



REPORT TO THE VERMONT LEGISLATURE

Agency of Human Services

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Department of Disabilities, Aging, and Independent Living

Developmental Disabilities Services Division Payment Reform and Conflict-Free Case Management Update

In accordance with:
H.720, as enacted Act 186,
An Act Relating to the System of Care for Individuals with Developmental
Disabilities

Submitted to: The House Committee on Human Services
The Senate Committee on Health and Welfare

Submitted by: Megan Tierney-Ward, Interim Commissioner
Department of Disabilities, Aging, and Independent Living
(DAIL)

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LEGISLATIVE REQUEST

H.720 (as enacted) Sec. 6. PAYMENT REFORM AND CONFLICT-FREE CASE MANAGEMENT

(a) At a minimum, the following shall be included in the payment reform process impacting individuals with developmental disabilities, their families, and designated and specialized service agencies:

(1) in addition to any standardized assessment utilized by the Department of Disabilities, Aging, and Independent Living, a process for consideration of additional information relevant to the life circumstances of service recipients or applicants;

(2) in addition to any standardized rates or rate ranges developed by the Department, a process for consideration of budgets to reflect the individualized support needs of service recipients or applicants; and

(3) a process for evaluating the fiscal and service impact on individual service recipients and the designated and specialized service agencies.

(b)(1) Prior to implementing the federally required conflict-free case management system, the Department shall seek and consider input from a variety of stakeholders, including individuals with developmental disabilities, their families, designated and specialized service agencies, and other providers and advocates.

(2) As part of the changes necessary to come into federal compliance, consideration shall be given to performing initial clinical eligibility and service planning within the Department.

(c) On or before February 1, 2023, the Department shall present any proposed policy changes related to payment reform and conflict-free case management to the House Committee on Human Services and the Senate Committee on Health and Welfare and seek and consider input from the Committees.

EXECUTIVE SUMMARY

The Department of Disabilities, Aging and Independent Living's (DAIL) work in the areas of Conflict-of-Interest and Developmental Disabilities Services Payment Reform are closely related; the link between these initiatives ensures that Developmental Disabilities Services meets all federal requirements for conflict-free services and that the future payment structure for case management and direct services will be cost-effective, transparent, and sustainable.

As part of the State of Vermont's approved [Corrective Action Plan](#) with the Centers for Medicare and Medicaid (CMS), DAIL has been working to come into compliance with Conflict-of-Interest requirements. These efforts, in close partnership with the Department of Vermont Health

Access (DVHA), allow the Department to begin its transition in May 2025 and complete the process within a year (by May 2026).

In calendar year 2023, three main Conflict-of-Interest objectives for the Department were achieved: in May, an assessment report was produced, followed by the development of options in August, and finally, draft recommendations released at the end of the year.

The Developmental Disabilities Services Division (DDSD) is continuing to work with contractors, service providers, advisory groups, and stakeholders to implement the Supports Intensity Scale-Adults (SIS-A) assessment, draft levels of support that correspond to SIS-A scores, draft future rates, create budget ranges associated with each level of support, draft an overall rate model, and develop a context document that will; accompany the SIS-A assessment, support the person-centered planning process, and inform service and budget needs. The current focus for the Payment Reform project is on completing an additional context document, analyzing the rate survey recently completed by service providers so that DDSD is able to draft proposed rates and potential budget models. This work was delayed as the Payment Reform and Conflict Free Case Management projects worked together to produce a rate survey for providers that would meet the needs of both projects, thus reducing the administrative reporting obligation for providers.

DAIL and DVHA will work closely on all policy and budgetary changes that are proposed through the Conflict-of-Interest work. DVHA has been the policy lead through this initiative as this work affects all Home- and Community-Based Services (HCBS) across the Agency of Human Services. Based on the work achieved in this area, The Agency will be proposing statutory language additions to 18 V.S.A. § 8915 in the 2024 legislative session. This language change will grant DAIL the explicit authority to contract with entities for case management services.

DAIL is not proposing policy or budget changes related to Payment Reform for the current fiscal year. The earliest possible timeframe for changes to take place would happen in the 4th quarter of SFY '25.

Both projects continue to move forward with a common transition date that is still to be determined but cannot be earlier than April 2025 due to Maintenance of Effort requirements under the COVID Flexibilities.

INTRODUCTION

DAIL's partnership with DVHA and the Agency of Human Services (AHS) serves to mitigate conflict of interest in Home-and Community-Based Services. There are three main areas that need to be free of conflict: eligibility evaluations/determinations, needs assessments, and development and oversight of the person-centered plan (including service referrals). The work that DAIL and AHS are doing related to Conflict-of-Interest and Payment Reform will address these issues.

Service Coordination is an area where conflicted services have been identified. DAIL and AHS intend to achieve 5 key goals by separating case management from the agencies that provide direct services.

Conflict-of-Interest Key Goals:

- Case management functions are provided separately from the delivery of direct services to ensure federal compliance, improve access for all Vermonters, and protect participants' rights;
- Participants are empowered to make informed decisions about their lives and their services, including who supports them and how they are supported, for both case management and HCBS;
- Person-centered thinking and coordination of care are central to all activities related to service delivery, including case management;
- Case management roles and responsibilities are clearly defined and described, as are those of HCBS providers, including the intersections for collaboration and cooperation; and
- To the greatest extent possible, stability is maintained for provider agencies and within the workforce.

Through the process of addressing Conflict of Interest, DAIL also will alleviate challenges related to compliance with federal requirements that DDS has faced related to intake, clinical eligibility determination, and service authorization.

DDS is undertaking payment reform to improve data on services provided, ensure consistent assessment of individuals' needs, and transition to a new payment model for individuals with intellectual and developmental disabilities. The goal is to create a transparent, effective, and operationally feasible payment model for DDS services that aligns with AHS's broader health care reform goals.

Payment Reform Objectives:

- Comply with the All-Payer Model ACO Agreement, which obligates AHS to develop a plan to coordinate payment and delivery of Medicaid Home and Community-based Services with the State's delivery reform efforts for health care;
- Increase the transparency and accountability of DDS services, consistent with recommendations in the 2014 State Auditor's Report;
- Improve the validity and reliability of needs assessments through use of a standardized assessment tool, which can be used to inform an individual's funding;
- Ensure submission of encounter data to support continued tracking of approved services;
- Provide equity and predictability, including similar budgets and services for individuals with similar needs, and consistent funding streams for providers;
- Provide flexibility in response to changes in individual needs and choices; and
- Support a sustainable provider network.

CONTENT

The State of Vermont has been actively working under a Corrective Action Plan (CAP) for Conflict-of-Interest related to HCBS for since the CAP was approved on March 7, 2023. To implement the approved plan, AHS has established internal workgroups, engaged an [Advisory Committee](#), and hosts regular input opportunities for interested parties.

Throughout calendar year 2023, DAIL and DVHA have worked with a consultant (Health Management Associates—HMA) to assess the impact of conflict across the HCBS programs offered in Vermont ([HCBS-COI Assessment Report](#)), develop viable options to address conflict-of-interest in the programs ([HCBS-COI Options](#)) and provide [draft recommendations](#) for each of DAIL’s three HCBS programs. DAIL has reached out to individuals receiving HCBS through input sessions and surveys to gather input on the proposed options and draft recommendations. The most recent efforts to solicit feedback ended on January 26, 2024. This information will be synthesized and provided to the Department and Agency to determine how to best incorporate into the draft recommendations.

Substantial work has been done, in partnership with the community partner agencies, particularly with the DA/SSAs, to determine the roles of “case management entities” and “direct service providers” in the future state. This work is invaluable as the system looks to understand where key responsibilities will continue to be provided to support Vermonters receiving HCBS.

Specifically related to the Developmental Disabilities Services system, efforts have begun to closely align DDSD Payment Reform with the Conflict-of-Interest initiative. Members of each initiative have begun meeting regularly to discuss the intersection of these projects.

In November of 2022 DDSD began working with the Standardized Needs Assessment Workgroup to draft a document that will add more context about the individual needs of people who engage in Developmental Services and to support the person-centered planning process. The group membership has changed throughout the year but typically has members who receive services and/or are family members of individuals who receive services, service providers, and state staff. The initial draft of the context document was presented by a service provider and the advisory group has spent the last year reviewing the document, removing questions that are already asked in the SIS-A or the supplemental questions that accompany the SIS-A, adding relevant questions needed for understanding the individual and their needs, and editing the language of each question to promote dignity and respect for people with disabilities. While state staff provide administrative support and engage in the discussions, the creation and editing of the context document is being led by members who are not state employees in an effort to promote varied perspectives. Once the context document is fully drafted it will be shared with stakeholders, other advisory groups, and self-advocacy groups for feedback before being finalized.

Currently, the context document is being created with the intention to help inform the service planning and budgeting process beyond what the SIS-A and Level of Support framework will provide, especially if an individual had needs outside of the framework. DDSD is working with our consultants at Burns and Associates and Human Services Research Institute to identify specific questions in the context document that may need to be reviewed as part of the service planning process to ensure that individuals get the supports they need. Additionally, DDSD will have an Exceptions Process when the system transforms to a new payment model in 2025. The

Exceptions Process will be a way for individuals to identify a need that is not met under the new model and request the service and/or funding that is needed. This process will be modeled after the existing Equity Committee that currently reviews all budgets and makes a recommendation for funding to the Division Director.

Prior to any changes in the payment model in 2025, DDS will present a payment model and proposed rates for feedback. Once this is finalized, projections can be developed on the individual, agency, and system level to estimate potential impact of the new payment model. DDS will work with our contractors to develop a verification process for individual budgets prior to any transition to ensure it will meet their needs. Also, any individual that would potentially experience a reduction in services under the new payment model would be prioritized for review through the exceptions process. It should be noted that in addition to the Exceptions Process being developed, Grievance and Appeal rights will remain in effect and offer an additional outlet for people to have their requests heard.

RECOMMENDATIONS

DAIL Conflict of Interest

The work done over the last year has led to draft recommendations developed addressing conflict-of-interest in each of DAIL's HCBS programs. These recommendations have been shared widely with interested parties. Each program required an approach to meet the needs of participants. All draft recommendations share these properties:

- Meet the federal requirements to address conflict-of-interest;
- Align with the goals and principles for Vermont's HCBS-COI effort;
- Provide an easy solution for individuals and families to understand and navigate; and
- Allow DAIL to oversee quality and performance.

Brain Injury Program:

Vermont will pursue statewide competitive contract(s) to deliver case management for participants in Brain Injury Program. Current providers of Brain Injury Program services will continue to deliver home and community-based services (HCBS) to people with brain injuries, except for service coordination (case management) that will begin to transition to new case management entities in mid-2025.

Choices for Care:

Starting in mid-2025, the five current Area Agencies on Aging (AAAs) will provide home and community-based services (HCBS) case management for all Choices for Care participants. Home Health Agencies (HHAs) can continue to deliver direct services. Additionally, Choices for Care participants who live in Adult Family Care (AFC) homes will receive case management from the AAAs. Participants in Flexible Choices will also receive case management services (outside of their self-direction budget). State staff will continue to manage intake, eligibility, and choice counseling for HCBS or other settings (such as Enhanced Residential Care.)

Developmental Disabilities Services:

Like the approach for Brain Injury Program services, Vermont will pursue statewide competitive contract(s) to deliver case management for participants in Developmental Disabilities Services. Designated and Specialized Service Agencies will continue to deliver home and community-based services (HCBS) to people with developmental disabilities, except for service coordination (case management) that will begin to transition to new case management entities in mid-2025.

DDSD Payment Reform

DDSD will continue to work with Public Consulting Group to administer the SIS-A needs assessment with the goal of having everyone who receives DS services complete an assessment prior to the system changes in 2025. Work will continue to finalize a context document in 2024 and define how it will inform the person-centered planning process. There will be periodic reviews of the Levels of Support framework and associated SIS-A scores as more assessments are completed to ensure that the framework is valid. Additionally, work will continue on the payment modeling and rate proposals now that the Provider Rate Surveys have been completed.

DDSD will work with our contractors to present models to our stakeholders with projections for any future individual or agency-wide impacts. The department will seek feedback from stakeholders as well as hold Public Comment forums prior to any changes and will keep the Legislature informed of any future budgetary requests once they are known. DDSD will continue to inform and seek regular input from the two Payment Reform specific advisory groups, as well as the two DAIL advisory groups, and will continue to host four virtual stakeholder Engagement Sessions each quarter to share updates about the SIS-A and payment reform activities. Lastly, in 2023, leaders at DDSD began offering presentations to each individual agency to help staff understand all of the future changes under Payment Reform and Conflict-Free Case Management, answer questions, and hear feedback and concerns.