STAKEHOLDER MEETING AGENDA

- Welcome / introductions
- Merger of ND DHS and ND Dept of Health
- Settlement Agreement Biannual Report summary/ SME Biannual Report
- Settlement Implementation Plan update
- Home and Community Based Services update
- ADRL Flexible transition funding
- Communication Plan
- Stakeholder Listening Session
- Other Business
- Adjourn
ND DHS Aging Services administers the following state and federally funded HCBS programs for older adults and adults with physical disability including dementia and traumatic brain injury.

- Service Payments to the Elderly and Disabled (SPED)
- Expanded Service Payments to the Elderly and Disabled (Ex-SPED)
- Medicaid State Plan Personal Care (MSP-PC)
- HCBS Medicaid waiver
- Older Americans Act (OAA) services

Aging Services staff supervise the HCBS Case Managers that work out of the Human Service Zones. They are all state employees.
ADRL CENTRALIZED INTAKE

How do you apply or get more information about HCBS?

1-855-462-5465

Website: carechoice@nd.assistguide.net

Email: Carechoice@nd.gov

Relay ND TTY at 1-800-366-6888 or 711
The guiding principle toward one DHHS team is to help North Dakota become the healthiest state in the nation by reinforcing the foundations of well-being. Our focus will continue to be delivering quality person-centered services to those we serve.

Continue to work with Stakeholders to strengthen awareness about and access to in-home and community-based services so adults with physical disabilities can live where they choose with supports.

Aging Services and DD will be moved under the Medical Services umbrella.
Purpose is to ensure that the State will meet the ADA requirements by providing services, programs, and activities for individuals with physical disabilities in the most integrated setting appropriate to their needs.

Effective December 14, 2020
Agreement will terminate eight years after effective date if Parties agree that the state has attained substantial compliance with all provisions and maintained that compliance for a period of one year.
NOTIFICATION FROM DOJ

DECEMBER 2015

SENT VIA EMAIL AND FEDERAL EXPRESS

Bennie Starks, JR.
Assistant Attorney General
Office of the Governor
600 E. Broadway Ave.
Bismarck, ND 58503-0100

Dear Mr. Starks,

The purpose of this letter is to inform you that the United States Department of Justice has opened an investigation in response to complaints we have received which allege that the State of North Dakota fails to serve individuals in nursing facilities in the most integrated setting appropriate to their needs and pay individuals at a serious risk of nursing facility placement in violation of Title II of the Americans with Disabilities Act of 1990 (‘ADA’), 42 U.S.C. § 12131–14, and the Supreme Court decision of Obergefell v. Hodges, 135 S. Ct. 2584 (2015). The Department of Justice has primary authority to enforce Title II of the ADA. 42 U.S.C. §§ 12131–34; 29 U.S.C. § 796.

Title II of the ADA incorporates by reference the remedies, procedures, and rights set forth in Title VI of the Civil Rights Act, 42 U.S.C. §§ 2000d–2000m. A number of other obligations, Title VI regulations require ‘familiarity to sources of information’ to permit the United States to ensure that all non-discrimination requirements are being met. See 28 C.F.R. §§ 42.101; 42.1000. To assist in our investigation, we have requested any information which you possessed in connection with the attached request

PEOPLE OVER 65 IN CERTIFIED NURSING FACILITIES

HIGHEST RATE IN THE U.S.

49

PER 1000

VARIETY OF CONCERNS

EXAMPLES PROVIDED BY DOJ

- **Unnecessary segregation** of disabled individuals in skilled nursing facilities

- Adults in skilled nursing facilities who would **rather be in their community**

- **Imbalance of funds** to skilled nursing facilities and community-based services

- **Lack of awareness** about existing transition services and available tools
The Americans with Disabilities Act (ADA) requires public agencies to eliminate unnecessary segregation of persons with disabilities and provide services in the most integrated setting appropriate to the needs of the individual.

In 1999 the Federal Supreme Court Olmstead decision affirmed the ADA requirements.
Public entities are required to provide **community-based services** when:

- Community-based services are **appropriate** for the individual; **and**
- The individual **does not oppose** community-based treatment; **and**
- Community-based treatment can be **reasonably accommodated**, taking into account:
  - Resources available to the entity and
  - Needs of others receiving disability services.
Who are we trying to reach?

Target population

Basic Eligibility

- Individual with physical disability
- Over age 21
- Eligible or likely to become eligible to receive Medicaid long-term services and supports (LTSS)
- Is likely to require LTSS for at least 90 days.

IF in skilled nursing setting

- Receive Medicaid-funded nursing facility services AND
  - Likely to require long term services and supports
- Receive nursing facility services AND
  - Likely to become eligible for Medicaid within 90 days, have submitted a Medicaid application, and have approval for a long-term nursing facility stay
- Referred for a nursing facility level of care determination AND
  - Likely to need services long term
- Need services to continue living in the community AND
  - Currently have a HCBS Case Manager or have contacted the ADRL

IF in hospital or home setting

- Referred for a nursing facility level of care determination AND
  - Likely to need services long term
- Need services to continue living in the community AND
  - Currently have a HCBS Case Manager or have contacted the ADRL
“Physical Disability” – means an impairment that substantially limits major life activity, including one or more major bodily functions, see 42U.S.C 12102: 28 C.F.R 33.108 such that the individuals meets ND’s Nursing Facility Level of Care (LOC) by requiring for example, assistance with activities of daily living such as toileting, eating, or mobility.

ND Admin code 75-02-09, as may be amended.
WHO IS NOT A MEMBER OF THE “TARGET POPULATION”

Individuals under age 21

Individuals who are not Medicaid eligible

Individuals who are not expected to need services for at least 90 days

Individuals with an intellectual disability or mental illness who do not screen at a nursing facility level of care
Within 120 days of effective date produce draft plan

Establish a method to address challenges to implementation
Assign agency and division responsibility for achieving benchmarks
Identify benchmarks and timelines for meeting Agreement’s requirements
Engage Stakeholders
Review relevant services, capacity and barriers

State received approval from DOJ to extend deadline 45 days.
Plan approved 5.28.21
The strategies contained in the Implementation Plan focus on the need to:

- **Increase access** to community-based service options through policy, process, resources, tools, and **capacity building** efforts.

- Increase **individual awareness** about community-based service options and create **opportunities** for informed choice.

- Widen the **array of services** available, including more **robust housing-related supports**.

- Strengthen **interdisciplinary connections** between professionals who work in behavioral health, home health, housing, and home and community-based services (HCBS).

- Implement broad access to **training and professional development** that can support improved **quality** of service, highlighting practices that are **culturally-informed**, streamlined, and rooted in **person-centered** planning.

- Support **improved quality** across the array of services in all areas of the State.
DOJ SA FIRST YEAR SUMMARY

First Year Requirements:

- Appoint an Agreement Coordinator
- Develop Implementation Plan
- Provide technical assistance to nursing homes and other entities that commit to provide HCBS
- Submit Biannual Reports
- Specialize Role of the HCBS Case Manager
- Create new 24-hour support services residential habilitation and community supports
- Create companionship program

- Amend financial and functional eligibility for SPED
- Conduct individual or group in-reach to all nursing facilities
- Person Centered Planning Training for HCBS Case Managers
- 290 TPMs receive PCP (145 from nursing facilities)
- Necessary Steps to help TPMs who self direct
- Permanent Supported Housing to 20 target population members
USDOJ ND Settlement Agreement Biannual Report Update

U.S. Department of Justice Settlement Agreement: Department of Human Services: State of North Dakota (nd.gov)

Review dashboard data
The Subject Matter Expert recommends that the State place priority focus on the following items during the next reporting period (six [6] months) to continue to address needs of TPMs:

• Complete development of the **new enrollment/reenrollment process** for QSPs.
• Review **training requirements** for those providing all services and determine if they are necessary for service provision.
• Assure completion of the application so that providers can apply for funds to **offer recruitment and retention bonuses**.
• Complete and distribute another round of incentive grants to enhance QSP capacity.
• **Move** the tracking of caseloads **from a manual process** to one that can be directly inputted into data systems where **reports can be more easily generated**.
• Address the **administrative burden** on case managers of tracking “pending cases” for HCBS enrollment (e.g. Medicaid determining eligibility, awaiting action from the client, individuals enrolling as QSPs) and how that can be more efficiently managed.
• Assure completion of **training for case managers on person centered planning, effective documentation**, and addressing **cultural needs and preferences**.
• Assure training for all case managers on the new streamlined set of **State Person Centered Plan forms** and subsequent electronic record for PCPs.
The Subject Matter Expert recommends that the State place priority focus on the following items during the next reporting period (six [6] months) to continue to address needs of TPMs: (Continued)

- Assure that housing facilitators/case managers/transition coordinators have the most currently available information on housing stock so assistance can be provided timely.
- Continually work to develop and maintain a comprehensive housing inventory accessible to professionals and TPMs.
- Work with the electronic case management record vendor to map the requirements of the Settlement Agreement to the data system to ensure the ability to report on all required elements.
- Complete training with the system vendor, Therap, around reporting elements of the system.
- Design any necessary custom reports in the electronic record to ensure that all reporting requirements in the Settlement Agreement are achieved.


### HCBS POLICY UPDATES

**Stakeholder Feedback:**

“Enrollment to be a QSP is cumbersome and complicated”

“Providers don’t know where to go to get help and information”

- Department is contracting with the Center for Rural Health at the University of North Dakota School of Medicine and Health Sciences to create the Direct Service Workforce/Family Caregiver Resource and Training Center.

  Goal is to increase provider capacity and quality.

  - Implement Qualified Services Provider (QSP) agency recruitment strategies
  - Provide support, and technical assistance to increase and retain service providers
  - Offer provider training and development

- DHS internal workgroup to improve the QSP enrollment process

- **QSP Survey has been developed and will be completed soon.**
HCBS POLICY UPDATES

Stakeholder Feedback: “Hard to get services of any kind in small towns in ND” “Sometimes providers have to travel a long distance to provide services” “We need more qualified service providers” “Hard to get attract people to be a QSP due to low pay”

- MFP capacity building funds and American Rescue Plan Act of 2021, Section 9817 were used to help support start up and enrollment activity costs for new or existing QSPs to establish or expand their business to provide HCBS in rural areas. Grants awarded in February 2021

- Fourteen (14) of the thirty-one (31) incentive grant applications received will be funded. Award amounts varied between $19,294 and $30,000 for a total of $393,607. Grantees were notified by January 31, 2022. Additional information will be available about the grants in the next biannual report.

  - Workforce Recruitment and Retention Strategy
  - Development of new community services and supports
  - Workforce training
HCBS POLICY UPDATES

Waiver approved January 1, 2022

A waiver amendment was submitted, and administrative code updated to:

- Increase rates for supervision, non-medical transportation, non-medical transportation escort, and family personal care (Rate increase was approved in the 21-23 DHS budget)
  - Supervision ($6.71/$4.89) 15 min unit
  - Non-Medical Transportation ($8.74) 15 min unit
  - Non-Medical Transportation escort ($6.71/$4.89) 15 min unit
  - Family Personal Care (Max $150) per day
- Definition of family for family personal care was expanded to beyond legal spouse to build family provider capacity
- Live alone eligibility requirements for residential habilitation and community- support services was removed to allow more TPMs to access services
- TPMs who live with family will be eligible to receive supervision
- Environmental Modification will be expanded to allow modifications of rental property
- The rural differential rate can be authorized for transition support services, supervision, and companionship to increase access for TPMs residing in rural areas
QSP Provider retention and recruitment incentive funds

The North Dakota Department of Human Services is offering workforce retention and recruitment incentives to qualifying agency providers of home and community-based services. The retention incentive will provide up to $2100 and the recruitment incentive will provide up to $750 to agency staff who deliver direct caregiving support.

“Eligible Agency” is:

- Medicaid-enrolled
- Has staff who provide HCBS services in non-institutional settings under either a state or federally funded home and community-based program
- Is actively serving public-pay clients as demonstrated by active billing in the period for which the incentives are being requested
- Can be either a for-profit or not-for-profit private agency, or a Human Service Zone that is providing direct HCBS services
- Designed to support direct caregiving in the HCBS sector, the following service types are excluded from consideration when determining eligibility to participate:
  - HCBS service types of emergency response, home delivered meals, equipment and supplies, environmental modifications, and behavior modification planning; and
  - Any service delivered in an institutional setting, regular basic care, or assisted living
Webinars – HCBS Spotlight on Services

JOIN BY PHONE OR ONLINE.
NEW March 24, 2022 - Community Transition Services, 12 - 12:30 p.m. CT

March 10, 2022, - Respite Services - Home-Delivered Meals, Congregate Meals and Health Maintenance
Feb. 24, 2022 - Homemaker, Non-Medical Transportation and Personal Care Services
Feb. 3, 2022 - Case management/Care Coordination Services
Jan. 27, 2022 - Program for All-Inclusive Care for the Elderly (PACE)
Jan. 13, 2022 - Overview of HCBS programs and financial and functional eligibility criteria
Dec. 16, 2021 - Aging and Disability Resource Link services - connecting people to services and support

- Idea came from the original DOJ stakeholder listening sessions where many people expressed that they do not understand HCBS or what type of assistance is currently available
- Webinar recordings available online
Communication Objectives:

- **Increase awareness** among qualifying individuals (Medicaid-eligible adults with physical disabilities who qualify for skilled nursing level of care), their family members, hospital discharge planners and other referral sources, and other key stakeholders about service options and how people access HCBS long-term services and supports through the ADRL.
- **Educate** key stakeholders about the systemic changes being implemented (what is happening) to comply with the DOJ settlement (why change is needed) and how it will impact individuals and organizations.
- **Create desire** and increase utilization of HCBS service options through communication strategies that help eligible individuals, family members, other stakeholders and the public envision how individuals can successfully transition to community living or overcome barriers and concerns and successfully access HCBS services and supports in the community.

Communication Approach:

- Factor disability accessibility in design and delivery of communication.
- Use easily understood terms and avoid jargon.
- Use people-first language.
- Tell personal stories of real people; testimonials are encouraged.
- Use images of people who look like the target audience - multicultural, spanning adult lifespan and with different abilities.
LISTENING SESSION

Stakeholder Engagement

Additional listening sessions will be held quarterly during the USDOJ Settlement Agreement stakeholder meetings for the first two years of the Settlement Agreement.

The State will educate stakeholders on the home and community-based service array, receive input on ways to improve the service delivery system, and receive feedback about the implementation of the Settlement Agreement.
LISTENING SESSION

Stakeholder Engagement

Public input, questions or concerns can be submitted at anytime.

Email: carechoice@nd.gov
Phone: 1-855-462-5465 or 711 (TTY)
Mail: North Dakota Department of Human Services
      Attn: Aging Services Division/HCBS
      1237 W. Divide Ave., Suite 6
      Bismarck, ND 58501
ACCESS TO COMMUNITY-BASED SERVICES

- What issues should we focus on in year two of the settlement agreement?
  Examples:
  - Provider recruitment/retention
  - Provider training
  - Public awareness of HCBS
  - Improve stakeholder engagement and input
ACCESS TO COMMUNITY-BASED SERVICES

- What is missing from the services that are currently available? What new services are needed?
2022 DOJ STAKEHOLDER MEETING DATES

- June 9, 2022, 1-3:00 pm
- September 15, 2022, 1-3:00 pm
- December 8, 2022, 1-3:00 pm
Contact Information

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DOJ Agreement Coordinator

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