nursing Facility A/B Waiver
- b. Adult Day Health Care
- c. Medicare Modernization Act
- d. IHSS Quality Assurance Initiative
- e. Transportation and United We Ride Grant
- f. California's Real Choice Systems Transformation Grant 2006

Committee members asked questions and provided feedback to the departments and the Secretary regarding the issues presented.

Eva Lopez of the Department of Social Services provided an overview of an update on the IHSS Quality Assurance Initiative.

Stan Rosenstein of the Department of Health Services (DHS) presented on the Adult Day Health Care program and the Medicare Modernization Act. Doug Robins of DHS presented an update on the status of the Nursing Facility A/B Home and Community-Based Services Waiver. Members expressed concern regarding the Nursing Facility A/B Waiver and the need to raise the individual cost cap and other rate issues. The Department of Health Services will hold a public stakeholder meeting later this summer to solicit feedback on the state's new waiver application.

Peter Steinert of the California Department of Transportation provided an overview of the Department's United We Ride Initiative and encouraged members of the committee to get involved in the process that will focus on developing a strategy for coordinating transportation with human service programs.

Sarah Steenhausen provided an overview of the state's Real Choice Systems Transformation grant that was submitted on Thursday, June 15th. The state will receive notice of grant awards by the end of September.

Committee members suggested that we have time allotted at each meeting to discuss implementation of items that impact Olmstead implementation.

If a member would like to suggest an issue be placed on the agenda, please email Sarah.

Agenda Item #6: Next Meeting

The next meeting will be held on September 15, 2006 at the California Department of Health Services.

The meeting adjourned at 4:00 p.m.