

Virginia's Developmental Disabilities Network



March 19, 2020

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RE: COVID-19 Mitigation Recommendations

The Virginia Board for People with Disabilities (the Board), the disABILITY Law Center of Virginia (dLCV) and the Partnership for People with Disabilities (The Partnership), Virginia's Developmental Disabilities (DD) Network as authorized by the federal Developmental Disabilities Assistance and Bill of Rights Act, submit to you recommendations to: 1) advance the leveraging of all available resources and authorities to address COVID-19, 2) address communication and other concerns raised by many advocates and stakeholders, and 3) mitigate undue harm or risk to people with developmental disabilities.

We appreciate the efforts your agencies have made in response to the COVID-19 crisis in Virginia. This is a challenging time for state service systems, providers, individuals with disabilities and their families and their support systems. As DD Network organizations, we are hearing first-hand the concern and fear of individuals and family members who depend on Medicaid waiver home and community based services (HCBS) and their providers. We think that it is important to share with you these concerns and recommendations.

1) Leveraging all available resources and authorities:

There is a high likelihood of disruption in the HCBS workforce. The scope of that disruption is yet to be known or fully understood. We think that Virginia needs to be broad and inclusive of a worst case scenario approach to leveraging resources and authorities. This not a time to be conservative with strategic planning and preparedness for workforce disruptions. For Medicaid HCBS waivers, exercising the use of Appendix K of waiver applications, which CMS developed for use by states during emergencies, is needed and prudent. DMAS can determine what

circumstances trigger implementation of different actions. Recommendations to proactively address workforce issues include the following:

- DMAS should expand settings where services can be provided using Appendix K. A number of states, including Ohio and Pennsylvania, are taking similar action. Pennsylvania is waiting for approval from CMS for their Appendix K emergency plan. There, providers are being told to redeploy staff from closed day programs to in home supports in family homes (prioritizing those families who are essential health care workers - EMTs, nurses, doctors, etc. and those families who have elderly caregivers) or to fill gaps in residential settings. In Ohio, they are allowing people to receive residential services in the homes of direct support professionals. Virginia needs to take similar decisive action.
- DMAS should work closely with CMS to determine all available opportunities to address workforce shortages using Appendix K and other authorities. Such actions may include:
 - Appendix K allows states to temporarily modify licensure or other requirements for settings where waiver services are provided. CMS recognizes that in an emergency situation, a State may need to provide services in settings that are unforeseen in typical service delivery situations or may need to modify the typical licensure or certification requirements.
 - During an emergency, a state may temporarily modify provider qualifications in order to ensure that waiver participants receive necessary services. This option should be explored.
 - Temporarily increase payment rates. Consider the potential cost to group home providers for overtime pay and increased need for private duty nursing services due to individuals living in the community contracting COVID-19.
 - Temporarily allow for payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay.
- DMAS should temporarily allow overtime for CD services attendants who are not live-in.

2) **Communication with waiver participants and families**

Communication from DMAS and DBHDS to individuals, families, providers and stakeholders is the concern we hear most. It is important that communication from DMAS and DBHDS is clear and complete and provided in an understandable manner. Clearly, families and consumers have different questions and needs than the providers do. It is also critically important that the information gets to waiver participants and their families and specifically addresses their questions and concerns. As of the date of this letter, no information for individuals and families (guidance documents or FAQs) could be found on the DMAS or DBHDS website. This is concerning, we strongly encourage both agencies to provide information and resources on their websites for individuals and families.

There is one consistent resource across services and systems that can provide information to individuals and families: care coordinators. Care coordinators, in some way, touch the vast majority of waiver participants. A well-coordinated intentional approach to require care coordinators to reach out and provide vital information is so important. DD support coordinators are an important resource and ally for individuals receiving DD waiver services and can be a vital source of information, but they do not touch everyone across systems (CCC Plus

Waiver) like care coordinators do. We urge you to develop consistent messaging protocol for care coordinators, across both fee for service and health plans.

Families are experiencing a great deal of angst, fear and uncertainty. Please consider setting up a hotline to take questions and provide information. This could be included in an Appendix K submission. Taking such an action will demonstrate the state's commitment to share information and be a resource to individuals and families during this time of uncertainty and unprecedented challenges. The data and information collected could also be a tremendous learning experience for future emergency planning efforts.

3) **Mitigate undue harm or risk**

Facilitate and lead a process to identify individuals who are at greatest risk of harm or other vulnerabilities. There are many individuals who are able to live lives of purpose and independence with the support of personal care attendants. PCAs are their support for getting out of bed, going to the bathroom, eating, dressing and other ADLs. Absent this support, they may be at great risk. This is particularly true for people who do not have natural supports or other support systems available. We feel that it is critically important to identify who these people are in advance of a worsening crisis. This could be accomplished through a survey of providers, services facilitators or by care coordinators. This process can be relatively simple and targeted toward identifying these specific people. It will take discussion and work to develop a plan and strategy to accomplish this; we know there are stakeholders and advocates who would be happy to support DMAS and DBHDS in designing and implementing such an action. In addition, if a hotline is set-up, it could be a resource to these individuals -- they should be provided with the phone number and instructions for when to use the hotline. There is warranted fear on behalf of individuals with disabilities that they, by default, will end up in institutional settings and have a very difficult time returning to the community.

By raising these concerns with you, we do not intend to in anyway denigrate the extraordinary work being done by your agencies in these exceptional times. We know you share our commitment to the health, well-being and independence of all the individuals we mutually serve. Please do not hesitate to reach out to any of us for further discussion or if we can be of assistance.

Sincerely,



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