



CHAMPAIGN COUNTY MENTAL HEALTH BOARD

CHAMPAIGN COUNTY BOARD FOR CARE AND TREATMENT OF PERSONS WITH A DEVELOPMENTAL DISABILITY

BRIEFING MEMORANDUM

DATE: June 3, 2014
TO: Members, Champaign County Developmental Disabilities Board
FROM: Peter Tracy, Executive Director
SUBJECT: Public Funding at the Local Level

The purpose of this memorandum is to provide the Champaign County Developmental Disabilities Board (CCDDDB) with additional information about the characteristics of Public Funding for people with intellectual and developmental disabilities (ID/DD) and our relationship with the agencies/providers that receive public funds. This information should help clarify why there have been shifts in funding which have resulted in some providers being awarded less money than in previous years. It is also important to remember that shifts in funding are a national and statewide phenomenon, responding to federal and state requirements that continue to evolve.

Changes in CCDDDB funding patterns (i.e., either aggregate reductions or increases) to specific individual agencies/providers are predicated by many different factors including but not limited to:

(1) MEDICAID

When the CCDDDB was created and began funding services and supports in 2005, the ID/DD world was a different place. At that time, General Revenue Funding (GRF) from the Illinois Department of Human Services (IDHS) represented a significant portion of state funding for ID/DD. From our perspective as a local public funder, we were free to provide contracts which we knew to be “revenue enhancements” to GRF funding. At that time, Medicaid funding was a much smaller share of DHS-DDD business, so that the risk of supplementation was easily avoided.

Since 2005 we have seen state funding shift from GRF to Medicaid. This shift to Medicaid changed everything and, to a great degree, defines what we as local public funders can purchase. We are limited because the Medicaid rate paid for a service or support is, by law, all-inclusive and must be taken as payment in full by the provider. Because the Medicaid rate is all-inclusive and considered payment in full, the provider is prohibited from charging any amount over and above what Medicaid pays for a covered service to an eligible client. The provider is not allowed to accept additional payment for service by billing any third party, whether or not the third party is willing to help (i.e., supplement).

The Waiver Program Provider Agreement for Participation in the Illinois Medical Assistance Program specifically states in Item #6 of the agreement, **“Payments to the Provider under this agreement shall constitute payment in full. Any payments received by the Provider from other sources shall be shown as a credit and deducted from the Provider’s charges.”**

We need to remember that 377 and 708 Boards have been warned by the Illinois Department of Healthcare and Family Services (HFS) about supplementation. HFS is the designated state Medicaid agency for Illinois, and they have raised this issue with us. Violation of Medicaid anti-supplementation laws can result in false claims and violations of related criminal laws and OBRA requirements. Even the most minor violations can result in extrapolated funding disallowances.

(2) REQUIREMENTS SET BY THE STATE

The agreements (i.e., Contracts) between HFS and/or DHS and individual agencies/providers also include requirements which unintentionally limit local public funders. Some of these requirements are associated with Medicaid, while some are not. For example, the 1,100 hour annual cap (along with the corresponding 115 hour per month cap) on the Supported Employment and Developmental Training Programs requires that the provider serve people over the course of the entire year even if the program is open more hours than covered by the rate policy. This means the provider can't bill out the entire 1,100 hours in the first nine-months of the year and then discontinue services for the remaining three-months of the contract. DHS has further stated the provider must accept the DHS payment as payment in full and cannot bill another funding source for the same clients during the same year. In short, these requirements have the effect of preventing a service provider from using third party payments to cover Supported Employment or Developmental Training services in excess of 1,100 hours per person per year.

(3) CHANGES IN LAW, RULES, AND REGULATIONS

There have been significant changes in law, rules, and regulations that have altered the nature of ID/DD services and supports, and these changes also define, to a great extent, the parameters for allocation of funds. The changes have been extended by court orders and recent legislation. These include (a) Olmstead, (b) Ligas Consent Decree (c) Williams Consent Decree, (d) the Illinois Employment First Act, (e) the final CMS Home and Community Based Rule, (f) the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) class action lawsuit in Illinois, (g) executive orders in three states which phase out the use of segregated centers and/or sheltered workshops, (h) the Oregon lawsuit to eliminate segregated centers and sheltered workshops, (i) the Affordable Care Act, (j) the proposed Illinois 1115 Waiver, and (k) the implementation of ID/DD managed care in Illinois.

All of these changes will drive the characteristics of services and supports for people with ID/DD. For us as a local public funder, the changes must be taken into account as we define our priorities for future funding and to some extent limit what we actually can fund. For example, it is clear that segregated centers (including sheltered workshops) for people with ID/DD could be eliminated as early as the next court decision. When this occurs, our decisions about funding segregated centers will have been made for us.

(4) PARADIGM SHIFTS IN THE NATURE OF SERVICES AND SUPPORTS

The overarching philosophy of services and supports for people with ID/DD, including the contributions of self-advocates, have underpinned many of the changes we are seeing nationally and in Illinois. At our national county ID/DD meeting, one presenter said the

“service” we should be purchasing is “inclusion and integration.” Using the Person Centered Planning process as a guide, the emerging changes are focused on integration, quality of life, self-determination, human and civil rights, advocacy, and protection.

WHAT ARE THE IMPLICATIONS FOR THE CCDDDB?

First, the CCDDDB needs to decide where we stand concerning the changes that are here now and those just around the corner. Do we as a local public funder choose to get out in front of the changes and implement what we know is coming, or do we want to hold back and let events unfold around us?

Second, the CCDDDB needs to decide how to assist agencies/providers that operate programs, services, and supports that are obsolete or in line for significant change, and clearly on the State and Federal (Medicaid) chopping block. Do we as a local funder want to continue using public dollars to support segregated services and supports? In the long run, will that policy actually be of help to anyone? Can we help agency providers and those utilizing their services adapt to the changes at hand?

In summary, the issues we are facing really have nothing to do with aggregate dollars invested in any individual agency/provider. What is relevant to the CCDDDB is whether we are purchasing services and supports that are aligned with these statutory and paradigm shifts, offer the best value for our money, and further our goal of supporting the needs of Champaign County citizens who have intellectual and/or developmental disabilities. As informed purchasers of services and supports for people with ID/DD, we cannot ignore the realities and vicissitudes of the broader context, even those which challenge previously accepted ways of operating.