

PART C PLAN B COMMITTEE MEETING
DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND
SUBSTANCE ABUSE SERVICES
RICHMOND, VIRGINIA
DRAFT MINUTES
04/05/04

The second meeting of the Plan B Committee was held Monday, April 05, 2004, at the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). The following members were in attendance: Carol Burke; Nancy Butts; Beverly Crouse; Mary Ann Discenza; Tom Geib; Jim Gillespie; Carol Granger; Jim Henson; Debra Holloway; Jan Jessee; Katy McCullough; Shirley Ricks; Dr. Patricia Devitt; and W. J. Thomas. Karen Durst served as the recorder.

Jim Henson, the meeting facilitator, welcomed the members and introductions were made. Jim then presented the following agenda for the meeting:

- Allocations
- Capitated Rate
- Guidance
 - On-Site Evaluation
 - Cap on Evaluation Rate
 - Implementation of Services and Supports
 - Screening of Billing
 - Data Instrument
 - Parent Awareness
- Medicaid
- Regionalization of Public Awareness (economy of scale)
- Others
 - Katy McCullough added the topic of guidance related to council coordinators.

Shirley Ricks, the DMHMRSAS Manager of Family and Children's Services, thanked the group for their attendance and commitment. She added that there was recognition that making the decisions related to the interim plan for Part C was not an easy task. She stated that the following remain the goals of the Part C program:

- Obtaining funding from the General Assembly;
- Providing Part C services to children and families; and
- Maintaining a family-friendly focus.

Jim Henson then opened the discussion to ideas related to the allocation of the available \$9,044,704. David Mills joined the group to address issues related to the various scenarios that were provided.

Tom Geib stated that boards receiving one-time additional funds might be in agreement to seeing the funds taken away with the assumption that this would be a short-term

dilemma. He stated that as new money became available that these boards should receive the funds first, whereby providing “future relief”. Tom reported that some localities would approve this plan and others would reject it. He emphasized that some areas, such as Region 4, had already tightened their finances as much as possible. He cited Fairfax as being the locality that would take the largest cut. Tom stated that some areas saw the problem as a state issue based on the state statute.

Tom’s final suggestion was to allocate the funds based on the 2002 formula approach. The one-time additional funds would be eliminated with the plan that future relief would be given to those localities first as new funds became available.

Jim Gillespie then presented a variation of Tom’s model. He suggested that future growth should tie into the formula and should include child count in order to establish the amount for the allocations. David clarified that the child count figures provided represent an average of the three-year annualized child count.

Concern was expressed related to the formula. It was noted that poverty is included in the formula but in actuality, the middle-income child costs the system more than those at the poverty level. Jim Henson stated that poverty is a reverse factor and is counterproductive related to the Part C formula. Mary Ann Discenza added that it has been said that the “formula is broken”. She added that the prevalence data from the cost study was considered for use in determining the allocations. However, she added that when David did further research, it was determined that the formula provided the least variance and was the most equitable in distribution. It was decided that much time had gone into developing the formula and that it should not be changed without extensive thought being given. It was determined that a crisis situation was not a good time in which to quickly change the formula.

Discussion moved to holding boards harmless that had not asked for one-time additional funds. It was stated that if allocations were distributed with a 28% decrease across all councils, everyone would be affected. In looking at the charts, it was noted that a few councils would actually have increases. It was questioned as to whether that would be fair to others. After further discussion, the members decided that all councils should be held to having no increase. David suggested recalculating the numbers to show the allocations if no council received less than a 5% decrease with any additional money then being distributed to those councils who had a cut of 40% or greater. He was to recalculate the figures.

Shirley asked the group if they were in support of the decision. It was noted that the Part C office ultimately would have to take a stance but that buy-in was needed from the group. Concern was expressed about the councils who had special circumstances where the data did not depict the true situation such as PD 14 and Portsmouth. It was asked if special consideration should be given. The consensus was that while everyone was concerned about the councils, that the focus had to remain on the concept of universality and must be fair and equitable.

The following comments and questions were made related to the allocation of funds:

- Should a benchmark be set such as no council would take more than a 50% reduction;
- How would using one year's child count rather than three years effect the allocations;
- Should the extra money from setting a limit on the minimum decrease be set aside for a true crisis;
- Could that money be used for something agreed upon such as public awareness;
- The current cuts range from 8% to 51% based on the percentage of change from the 2002 allocation before the one-time additional funds were granted;
- Should the formula, which has a history of over ten years, be discarded after just an hour's discussion?

Shirley reminded the group that this was just an interim plan. Jim Gillespie stated that many things could change in the next 18 months if the General Assembly came through with funds or if the Department of Social Services (DSS) provided funds. He stated that the system would need to be ready to change if extra money would come in.

Jan Jessee stated that she had taken an average of the four proposals from last week in an amalgamated approach. She said that this left an average change for the councils of 28%. Jan stated this was a blend of the child count and the formula.

The conversation continued with Shirley asking what process would be followed if the funds from DSS and/or the General Assembly were given. She asked if the formula would be used or the same methodology that the group decided on.

Tom Geib reiterated that he felt that the funds should go into the restoration of those councils who had lost the one-time additional funds. He stated that once the total figure was back to \$12,000,000, and everyone was back to their previous status, then any extra funds should be distributed.

Jim Gillespie expressed that he felt that the funds should be tied back to the formula or the child count. Concern was expressed about impact upon those councils who did not receive the one-time additional funds previously.

It was then asked how the decisions were made related to the approval of the previous one-time additional funds. Shirley explained that councils applied for the funds based on a variety of needs and that justification had to be provided as to the need. She added that increased child counts; provider issues; associated costs; and the Ability to Pay were some of the justifications.

Jerry Thomas proposed allocating the money based on a proportioned rate of each council's percentage of the previous \$12,518,291 in comparison to the existing \$9,044,704. After further exploration it was determined that this approach resulted in numbers very similar to the 28% overall cuts.

Jim Henson asked the group if the modified version would work that David had proposed of holding all of the councils to no less than a 5% decrease with the remaining money being allocated to those councils with reductions above 40%. This continued to be identified as a possible alternative. It was stated that this was a means of trying to be equitable to everyone. Seven councils were identified as having cuts above 40%.

Jim Henson then brought forth the topic of a capitated rate. Mary Ann Discenza defined a capitated rate as a means of cost containment. This was related to evaluation and assessment, the average cost per child and the associated costs. It was noted that this must still allow for individualized planning.

Jan Jessee shared that a subgroup of the Infrastructure Task Force had met related to associated costs. She stated that an attempt had been made to define what was included within the associated costs. Jan stated that the costs were not limited just to travel. Mary Ann added that the group had attempted to identify what the costs were for meeting the Part C requirements that were above and beyond what would be the costs for serving other individuals. She stated that a consensus had not been met as to what was a fair way to address the issue. Mary Ann asked the group if the associated costs should be capped at a determined percentage in the same manner in which the Administrative line item is capped to 3% with the local budgets.

It was requested that the group come up with an interim plan related to the associated costs and that the Infrastructure Task Force could look at the long-term. Concern was expressed that some providers might leave the system.

Jan expressed that in setting rates for associated costs that it was important to look at how services were being provided. She stated that her therapy agency had asked for associated costs funds in her area but that they still have taken a loss. She added that just adding more money to the system would not be a solution and that there was a need to change the system.

Shirley asked if entitled Part C services were being over-identified across the state. Carol Granger stated that this was not the case in the Richmond area with the average number of services being 1.2 a week. She stated that this included special instruction and service coordination. The discussion continued with regard to entitled services versus consultative services.

Jan reported that the federal regulations define early intervention as consulting with parents and others in meeting the needs of the child; training; and participation with IFSPs. Shirley added that under Part D that all possible services are defined and the definition is given for occupation therapy, physical therapy and speech therapy. Jan stated that this pulls in the medical needs of the child and helping to train the family to meet the needs. It was stated that the federal regulations do not give a full interpretation.

After further discussion it was stated that at the federal level, it is expected that Medicaid will pay for children who need services. The following specific problems were noted:

- Medicaid reports that they have received federal direction stating that they are not to pay for services in natural environments;
- Medicaid will not cover consultation;
- The reimbursement rate from Medicaid is not sufficient and results in costs to Part C; and
- There is an unreal expectation that Medicaid will pay for services that are listed under “other” on the IFSP.

Jim Henson raised the question as to how a capitated rate for administrative costs would affect these issues. The following discussion occurred:

- There is no consistency across localities and there may be a higher cost for some;
- Some areas may lose providers;
- The costs for natural environments must be met;
- The only way to make it work is to look at the frequency and intensity of services;
- The issue of medical services being provided as apposed to developmental indicates a need for training; and
- There is a limited pot of money to be given and localities must be able to function within that limit.

Following lunch, Jim Henson asked the group if there was a consensus on how the allocation should be distributed. The members identified the following two considerations:

- No council will receive less than a 5% reduction with any money remaining after those adjustments being redistributed to those councils with a reduction of greater than 40%.
 - This methodology relates to child count with a modification.
- There will be a 28% reduction for all council.
 - It was identified that this would keep all councils operational and may be a better choice.

The members considered the following related to the methodologies:

- Would councils be able to operate;
- Would this penalize those councils who had received one-time additional funds;
- Was this an equitable method; and
- Would others be in agreement?

The members then voted by a show of hands as to which methodology was preferred. Six members selected the 5% reduction and redistribution method. Three members voted for the 28% reduction. Some members did not vote. Discussion continued related to the scenarios.

The question was again presented as to whether there was any way to address those councils who had special considerations or who were taking the largest cuts. The following discussion occurred:

- Could any additional or left-over funds be given to those councils;
- Should any additional or left-over funds be distributed across all the councils;
- Could any carry-over money be distributed; and
- Could future relief be based on child count;

It was stated that the status of funding by the General Assembly and DSS funds would be known prior to localities being notified of their allocation amounts. Tom Geib added that whatever scenario was chosen, that the group must show that the process was rational, thoughtful and fair.

A second vote then occurred based on the two previously identified scenarios. The results were four votes for the minimum 5% reduction with redistribution of the remaining money. Five members selected the 28% reduction for all localities. Shirley will provide this information to the administrators at DMHMRSAS for a final decision.

Jim Henson then brought up the topic of how to manage the allocation and what the state Part C office could do to assist. Discussion centered on whether the state should cap the evaluation and assessment rate. The following discussion occurred:

- If this would occur, it must be done within 30-60 days;
- The services that are being talked about need to be clarified;
- What is good for the system is “all over the place” and this may be impossible to determine;
- Could there be a cap based on the number of people participating in the evaluation multiplied by a state average hourly rate multiplied by the number of meetings, with a limit being set as to the number of meetings, and a rate for an hour of writing-up the results;
- Should a regional approach be taken;
- Should there be a limit to the number of people participating in the evaluation;
- Guidance should be provided on the issue of the use of existing evaluations;
- Can a different charge than what is considered to be “usual and customary” be used and still be legal;
- Could there be a plan as to payment at the amount of last year’s rate for evaluations or a specific set rate, whichever is less; and
- The cost for evaluations is not the issue in some areas but rather the associated costs for services and the Ability to Pay.

The question was raised as to what could be accomplished within 30-60 days to address the existing needs. The following were identified:

- Set a cap on the associated cost for the provision of the entitled Part C services;
- Limit the amount that could be budgeted in the line item of Council Operations which includes limiting the Part C dollars that could be used to pay for a council coordinator’s position;
- Eliminate the budget line item of Systems Components which includes training; data; transition; public awareness; family support; and child find;

- ICCs need to be responsible with the focus of the money being budgeted to direct services;
- Data must be included and should be placed under the Administrative line item; and
- There needs to be a clarification as to the role of the council coordinator.

The conversation returned to the issue of the associated costs. It was stated that the meaning of associated cost must first be clearly defined. The definition was given as those costs that are associated with the provision of the entitled Part C services that would be above and beyond what would be provided for non-Part C individuals. It was decided that a cap would be determined that would set a rate to be paid and would include a limit on the number of visits per month for which the fee would be paid. It was suggested that the number of visits for which the fee would be paid should be capped at two per month. The statement was made that this would encourage providers to look at utilization.

The topic then addressed the need for guidance for councils for when they do run out of money. The following discussion occurred:

- Should allocations be made on a quarterly basis whereby alerting the system early when shortages are going to occur;
 - The response was that the Part C office has been tracking expenditures from localities on a quarterly basis but the obligating of money must also be tracked;
- It is not known what money is in the system from local and state dollars and if the Part C office is running the system, then it must be known what is happening financially in the field;
- The General Assembly wants to know what money is in the system;
- Part C has no control over all the dollars that are coming into the system, only the Part C dollars;
- The ICC needs to report how they are spending the Part C dollars including the units of services, how much has been encumbered and the associated costs;
- There needs to be a data instrument to track the information on a monthly basis;
- Guidance must be given to localities on how to use the tool;
- This would enable localities, and the state, to see how much money was remaining in their system and to plan accordingly;
- There is difficulty in determining the number of children who may come in to the system or exit the system monthly; and
- Assistance in the form of guidance and training would be needed related to addressing the Ability to Pay issue if a locality would run out of money.

Shirley Ricks stated that the Part C office will come up with a tool for over site and management of the system but the localities would have to keep up with the information. Katy McCullough stated that she tracks the information monthly for her council and would be willing to share her tracking tool as a possible guide.

The group then asked how to address the issues that would place the localities in noncompliance, such as waiting lists. The members talked about the following:

- What is considered to be an unreasonable period of time to wait for the initiation of services when a child is coming into the system;
- The federal guidelines do not address the frequency of services but only that the child is entitled to the service.
- A judgment call should be made as to what is considered to be unreasonable with consideration being given to “reasonably minimizing” any delay;
- Should best-practice and best judgment include looking at establishing guidelines for frequency and intensity and then anything over that level would warrant a review;
- What about the question of individuality; and
- Others states are providing a guiding number but the IFSP team must be part of making the final decision.

The point was stressed that the state needs a proactive means of addressing and managing the system. It was stated that localities need to create a plan if services cannot be provided and they should document and show that the problem is being worked on.

The committee decided that a position on the level of frequency and intensity should be taken. If services are being provided above the recommended level, then a justification must be given and a review process will occur. It was agreed that the position on frequency and intensity should be included in the contract and also in the contracts that localities establish with providers. It was stressed that training would be needed and that the review process must be managed properly.

Jim Henson stated that the purpose of the review would be to establish good intervention practices. Jim stressed that decision must be made in consultation with the IFSP team and that it may involve rearranging services. He stated that it is possible to come up with solutions that work for the family.

Jim then brought forward the topic of Medicaid. He stated that 37% of the Part C children in Virginia are Medicaid eligible. However, only 13% of the revenue is from Medicaid. He reported that the revenue should be higher based on the figures. Shirley stated that the Medicaid reimbursement rates are so low and that the state needed to aggressively address some of the Medicaid problems. The following conversation occurred:

- Are there localities who are not accessing targeted case management;
- Some of the problems that exist are occurring regionally;
- Medicaid does not cover the costs but localities are making an effort to bill; and
- It is good to have one approach/format on whether Part C or DMAS documents are to be used.
 - Mary Ann Discenza stressed that the IFSP was revised in 2000 in collaboration with DMAS. The purpose was to ensure that the IFSP met

the requirements of both Part C and DMAS. The agreement was that the IFSP was acceptable to DMAS.

Parent Awareness was the next topic to be discussed. It was acknowledged that it is imperative that parents are kept informed with communication occurring as to the status of Part C. This was identified as necessary to ensure family support and advocacy. Continuous family involvement was noted as being crucial.

Tom Geib identified the following elements are being important in all communication from Part C:

- Written communication should be provided;
- The communication should be timely;
- The communication should occur as far in advance as possible;
- Regional aspects or individual approaches may be needed; and
- There should be a consistency with the communication.

Additional thoughts, potential solutions and concerns were stated:

- The Ability to Pay sliding fee scale should be looked at for determination if the amounts should be increased and should this be considered yearly;
 - Should the ATP work group be reconvened;
- How quickly are children being discharged from the Part C system when they no longer need services or are no longer eligible;
- Consideration should be given to the payment for assistive technology devices;
 - Should payment be spread over a period of time related to family fees rather than a one-time, one-month payment of the cap;
- Encourage regionalization whenever possible such as with child find and public awareness;
 - It was stated that many localities are already regionalizing some activities in some areas;
 - It was further stated that Part C should require localities to regionalize some activities rather than simply encouraging them;
- When looking at 40 different sites, regionalization related to intake would result in savings;
 - There could be individuals regionally who specialize in completing intakes; and
- Looking at the number of children referred to the system and the percentage of those who are actually eligible is something that will occur in the future through the OSEP focused monitoring. However, is there something that can be done to manage this in the short-term?

The question was then asked as to the projected time-lines for the Part C contract and the release of the allocation amounts. Shirley responded that the hope is that the draft contract will be available in a week to two weeks. She stated that the draft contract would have to go out for public comment. The plan is for a 30-day public comment period. Shirley added that the recommendations of the group would be added to the

contract to include capping the associated cost, a plan for reviewing frequency and intensity and limiting the budget line item of Council Operations.

The following clarifications were provided on issues as the meeting concluded:

- Mary Ann Discenza reported that changes to the ATP scale would require reconvening the ATP work group and would require time. Therefore, this would not be doable in the short-term.
- The Part C office will determine the amount that will be provided in Part C funds for the employment of council coordinators. The functions of the council coordinator will be left to the decision of the localities and related to the local autonomy.