



MINUTES

Transitions Stakeholder Advisory Council

Google Hangout Weblink: meet.google.com/emq-kfpb-aex

Google Hangout Call-in: +1 470-268-2030

PIN: 614 405 288#

Thursday, April 7, 2022

2:30 – 4:30 p.m.

COUNCIL MEMBERS

- Clarice Ambler, DRCOG X
- Meghan Baker, Disability Law Colorado X
- Anne Bartels, Sandata X
- Monique Flemings, AHOD Services X
- Paige Gallaher, Atlantis X
- Jennifer Giurgila, Jefferson County
- Fallon Gillespie, Rocky Mountain Human Services X
- Jennifer Krulewich, Focus Cares X
- LaShawn Love, Love Foundation X
- Tracy Martinez, Touch of Care
- Jenn Ochs X
- Jane Sinclair, CPWD
- Neal Waite, ADRC Region 3B
- Miriam White, SJBAAA

1. Welcome and Introductions

2:30 p.m.

- Approval of the February Minutes Minutes were approved
- Purpose of Today’s Meeting Clarice provided an overview of today’s agenda starting with program updates, followed by consumer rights panel and open discussion on member rights, council updates, ending with open forum.



2. Program Updates

2:40 p.m.

Matt shared the news on the investigation from the Department of Justice, letting the group know they are working with the DOJ collaboratively to know what needs to be addressed. They will share more with the group as they learn more.

Matt welcomed Lisa Smith, who will oversee the MFP capacity building \$5M grant, which CMS awarded CO based on proposal submitted. Lisa will also handle Katy Barnett's responsibilities including being point of contact for options counseling questions and working with this group through the engagement process to ensure we're doing what needs to be done with the project.

Lisa introduced herself, she served in the military as a military police officer, also worked as a social worker and options counselor in Larimer County. She's looking forward to working with everyone on the Council.

Ian commented on the Department of Justice findings and issues with transitions from facility to community. If a member needs a ramp for wheelchair, they are unable to get it until they move out of the facility which causes issues. Monique piggybacked on Ian's comment and gave an example of member that has been in home since end of December and ramp just got installed in March. The member couldn't get out of their house until they got the ramp put in and that took months. Matt said he appreciates feedback and will share more information as they get direction from the DOJ. Matt thanked the group for how far we've come and how everyone works through challenges together. Looking forward to continuing these discussions and making sure this group is part of feedback moving forward.

Jose asked if there are going to be any changes to the options counseling referral process where nursing home social worker makes referral for options counseling? Matt said there are no changes at this time, reach out to the Dept if there are issues. Ian shared that the concern is the people asking who wants to move back to the community are working for the nursing home which can be a conflict of interest and options counselors should be involved in process. Matt said the Dept will look into it further.

Miriam said she's been trying to contact someone to help with a waitlist she's had for over a year and asked if someone from the Dept can assist individuals with doing the transition. Matt offered to schedule time offline to discuss and to figure out how to support that request. Nora added that the SW center for transition coordination has had issues with hiring a coordinator and asked Miriam to copy her on email to Matt to help find a solution.



3. Member Rights

3:00 p.m.

- Consumer Rights Panel

Clarice opened the member rights conversation asking the panelists; Paige Gallaher, Amber Franzel and Leah Pogoriler to introduce themselves and share how they work with consumer rights.

Paige Gallaher works at Atlantis, the CIL that serves the Denver Metro area which includes seven counties. Paige shared Atlantis is all about consumer rights and consider themselves consumer directed advocates, supporting that folks make their own decisions.

Amber Franzel, Regional Ombudsmen for Larimer County, makes sure resident rights in long term care facilities are upheld. Larimer county has 49 long term care facilities with over 3400 beds. They meet with residents, provide trainings and attend care conferences. They are resident directed, first step is to go to resident to ask what they want them to do, who they can investigate. Residents have the same rights we enjoy as community members including respect, dignity and discussing options for moving out in the community. They can also sit in on meetings and be part of resident team to discuss services in area and mitigating risk.

Luke Wheeland with the Arc of Arapahoe and Douglas, uses advocacy and education to include all children and adults with disabilities in their communities. There are 15 Arc chapters throughout state that cover birth to death for free, ensuring the individual is foremost and member rights are being respected.

Leah Pogoriler is with HCPF, as a government agency they enforce and define member rights for nursing facilities, ICF's and the community-based settings individuals transfer to. In home care-based setting member rights became more robust during the HCBS final rule in 2014. In January, the rule went into place, and they are working on bringing case managers and providers up to speed. Providers and case manager must honor and respect all the individuals they work with and human rights committee reviews informed consents to make sure procedure is correct and person was informed. Leah also works with CDPHE to survey staff that has boots on the ground and can send people out to see what's happening and raise issues to HCPF. They work closely with the ombudsmen, the ARC's and other advocates in the community.

- Discussion

Jen asked the group if they can help as she is losing her CNA and hasn't been able to find a new CNA. Matt suggested that Jen contacts him and they can help.



Jen also thanked Luke and the Arc for sponsoring the disability conference that she attended that was awesome!

Jose asked what is the process of investigating complaints of Olmstead violations? Does a medical power of attorney trump a request for an Olmstead complaint? Leah said she can't speak to process that happened with recent DOJ ruling and not sure if a medical power of attorney (POA) trumps request. Paige clarified if someone desires to move out and they have power of attorney, what wins? Leah said one person at a time has ability to make decision, would depend on scope of document to see what it says. Amber said if someone wanted to move out of facility, but POA didn't want them to, they would need to review document. But POA should be in best interest of resident. Luke shared the Arc works for the individual, they are a neutral party, they are there to talk about supports individual needs and being realistic with what the rights are and what guardian has control over. Paige said Atlantis does a lot of education with consumers, sometimes they make assumption the POA needs to make all decisions. Education that you have control over what that person decides over your life. Anaya shared that a guardian and/or MDPOA would not be able to trump a request around an Olmstead violation. They don't have legal authority to negate or remove civil rights. Kelly included in the chat that a power of attorney can also be revoked by the individual if the individual has capacity to make the decision: "principal may change his or her mind and revoke a power of attorney at any time, so long as the principal has capacity" – [Link for more info](#).

Jose said regretfully this has happened where medical power of attorney power was exercised over an Olmstead complaint. I don't think the process of investigating an Olmstead complaint. Ian suggested engaging CCRD and CDL. Meghan Barker with CDL said short answer is depends on who investigating and to whom you complain. Not sure who Olmstead complaint would go to. Anaya and Clarice shared a link to [Colorado Civil Rights Division \(CCRD\)](#).

Monique asked if there's conversation wrapped around ombudsmen team being more involved in transitions that get push back from facility? Would love to see that team represented more in conversations. Amber said they would need resident consent to be part of the transition team, which is added support for them and happy to show up and participate. Ian added, the right to live and die in community is part of law. With the high cost of institutional care ... what kind of risk are we trying to mitigate, would rather die at home than in a nursing home. Clarice said Ian is 100% correct they have rights.

Monique asked how we advocate to landlords for things like ramps and grab bars? Jen said she has reasonable request for ramps and said to talk to Colorado Disability Law. Leah said that CCRD are tasked with enforcing that particular area of law. Paige said they annoy people until individuals they are helping get what they need, which takes a lot of following up. Ann with DOLA



said Landlords are not required to pay for a home modification unless they are affordable if their apartments were built with federal dollars. Anaya confirmed Ann's 100% right. Outside of affordable housing, they have to ALLOW the reasonable modification, but they do not have to pay for or install it.

Ian asked what is the definition of affordable? Ann said Technically, it is anything subject to Section 504 of the Housing Rehabilitation Act. Anaya asked Ann to correct him if he's wrong but "affordable" in the simplest explanation, meaning housing utilizing HUD or similar gov't funding (essentially subsidized housing or project-based housing vouchers). Ann confirmed this is correct and clarified what is meant by affordable, if you are working with a landlord affordable housing built with federal funds, HUD, owned by non-profit or housing authority, they require them to provide those accommodations. Anaya said if they have housing choice voucher, they wouldn't be expected to pay for it. Ian said it's confusing. Ann said DOLA works with housing vouchers and home modifications they check with landlord to see if they are responsible.

Jen shared [Colorado Disability Law](#) has a program about renters rights. Clarice shared a link to the [Colorado Criminal Justice Coalition](#).

Kelly said Disability Law Colorado also did a great [presentation](#) recently which summarizes all the areas they support in (slide 8 references housing).

Shannon asked about housing for senior that is trying to transition to HUD low income-based property and receiving SSI, did background check and denied her due to credit score and criminal history which is 25 years old. Is there any recourse they have? Ann said to submit to reasonable accommodation request to accept a lower credit score as they will have voucher to pay for housing. For criminal history, make case has support of TC and case manager to help improve situation. Ann suggested connecting with Anne Pierce to see if she can help. LaShawn also suggested reaching out to Anne Pierce, understanding that they can't go back on criminal record past certain timeframe and Anne can help advocate for member. Ann shared at link for [housing rights questions](#).

Luke said once the [SB22-099](#) "Clean Slate Bill" which passed is signed into law it will help with sealing criminal records.

Pat asked the group to please write your congress folks (state) to sign on to SB22-099. It is called Clean Slate. It is the first step to seal old records. I have had same issues for senior buildings hold hostage a senior to live in their community with an offense in the 1960's-70s

LaShawn said she's ran into a lot of POAs that don't understand their role. Having them understand how they support individual, and they can become best advocate to push process through. Take time to educate members and family



members to understand what members rights are and how the support them. Monique said she has dream that state will develop emergency relief fund to hire caregivers.

Clarice and Matt thanked everyone for the great discussion and useful information shared.

4. Council Updates

4:00 p.m.

Jen shared that there are a lot of great bills that support HCBS. She participated yesterday and today with representatives on Capitol Hill to share her story and why HCBS funding needs to be supported. Also, wanted to let the group know about the [Fort Collins Autism Resource Fair](#) this Sunday and Dr. Temple Grandin is the guest speaker.

Luke said Jen did a great job of explaining her story and MFP and where that money goes. People with disabilities have dignity and rights all people should have. Ian said MFP really needs to follow the person, a lot of the money is spent figuring out how to spend it. He appreciates the conversation around consumer rights which is near and dear to his heart and hopefully we can develop more user-friendly systems that fits everyone needs and support.

Jen encouraged everyone to read the book Being Mortal, by Atul Gawande. Clarice echoed it's a Great book!

5. Open Forum

4:10 p.m.

- Topic Check-In

Lisa started the open forum conversation. Monique asked how many of us were part of the DOJ investigation, was Colorado fined and what was penalty behind investigation? Matt said they don't have details about complaints that led to investigation. Working with DOJ to understand what next steps look like. Lisa said they will bring those updates to future meetings. Jose shared the results of US civil rights investigation is located as a public document at the [U.S. Civil Rights Division's website](#).

LaShawn said she loves the conversation that Ian continues to bring to the group. She knows the Dept is trying to update all systems and EVV. There were BI waivers prior to ruling that aren't scheduled A or B license and now providers are being forced to apply for that license to continue serving members they've served for years or allow them to go to agency that has that type of skill. Members have anxiety that they could be losing services and they are forcing



providers to comply for licensure or give up serving those members. Matt said he's not involved enough with this. Monique said it's a complaint and consumer rights issue, she spoke to someone with HCPF but unfortunately, to continue providing services they must get licensure which is expensive to provide services that are currently being provided without those additional costs. Monique shared the process is very daunting. Matt offered to connect offline with LaShawn.

Ian said this meeting is a model for how all Dept meetings should be held. Lisa said one of the things they are exploring is having a conversational workgroup around what the Dept can do. Paige said yes, that's a great idea! There are continued concerns with household setups as Atlantis doesn't provide those services. Continues to be a problem and people lose apartments because they can't find a way to pay a \$24 fee and funding is tight. Monique shared they are a household set up agency and it's a burden on agency to fund it. They have a member in community for 3 weeks and case management didn't complete financial eligibility. Transition last September and begging for PAR all year and still trying to get PAR for household funds that have already been paid. SEP gave hard time about getting PAR, services were provided and still no PAR to get reimbursed. Paige agreed with Monique, don't understand disconnect from SNF approval. Ian suggested engaging SEP and CM in this conversation. Amanda Shared that she is just from one SEP/CMA - Rocky Mountain Human Services. They know it's hard and can be committed to working through any issues.

Mary Jo shared her experience, and they are still owed transition service fees, they are putting their money out there and they have regularly had to fight to get reimbursed. Matt asked if it's because PAR's are outstanding? Monique said she's working on collecting 5 PAR's for \$30K owed to agency from September 2021, because they haven't gotten PAR's back from CMA. Matt shared he oversees intake and eligibility processes, and these are things they want to review. Case Management Redesign and implementation of new tools will do a lot to move us forward. He echoes what everyone has shared and hopes we can revisit.

Ian acknowledged Amanda, doesn't want to increase tension with SEP's. We need to bring people together to figure out how to solve issues. Amanda with RMHS knows things can be complicated and they would like to be part of the solution and how to address gaps and how they can solve delays. Lisa asked what pain points they see in the process? Amanda said there are a lot of moving parts when people transition, approval process they need to go through and Telligen takes time too. Mary Jo agrees with Ian, they have experienced that when speak with other entities. Has question for Amanda, how much do you think CM know about this program? Amanda said versed with it and Fallon shared info from these calls with their dept. Want to make sure training them and getting them up to speed. If experience is different, please let them know.



Nora piggybacked on what Ian is saying. Reminder, they have regional meetings that include CMA's where they do a lot of problem solving. Understands Monique situation and doesn't want to lose sight of collaboration already in place, getting financial eligibility in place and PARs. Two areas with the most challenges are El Paso and Denver Metro area. They have done a lot of work to identify ways to improve that process. This won't work unless we all work together. CMA's have their own challenges and understand it's an issue to have members in community without services.

Jennifer works for CMA and shared TS are one of the only services on HCBS that allows for services before there is PAR and there is no financial eligibility in place. Someone mentioned if person is in SNF under Medicaid, it should be approved quickly because it's the same functional care. But sometimes people in facility went in because of certain event and they've been in long enough to function independently so sometimes it's harder to qualify to get HCBS services. Like Nora said, a lot of SEPs are willing to work with CM to get approval. There's been a lot of changes to program over the years and there are refreshers needed. Suggested reaching out to Supervisors if you feel CM doesn't understand. Stephanie said on a positive note, the SEP in Larimer County finds our Transition Coordinators at Focus Cares extremely helpful and very open to communication regarding our mutual clients.

Luke said Telligent issues highlight that work needs to be done to get higher up the ladder for a better PAR approval agency instead of using lower end agencies. When contract is up, suggest getting PAR approval agency that is higher up the ladder.

Paige shared there are some things we can't fix like EVV is a federal requirement, can't change that at the state level. Make feedback effective by focusing on what we can change. LaShawn reminded that EVV is federal but only put in place for certain services. State of CO decided to mandate it for other services. Anaya said EVV is a federal requirement that was imposed under the 21st Century Cures Act. It's... awful. But encourages anyone who is having issues or negative impacts, especially members, to call their congress people, especially if they are in DeGette's district since she was an original cosponsor of the bill.

Matt thanked everyone for the collaboration and hears that we need to talk through these challenges and some of these programs are focused on passing the baton. High level things touched on that need to be prioritized are case management redesign, eligibility processes and service auths. Recognizes limitations system has put in place to remove tension so there is collaboration.



Hears everyone and wants to be part of this movement and grateful for the conversation.

Lisa thanked everyone for conversation and will work on best way to do the brainstorm workshop. Matt thanked panelists and everyone for the amazing conversation. We are all excited to have Lisa onboard!

6. Adjourn

4:30 p.m.

Next Meeting May 5, 2022 - Member Rights

[Submit Questions, Issues, and Comments](#)

Reasonable accommodations will be provided upon request for persons with disabilities. Please notify John Barry at john.r.barry@state.co.us or the 504/ADA Coordinator at hcpf504ada@state.co.us at least one week prior to the meeting to make arrangements.

