

Meeting summary for ID/DD Member Call (05/01/2024)

Quick recap

Debbie provided updates on various ongoing issues, including the Medicaid access rule, payment transparency, rate increases for waiver providers, and legal matters related to non-compete clauses and healthcare discrimination. She discussed the progress on the Mui rule, the Waiver Modernization project, the review of the company's rate models, and the completion of shared living and remote support projects in Ohio.

Next steps

- Dee will provide updates on the Medicaid rule changes, specifically the new overtime rules and the changes to the Ohio Shared Living Service and remote supports.
 - Dee will follow up with the Department of Health regarding the interpretation of the W. 262 regulation and the requirement for Human Rights Committee review of additional medications.
 - Dee will monitor the progress of House Bill 465 and provide updates on any changes or amendments to the bill.
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Summary

Debbie's Quarterly Survey and Updates

Debbie discussed several key issues in the meeting. She reminded attendees to ask questions and provide feedback during the meeting. She also emphasized the importance of a quarterly survey to understand the impact of recent budget rate increases on the ability of providers to hire and serve people. Debbie mentioned that the response rate to this survey was low, so she urged more people to participate. She also informed about an upcoming increase in rates for waiver providers. Lastly, she mentioned ongoing work regarding the Medicaid access rule, payment transparency, ICf providers, the Department of Labor's overtime rule, and the Federal Trade Commission's non-compete ban rule.

Medicaid Access and Payment Transparency Webinar

Debbie announced that a free webinar about the Medicaid access rule and the payment transparency rule would be held next Thursday at 10 AM. She mentioned that the webinar would not require registration and encouraged attendees to add it to their calendars. Debbie also discussed the key points of the finalized Medicaid access rule, which requires 80% of Medicaid payments to go to direct care workers, but not for habilitation services. She noted that states would be required to report data on the percentage of Medicaid payments paid to direct care workers for habilitation services. She also highlighted that the payment transparency rule, mostly about minimum staffing

for skilled nursing, also included a transparency requirement for Medicaid payments applicable to ICF providers.

Medicaid Reporting Requirements and Overtime Changes

Debbie discussed the upcoming reporting requirements for Medicaid services, which are set to take effect in four years. She mentioned that the Centers for Medicare and Medicaid Services (CMS) planned to file the rules in the Federal Register on May 10th, with the reporting for home health, personal care, and homemaker services to start six years later. She also expressed concern about potential changes to these rules due to legislative or legal challenges. Lastly, she touched upon the Department of Labor's proposed increases to the minimum and highly compensated salary thresholds for overtime payment, with the first effective date for these increases being July 1st.

Debbie's Legal Update: Business and Healthcare Matters

Debbie discussed several ongoing legal matters related to business and healthcare. She highlighted the challenges related to a rule published in the Federal Register that has not yet been acted upon, indicating it might be states and state attorney generals that could file lawsuits. She also discussed a lawsuit already filed against the non-compete rule, which prohibits the enforcement of non-compete clauses, and noted it could impact both businesses and nonprofits. Debbie further touched on the Department of Labor's independent contractor rule and a newly released rule expanding non-discrimination in healthcare (Section 1557) and prohibiting discrimination in healthcare programs based on disability (Section 504 regulations).

Healthcare Rules and Employment Project Update

Debbie discussed the potential impacts of new healthcare rules on their services. She highlighted that their role as developmental disability providers should not be significantly affected, but encouraged the team to consider potential issues with accessibility to equipment and technology for people with disabilities. She also indicated that any complaints or issues related to non-compliance with these rules would likely be enforced. Josh then discussed the employment quality readiness project, asking those who submitted applications if they received a response. He expressed concern about delayed communication from the Department and hoped that all submissions were in before the deadline.

Mui Rule Progress and Concerns

Josh discussed the progress on the Mui rule, which had been released to the stakeholder work group for feedback. During a recent meeting, the stakeholders reviewed comments and discussed changes, particularly regarding hospitalizations. The biggest modification was the change in category C to follow a different process than categories A and B for major unusual incidents. Concerns were raised about potential increased administrative burden for providers. Josh mentioned a future meeting was tentatively scheduled for May 20th to finalize the comment list and address any new

comments. He also noted CMS's forward progress on incident tracking and their potential caution against changes that could weaken their system.

5-Year Rule Review and Reporting Concerns

Josh reported that there was no definitive feedback regarding the 5-year rule review, but the goal was to move forward with it by the end of summer. Tom expressed concerns about people having seizures and being hospitalized, while Debbie questioned the administrative burden of reporting such incidents. The group discussed the potential impact of the Medicaid access rule on critical incident reporting, with Debbie suggesting that new requirements could change current processes. Chelsea proposed the use of a system that could handle all the required information, but Josh indicated that no IT-related discussions had taken place.

Waiver Modernization and Incident Tracking

Chelsea, Josh, Debbie, and Tom discussed the new incident tracking system, the ongoing Waiver Modernization project, and its potential impact on funding and services. Debbie provided an update on the Waiver Modernization project, highlighting its focus on sustainability of funding, particularly for counties with limited financial resources. The team agreed to monitor the progress of these initiatives, with a particular focus on how they address future rate increases and the evolving needs of the people they serve.

Deloitte Review of Company's Rate Models

Debbie discussed the ongoing review of the company's rate models by Deloitte, which suggested there could be improvements for consistency across various services. She pointed out that current models might not adequately account for staff training and non-billable time. Debbie also mentioned the potential use of the rate model to adjust assumptions and increase flexibility. Regarding the assessment replacing the GDP in the AI, she indicated that the company is looking at models already tested and in use by other states, rather than creating a new one, as had been their past approach. The chosen assessment will then be evaluated for its suitability.

Ohio Project Updates and Feedback

Debbie discussed the completion of the Ohio shared living service and remote support projects, and highlighted potential issues with the free choice of provider on the road support side. She further mentioned that the department was seeking feedback on whether to continue a blanket waiver that allows individuals under 18 and those without a high school diploma to work in their services. Debbie also addressed the requirement for third-party vendors to transmit Ohio ISPs to the Dod salesforce system, recommending providers begin this process sooner to identify and resolve any issues.

W. 262 Interpretation and Provider Ownership Updates

Debbie followed up on the concern raised earlier regarding the interpretation of W. 262 in the context of behavioral programs and medications. She shared that the Department

of Health had agreed with the initial interpretation that any medication with the potential to cause drowsiness or inhibit daily activities should be reviewed by the Human Rights Committee (HRC). However, Debbie disagreed with this interpretation and was continuing to argue her point. She also requested for updates from the team if they had been cited for W. 262 in the past six months, as this could provide useful examples for their argument. Additionally, Debbie reminded the team about their responsibility to update any changes of ownership or managing employees in the provider ownership and managing employees system.

House Bill 465 and Lauren's Law Updates

Debbie discussed the updates regarding House Bill 465, also known as Lauren's Law, which had two main components: the allowance of electronic monitoring devices in ICFs and the permit for family members or parents to provide waiver services at home at 90% of the ICF payment rate. She mentioned that the association had expressed concerns about the bill and suggested improvements to make it more applicable to DD services. The bill's sponsor and committee chair had accepted some of these suggestions. However, the decision regarding the 90% ICF rate for the waiver component was still under discussion. Debbie assured the team that she would keep them updated on any changes to the bill.

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