

**NYSDOH's Response to The Alliance of TBI & NHTD Waiver Providers' February 8, 2017 Letter to Jason A. Helgerson**

- 1. Outstanding issue: The Traumatic Brain Injury and Nursing Home Transition and Diversion 1915c Home and Community Based Services Medicaid Waivers are on extension. A transition plan is an amendment to a waiver application. Therefore, both 1915c Waivers need to be renewed prior to seeking CMS approval of the transition plan.**

**Status:** DOH is actively pursuing CMS approval of both waivers. This process is ongoing with weekly communication between DOH and CMS staff. While we remain optimistic, the transition in process at the national level may impact our final plans.

- 2. Outstanding issue: The current Uniform Assessment System for New York (UAS-NY) has not yet been evaluated to determine whether or not it accurately evaluates level of care need for individuals that have cognitive disabilities – specifically, those with traumatic brain injuries.**

**Status:** DOH is preparing to announce the completion of the IPRO review and subsequent adjustments to the level of care assessment process to increase accuracy for persons with TBI.

- 3. Outstanding issue: New York State Department of Health (NYSDOH) has not yet shared requested details regarding Community First Choice Option (CFCO) with the NHTD / TBI Transition Workgroup. Specifically, how CFCO services will be accessed, approved, monitored and provided in fee-for-service (FFS) through LDSSs, in Medicaid Managed Care and in Managed Long Term Care. Additionally, the Department has not yet identified the protections individuals will receive as part of CFCO services. Of specific concern are the protections currently afforded to NHTD and TBI waiver participants which are tailored to meet the specific needs of these populations. As such, once participants are transitioned to CFCO services, they are potentially at risk of losing key protections currently available to them as part of waiver services. As a result, without these protections, this transition could create barriers to accessing services and ensuring continuity of services.**

**Status:** Full implementation of CFCO in managed care has been delayed to January 1, 2018. This has caused DOH to delay transition of the NHTD and TBI Waivers to April 1, 2018. DOH has convened meetings of the CFCO Development and Implementation (D&I) Council and various stakeholders to discuss both the method of accessing these services and reviewing the protections that persons have access to in the managed care system. This is a separate process from the Waiver Transition Workgroup. Your concern has been communicated to DLTC leadership and staff working on CFCO implementation.

- 4. Outstanding issue: Despite stakeholder repeated requests, NYSDOH has not yet provided an eligibility crosswalk for managed care programs and the TBI and NHTD waivers. Therefore, it is impossible to determine whether or not current waiver participants will be eligible for MLTC, MMC, FIDA and/or CFCO and if not, what the unintended consequences will be.**

**Status:** Eligibility criteria for managed care and the waivers was reviewed at the Workgroup meeting on August 25, 2015. A copy of that Power Point presentation is attached. Additionally, information is posted on the MRT#90 website. In reference to bullet #2 in your letter, DOH does not intend to create a standardized discharge plan for those no longer needing services. Each discharge plan will be person-centered and, as such, individualized. In reference to bullet #3, the needs of individuals to maintain community living will be considered in assessing ongoing eligibility. It is not the intent of DOH that anyone decompensate to a point where re-institutionalization is warranted. In reference to bullet #4, due process (both administrative and legal) will apply in each of these cases as well. In response to bullet #5, DOH anticipates using the existing service definitions and refining the assessments completed through both UAS-NY and the RRDCs to assure service recommendations appropriate to each individual. Oversight of managed care plans' implementation of services will follow existing contract processes. In reference to bullet #6, it is the intent of DOH to continue housing subsidies after transition subject to appropriations. These and other topics will continue to be discussed at the regular meetings of the Waiver Transition Workgroup.

- 5. Outstanding issue: Despite the workgroups repeated requests, NYSDOH has not yet provided a crosswalk of the protections offered to, and model contract changes made for, mental health (MH)/behavioral health (BH) population and those being offered to TBI/NHTD populations.**

**Status:** The description of participant protections is attached. As with the many other transitions to "care management for all," DOH does not intend to develop a model contract until CMS approval is obtained for the waiver transition plan. The model language you reference is still pending CMS approval. Your suggestion and concern has been shared with leadership of both mainstream Managed Care and Managed Long Term Care. Additional review of participant protections and quality measures, will be discussed at a future workgroup meeting.

- 6. Outstanding issue: Despite the workgroups repeated requests, NYSDOH has not yet clearly separated and clarified the roles and responsibilities for Care Managers and Service Coordinators.**

**Status:** This issue was discussed in depth at the February 10, 2016 Workgroup meeting. A copy of the Power Point presentation is attached. As noted above, it is premature to develop contract language. We anticipate that Service Coordinators (SCs) and Care Managers meet conflict of interest criteria established by CMS. The exact meaning of this term and the roles and responsibilities of each entity is the subject of on-going discussion with CMS.

- 7. Outstanding issue: NYSDOH will cease enrollment of any new waiver service providers and will no longer approve expansion of existing waiver service providers effective October 1, 2017.**

**Status:** The October 1, 2017 date will be adjusted to accommodate the new transition timeline. The transition process cannot be effectuated without CMS approval. Given that enrollment of waiver providers is a time consuming process, ending enrollment of new providers three (3) months prior to transition is prudent. Staff at DOH are responsible to assure that plans have adequate numbers of providers to cover their service areas and meet the needs of participants. Providers must be appropriately

licensed personnel to provide and/or supervise services. DOH does not anticipate extending the “grandfathering” of providers past the two-year limit proposed.

- 8. Outstanding issue: NYSDOH has not yet developed trainings for NYMC, the Managed Care Plans, and providers to effectively work with these specific populations and each other.**

**Status:** As mentioned at the last Waiver Transition Workgroup meeting, the development of training will be a collaborative process and DOH intends to convene interested parties in the near future for multiple constituencies.

- 9. Outstanding issue: Metrics and processes to track outcomes for these populations have not been identified.**

**Status:** DOH is committed to track individuals who transition from waivers to measure any re-institutionalization which results in permanent placement. In addition, DOH will continue all current quality processes with plans. There is no plan at this time for a separate quality process for persons transitioning from the NHTD/TBI waivers. DOH has developed several systems to collect data from managed care organizations (MCOs). MCOs are required to have information systems capable of collecting, analyzing, and submitting the required data and reports. Focused clinical studies and Performance Improvement Projects (PIPs) additionally capture quality of care information. The Quality Strategy for the NYS Managed Care Program can be found at: [https://www.health.ny.gov/health\\_care/managed\\_care/docs/quality\\_strategy.pdf](https://www.health.ny.gov/health_care/managed_care/docs/quality_strategy.pdf) . Annual quality data is also maintained by DOH: [https://www.health.ny.gov/health\\_care/managed\\_care/reports/quality\\_performance\\_improvement.htm](https://www.health.ny.gov/health_care/managed_care/reports/quality_performance_improvement.htm) .

- 10. Outstanding issue: The current per member per month reimbursement rate that managed care plans receive is not adequate to cover the costs of providing services for this high need population and therefore could lead to a decrease in services and unwarranted institutionalizations.**

**Status:** DOH rate setting staff have now presented the methodology to the Waiver Transition Workgroup on two separate occasions. Information from those presentations can be found at: [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt90/nhtd-tbi/2016-11-16\\_overview.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/nhtd-tbi/2016-11-16_overview.htm) .

The January 26, 2017 presentation will be posted shortly.

DOH does not anticipate creating a high needs rate cell at this time.