

## MEDICAL ASSISTANCE ADVISORY COMMITTEE MEETING

October 27, 2022

Members present: Deborah Ann Shoemaker, Kathy Cubit, Joe Glinka, Terri Henning, Russ McDaid, Nancy Murray, Julie Korick, Mike Grier, Mark Goldstein, Nick Watsula, Sonia Brookins, Heather King

**This meeting was held via webinar due to the COVID-19 pandemic.**

Chairperson Deborah Shoemaker, consultant for the Pennsylvania Psychiatric Leadership Council, began the meeting with roll call of the MAAC. A motion to approve the September 2022 minutes was received by Nancy Murray and seconded by Sonia Brookins. The September 2022 minutes were approved.

### **ODP Update**

Ms. Julie Mochon, Director for the Division of Policy and Innovation, with the Office of Developmental Programs (ODP) provided the update.

Ms. Mochon began the report with an update on some of the initiatives for the 2022 – 2023 fiscal year budget. The budget included funding for an additional 732 individuals from the emergency waiting list for the Community Living Waiver and an additional 100 individuals from the emergency waiting list for the Consolidated Waiver. To date, 120 individuals have been enrolled from the Community Living Waiver emergency waiting list and 24 individuals from the Consolidated Waiver emergency waiting list. Ms. Mochon clarified that this funding increases the number of individuals that can be served in the waivers.

Ms. Mochon reported delays with the waiver renewals. Concerns reported by the Centers for Medicare & Medicaid Services (CMS) related to the use of technology in telehealth and the assurance of an individual's privacy, delayed the July 1, 2022, renewal date. ODP submitted a request for an extension to CMS and the second 90-day extension request was approved on September 20, 2022. The estimated effective date is January 1, 2023. The waiver amendments approved on June 1, 2022, continue to be effective until the waiver renewals take effect.

The public comment period for the Home and Community Based Services (HCBS) statewide transition plan ended on September 22, 2022. The Department of Human Services (Department) is reviewing the comments and finalizing their responses. No major changes were made to the ODP section of the statewide transition plan, but clarification was added. The goal is to submit the plan to CMS by October 31, 2022.

Ms. Mochon also provided the status of the HCBS heighten scrutiny process. ODP completed onsite reviews of 18 community participation support service locations

identified as requiring heightened scrutiny based on their physical location. The reviews included interviewing individuals who receive services and interviewing the staff that render the services.

The review of individual support plans, service notes, provider policies and any other supporting documentation was used to determine whether guidelines were being met or if changes need to be made to meet the HCBS requirements. Corrective Action Plans were completed if changes were needed. Providers have demonstrated their commitment to ensuring services are in accordance with the HCBS rule. Summaries are being developed for each service location and will be available for a 30-day public comment period in the future. ODP will use the public comments in making a final determination about compliance prior to submitting the service locations to CMS.

Mr. Laval Miller-Wilson, counsel for the Consumer Subcommittee, questioned how ODP determined the number of additional people that each county can serve. Ms. Mochon reported the use of historic information but is not exactly sure how it was determined. Additional information will be provided.

Mr. Jeffrey Isman asked for an update on the closures of the two state centers - Polk in the northwest and White Haven in the northeast. Ms. Mochon reported continued planning and transition efforts. It was noted that it may take more time, but the target date of November 30, 2022, has not changed.

Mr. Lloyd Wertz asked if family members were included in the interview process of the eighteen sites. Ms. Mochon stated that letters were sent out advising individuals that anybody they wanted could participate in the interviews. Individuals were given the option to be interviewed. However, there was no indication that any family members were present during the interviews of the eighteen sites.

Ms. Shoemaker followed up with a statement indicating the importance of consumer representation. Committee member Ms. Nancy Murray added that generally family members are included as a member of an individual's care team when a state center is closing, or an individual is transitioning from the institution to a home in the community. It should be a matter of practice that families are interviewed for other programs too.

### **OLTL Update**

Ms. Jamie Buchenauer, Deputy Secretary for the Office of Long-Term Living (OLTL), provided the OLTL update.

Ms. Buchenauer began the OLTL report with an update on the HCBS final rule. The final rule transition plan was published on August 22, 2022. Public comments were received and OLTL is finalizing those responses. No major changes have been made to the transition plan because of the comments. OLTL is planning to release the public comments that were received.

Ms. Buchenauer continued the report by advising that OLTL intends to release the summary of sites included in the heightened scrutiny final rule requirements through the public notice process for sites that will go to CMS and through the 30-day public comment period. OLTL will be releasing these sites in lockstep with ODP.

Ms. Kathy Cubit, representative for the Center for Advocacy for the Rights and Interests of Elders and member of the MAAC, requested comment regarding the types of settings. Ms. Buchenauer reported that some sites are adult day living settings and some sites are residential habilitation settings.

Ms. Buchenauer reported on the status of the OBRA and Community Health Choices (CHC) Waiver amendments. The OBRA Waiver amendment was approved by CMS on August 15, 2022. This waiver amendment increased the personal assistance service rate by eight percent and the increase has been in effect since January 1, 2022, through OLTL's Appendix K flexibility and amendment. A ListServ notice with this approval went out in October.

OLTL continues to work on additional amendments to the OBRA and CHC waivers for submission in December that will take effect on April 1, 2023. Information on these additional amendments was presented at the Managed Long-Term Services Support Subcommittee and the Long-Term Services and Support Subcommittee meetings earlier in October.

OLTL is proposing the addition of the "agency with choice" model of financial management services of participant directed services for personal assistance services and respite. The other changes include amending the benefits counseling services to remove the requirement that participants must access the Office of Vocational Rehabilitation Services before accessing benefits counseling in the waiver; a technical edit which will allow Nurse Practitioners and Physician's Assistants to prescribe and order nursing, occupational therapy, physical therapy, and speech/language services; and modifying the service coordinator qualification to allow more service coordinator recruitment. The proposed amendments to these waivers will be published in the *Pennsylvania Bulletin* on November 5, 2022, for a 30-day public comment period.

Ms. Buchenauer continued the report with an overview of the 2023 procurements. The first procurement is for an external quality review organization. Federal regulations require states to obtain an independent external review body to perform an annual review of the quality of service provided under the states managed care contract. The Department's current external quality review organization vendor contract is set to expire, and thus there is a need to procure a new vendor. The next procurement for 2023 is an actuarial procurement for a vendor that helps with actuarial work and rate setting for both OLTL and the Office of Medical Assistance Programs (OMAP). The final procurement for 2023 is the CHC re-procurement. The timeframe and deadlines will not be released before April 2023. OLTL has not decided if it will have a public comment period for the Request for Applications.

Ms. Teri Henning asked about the timing for the first two procurements. Ms. Buchenauer said that she would have to double-check the dates for the first procurement and get back to Ms. Henning. For the actuarial procurement, Ms. Buchenauer directed Ms. Henning to OMAP as that office is the lead on the procurement.

Ms. Henning then asked Ms. Buchenauer to discuss OLTL's efforts in data collection. Ms. Buchenauer explained OLTL's efforts to collect information from CHCs related to the number of hours on a participant's service plan for personal assistance services. OLTL refers to the report as the Ops 23 report. The purpose of the report is to get a handle on when a person has a particular service authorized and they are not able to start because of the inability to find an agency or a worker to provide those services. OLTL continues to work with CHC MCOs to ensure participants are receiving the services they need.

Mr. Miller-Wilson noted the data that OLTL provided in the Consumer Subcommittee meeting regarding participants that use agencies contracted by the CHC regarding workforce shortages, was very helpful. However, it did not cover participants that direct their own services. Ms. Buchenauer stated that other tools like the electronic visit verification system are utilized. Additional support is provided through collaborations with the financial management services vendor, Tempest.

Mr. Jeffrey Isman asked for an update on the "agency with choice" procurement. Ms. Buchenauer noted that the most current information is on the E-Marketplace webpage. It was also noted that due to the protest, OLTL is in a blackout period as they go through the process.

Ms. Janel Gleeson stated that there has been some conflicting information about how the pandemic affected Nursing Home Transition (NHT) placements and asked if there is a data source from the MCOs for the monthly transitions. Ms. Buchenauer stated she would need some more information and asked Ms. Gleeson to reach out to her with further clarifying information to the question. Ms. Buchenauer noted that there is support for NHT as it is a function of CHC MCOs and there is ongoing data from this function.

### **OMHSAS Update**

Ms. Kendra Snuffer, Chief of Staff for the Office of Mental Health and Substance Abuse Services (OMHSAS), and Jenna Mehnert Baker, Director of Policy for the OMHSAS, provided the OMHSAS update.

Ms. Mehnert Baker began with a presentation of a roadmap for the behavioral health crisis system. The roadmap began with a call into 988 and described options available based on the level of need. The goal is to have individuals served in the least restrictive and most community-based setting as soon as possible and to align with Substance Abuse and Mental Health Services Administration (SAMHSA)

recommendations. This includes connecting individuals with mobile teams and 24/7/365 Walk-In Assessment Centers. The aspects of the system are envisioned to be heavily peer and recovery specialist staffed. Mobile teams should be available to meet people where they are located and be trained to provide both clinical and professional services as well as that lived experience connection. After the walk-in center, if someone requires additional services, options include short-term crisis stabilization or psychiatric hospitalization. Efforts are focused to the call centers, mobile teams, walk in assessment centers, and crisis stabilization. OMHSAS has developed a sub-category that waives the need to ask for separate waivers for peer-run crisis stabilization centers. OMHSAS is currently working on building capacity in the crisis system and issued a county funding opportunity through the American Rescue Plan Act (ARPA) fund to help create the SAMHSA vision for best practices in crisis services.

A list of bulletins previously suspended under the public health emergency was provided. Ms. Mehnert Baker reported the suspensions described in the bulletins will be reinstated, effective January 1, 2023.

Ms. Mehnert-Baker continued the OMHSAS report with an update on House Bill (HB) 1630 which just passed and is pending the governor's signature. HB 1630 permanently suspends 55 Pa. Code § 1153.14 relating to outpatient psychiatric services and 55 Pa. Code § 1223.14 relating to outpatient drug and alcohol clinic services. Ms. Mehnert Baker noted that Mental Health Intensive Case Management under 55 Pa. Code § 5531.33 was not included in the legislation that was passed. Waivers will continue to be issued to providers who are requesting such services were appropriate. The two regulations noted above served as a barrier to audio-only services. An email will be sent out once HB 1630 is signed by the governor.

Ms. Mehnert-Baker provided a reminder that the U.S. Department of Health and Human Services (DHHS) will not seek punitive damages against a provider who is not utilizing a Health Information Protection and Accountability Act (HIPAA) compliant platform until the end of the COVID-9 federal public health emergency (PHE). This means providers will need to utilize a HIPAA compliant platform with the end of the PHE. The Department does not endorse any specific HIPAA compliant platform for telehealth services and provided the list DHHS provided of HIPAA compliant platforms.

Ms. Kendra Snuffer continued the OMHSAS report with transition plan priorities. The three Department priorities reported include 988, strengthening the behavioral health workforce, and providing support to the forensic population. Ms. Snuffer also reported the status of the funding recommendations from the Adult Behavioral Health Commission. The report was submitted to the legislature, however, it will not be reviewed until the next session.

Ms. Snuffer discussed Act 32 of 2022, which amended the confidentiality provisions of the state Mental Health Procedures Act. Amendments to existing state regulations are required under Act 32. The companion bill that was passed, Act 33,

requires the Department of Drug and Alcohol Programs to release a bulletin. Additional information for providers will be provided in the future.

Ms. Snuffer concluded the OMHSAS report with a reminder about the Adult Behavioral Health Commission report. The Department and all the agencies that have invested in the commission will continue to push to make it a priority. Members of the MAAC who have pre-existing relationships with members of the legislature should issue reminders to keep the report on their radar and advise them of the importance of the report. Ms. Snuffer also clarified in a response to a question from Mr. Wertz that OMHSAS, consumers, and family members have had a very active role in crafting the report.

### **OMAP Update**

Ms. Eve Lickers, Director of the Bureau of Policy, Analysis and Planning for OMAP, provided the OMAP report.

Ms. Lickers began the OMAP report with an announcement that CMS has approved the Pennsylvania State Plan Amendment (SPA) that extends the post-partum period to 12 months for both the MA Program and the Children's Health Insurance Program (CHIP). The 12-month extension aligns with the newborn eligibility period.

Ms. Lickers addressed the 90-day extension of the COVID-19 federal PHE. The extension is effective through January 11, 2023. The Biden administration continues to express its commitment to providing states at least a 60-day notice of the PHE ending. The Department is also committed to giving a 60-day notice to providers for anything that would be reinstated. If the PHE expires in January 2023, the Department will begin the renewal process in February 2023. The Department is working with MCOs to send communications to members reminding them of the importance of keeping contact information up to date with County Assistance Offices and to give instructions on how to create a myCOMPASS account which can provide email and text message updates. The MCOs are COMPASS community partners who can also assist their members with preparing and submitting their renewal applications. MCOs that have affiliated, qualified plans that are sold on the state-based exchange, Pennie, can send letters about how to find their qualified health plan to their current members who may lose eligibility because of increases in income.

OMAP is working with the Office of Income Maintenance to share some of the lessons we learned from the HealthChoices re-procurement and implementation communications. The Department can leverage that experience and reach out to as many beneficiaries as possible with information about the unwinding of the PHE.

Ms. Lickers acknowledged a question asked regarding one of the flexibilities utilized during the PHE. Ms. Hannah Kranz asked about the reinstatement of the prior authorization requirements for pediatric shift nursing given the recent surge in Respiratory Syncytial Virus and the expectation of increased influenza and COVID-19,

and whether the Department would consider temporarily delaying the reinstatement. Ms. Lickers stated that communications have been issued related to the reinstatement, effective November 1, 2022.

Ms. Shoemaker paused the OMAP report for ODP to follow up on how the number of additional individuals each county can serve under the Community Living Waiver was determined. Ms. Mochon stated the number of additional individuals per county is determined by current enrollment numbers and how many people each county had on their emergency list. There is also a 32-person reserve should there be no advanced warning of immediate need.

Ms. Gwen Zander, Director of the Bureau of Managed Care Organizations for OMAP, continued the OMAP report with discussion related to the External Quality Review Organization (EQRO) re-procurement. The current EQRO contract with IPRO, is scheduled to expire on June 30, 2023. A Request for Proposal to re-procure these services is in review. The target date for implementation is July 1, 2023. Also, the contract for actuarial services, previously mentioned by OLTL, is with Mercer and is set to expire on March 31, 2023. The Department will likely request an extension.

The HealthChoices (HC) implementation went live September 1, 2022. The Department has been monitoring requests for expedited transfers of enrollment with 97 requests received so far. Most of those requests have been addressed with single case agreements. No patterns of pervasive or program wide issues with the transition have been identified.

At this point, all new members should have received their new member identification cards or member packets if they were assigned or selected a new MCO. Most folks have already received that introductory telephonic outreach for new members to complete a new member assessment. If a member has not been called yet they will be within the next month or so.

Ms. Lickers provided the next OMAP update related to the Electronic Verification Visits (EVV). Federal statute requires states to implement EVV for home health services by January 1, 2023. The Department submitted a good faith extension request to CMS on September 20, 2022, for home health care services. If the extension is granted the extension would go through January 1, 2024, however the request has not yet been approved and providers should be moving towards compliance for January 1, 2023.

Ms. Lickers discussed the passage of HB 1630 and its anticipated signing by the governor, which would permanently suspend the OMAP regulation that restricts the dispensing of more than a 34-day or 100-unit supply of prescription drugs. A SPA has already been approved for this change and a regulation package is in the review process. Communication has been issued to providers to announce the move to a 90-day supply.

Also, the regulation that requires home health services to be ordered by a physician are permanently suspended because of federal regulation changes. This will allow non-physician providers to order, refer, or prescribe home health care services. SPAs and a regulation package to address these changes are in the review process.

Ms. Zander addressed questions from Mr. Jeffrey Isman related to the Medical Assistance Transportation Program (MATP). Two new Operation Memorandums, as well as a newly developed referral form, will be posted to the website. The new referral form was developed to streamline the referral process and make referral requests more uniform across the state. Also, the Pennsylvania Department of Transportation is conducting a study to determine how to improve efficiencies in funding from different sources.

## **Subcommittee Reports**

### **Consumer Subcommittee**

Mr. Laval Miller-Wilson, council for the Consumer Subcommittee, provided the Consumer Subcommittee report. The committee heard from OMAP and OLTL.

OMAP provided an update about the implementation of HealthChoices. The reasons for why consumers transferred from one of the newly assigned MCOs to another is by far related to provider network. Focus was given on the resumption of prior authorizations for in home skilled nursing and home health aide services for children with complex medical conditions. Concerns related the possible reduction of these services were noted; however, the effective date for the reinstatement of prior authorization for these services remains November 1, 2022. An update was provided about the impact of the potential MCO and hospital contract terminations.

OLTL provided updates on the number and types of complaints CHC consumers make and data related to grievances was reported. The Subcommittee will review the data for future discussion. The data will be posted to the Consumer Subcommittee website.

The next meeting is scheduled for December 7, 2022. The meeting will be held virtually.

### **Fee-for-Service Delivery System Subcommittee (FFSDSS)**

Ms. Deb Shoemaker, chair for the FFSDSS, reported the committee did not meet in October. The next meeting is scheduled for November 9, 2022.

### **Long-Term Services and Support Subcommittee (LTSSS)**

Ms. Kathy Cubit, representative for CARIE and chair for the LTSSS, provided the report. The LTSSS last met on October 11, 2022. There was an update on the Act 54



payments. Continued discussion occurred related to CHC and LIFE enrollment and reasons for applicant closures. Data from the second quarter in 2022 was presented that included information that described reasons for closures such as applicant was enrolled in HCBS, or information was not provided to the county assistance office. About 30% of applications, on average, result in enrollment.

Updates on the ARPA and the Home and Community Based spending plans and Act 24 were provided. The reporting portal for Act 24 payments and the strengthening workforce payments and adult day service payments was released to providers on September 29, 2022. A demonstration of the portal was provided.

The next meeting is scheduled for December 13, 2022.

#### Managed Care Delivery Systems Subcommittee (MCDSS)

Mr. Joe Glinka, Legislative Director for Gateway Health and chair for the MCDSS, provided the report.

Discussions were provided related to the behavioral health MCO procurements. Discussion was held with respect to quality metrics and current concerns related to efficiency. MA expansion population numbers were provided. The number of applications received increased 8.7% from August 22, 2022, through September 16, 2022, compared to the same period as last year. A walk through of the HealthChoices implementation was provided. The PHE unwinding and opportunities for MCOs to assist members to find a qualified health plan were discussed.

The next meeting is scheduled for December 1, 2022.

#### Managed Long Term Services Support Committee (MLTSS)

Mr. Mike Grier, chair for the MLTSS, provided the report. The committee discussed the data on the transition of individuals in the nursing homes. The CHC and OBRA waiver amendments were discussed as well. The Office of Income Maintenance provided an overview of the Medical Assistance for Workers with Disability program and the newly developed eligibility group, Workers in Success.

A review of the provider enrollment process was given and each CHC MCO demonstrated how participants can search for a provider on their specific website.

The next meeting is scheduled for November 2, 2022.

#### MA Bulletins (MAB)

Ms. Lickers provided an overview of the four MABs that were issued since the last meeting.

<b>Bulletin Number</b>	<b>Subject/Title</b>	<b>Issue Date</b>	<b>Effective Date</b>
01-22-12	<a href="#">COVID-19 Vaccine Counseling Only Visits for Beneficiaries Under 21</a>	9/23/22	9/23/22
05-22-08	<a href="#">Additions to the Medical Assistance Fee Schedule for Private Duty Nursing Services Provided to Beneficiaries Under the Age of 21</a>	9/26/22	10/1/22
01-22-39	<a href="#">Updates to Pediatric SARS-CoV-2 Vaccines Manufactured by Pfizer, Inc. and Moderna, Inc.</a>	9/28/22	9/28/22
01-22-18	<a href="#">SARS-CoV-2 Vaccine Booster Manufactured by Moderna, Inc.</a>	10/17/22	3/29/22

Ms. Lickers noted that MA Bulletins can be found on the Department's [What's New at OMAP](#) webpage or [Bulletin Search](#) webpage.

### **Adjournment**

The next meeting of the MAAC will take place on Thursday, December 8, 2022, at 10:00 a.m. via webinar.

Ms. Kathy Cubit made the motion to adjourn the meeting and Mr. Joe Glinka seconded the motion. The meeting was adjourned at approximately 12:15 p.m.