

Advocacy Center
Quarterly Report to the DD Council
(June 22, 2012)

Update/progress on agency initiatives

1. Bayou Health To Include Waiver Recipients

The Department of Health and Hospitals (DHH) announced a major change to the provision of healthcare services for waiver recipients. If the change takes place as planned, most people on Medicaid waivers will be required to get their non-waiver services through Bayou Health. Non-waiver services include doctor and nurse visits, hospitalizations, therapies, equipment and supplies, etc.

The Advocacy Center informed DHH that, in our opinion, the transition is illegal, since DHH has not changed the regulations that currently make waiver recipients exempt from Bayou Health. Though DHH had already started to require waiver recipients to choose among Bayou Health plans, it has rescinded this action and has informed all waiver recipients that their Medicaid services will not change, and they do not have to select a plan, until further notice.

If this change does move forward, most waiver recipients will have a choice of one of five private health plans. If they do not choose a plan, DHH will choose a plan for them.

The only waiver recipients who are not required to participate are:

- those under age 19
- those on Medicare
- those on LaHIPP (Louisiana Health Insurance Premium Payment (LaHIPP) is a part of Louisiana Medicaid that may pay some or all of the health insurance premiums for an employee and his/her family if the employee has insurance available through his/her job and someone in the family receives health coverage through Medicaid.)
- those receiving hospice services

The initial letters sent by DHH mistakenly did not mention that recipients under age 19 can opt out of Bayou Health. This was a mistake, and will be corrected if the plan to include waiver recipients goes forward.

The Advocacy Center has asked DHH to make Bayou Health optional for waiver recipients over age 19 who are not on Medicare or LaHIPP.

Due to their complicated health needs, waiver recipients often have multiple physicians. This means many will have to change some of their physicians if placed under Bayou Health, particularly under the prepaid plans. Studies in other states have not yet shown significant savings by placing these recipients under Managed Care.

More about Bayou Health plans:

- There are two types of plans: shared savings (CCN-S) and prepaid (CCN-P). For the two shared savings plans (*Community Healthcare Solutions* and *United Healthcare*), only your primary doctor (who gives basic health care and refers you to specialists) needs to be in the plan. People in these plans can use any Medicaid doctor for the rest of their services. If you have not been able to find needed specialists who will take Medicaid, this may not be the plan for you.
- For the three prepaid plans (*Amerigroup Real Solutions*, *LA Care*, and *Louisiana Healthcare*), all doctors and hospitals that you use must be in the plan. If you need a type of specialist the plan does not have, the plan is required to arrange and cover the cost for you. If you are happy with your current doctors and they are not all in the same plan, this may not be the plan for you.

To learn more about the potential benefits and drawbacks of each type of plan, read the flyer "Bayou Health Basics" attached.

If you have any problems accessing the medical care you need under Medicaid, contact the Advocacy Center.

2. Bayou Health to Include Pharmacy and Dental Services and “Acute Medical Services” for Residents of ICF/DD Facilities and Nursing Homes

On June 25, 2012, the Department of Health and Hospitals announced that acute care services for three additional populations - nursing home, ICF-DD and waiver recipients - and two additional services - dental and pharmacy services - will be carved into managed care. The Advocacy Center is investigating this change and its potential impact.

If you are aware of problems accessing medical care, pharmacy benefits, or dental services under Medicaid for residents of institutions or people in the community, contact the Advocacy Center.

3. When A House Is Not A Home: An investigation into conditions, care, and treatment in select group homes for people with intellectual disabilities in Louisiana

Advocacy Center ombudsmen continue to work with the Department of Health and Hospitals to ensure quality of care in group homes will improve. AC staff will be working with OCDD to investigate the sanctioning process and other issues related to the quality of care provided to residents of group homes as part of a work group that will be convened.

4. Legislative Update

- Mental Health Bill of Rights (HB 846) – This Advocacy Center initiative guarantees certain rights for people with mental illness which include the right to live in the most integrated setting appropriate, to participate in their treatment plans, to self direction, and to refuse treatment unless this creates a danger to self or others. This bill has resulted in a law, Act 418, that is very similar to the one in place for people with intellectual disabilities.
- Community Choice Waiver Slots –As a result of a case brought by the Advocacy Center, Governor Jindal’s Executive Budget funded 500 additional Community Choices Waiver (formerly the Elderly and Disabled Adult Waiver) slots. Over 25,000 people are waiting for this service, struggling to stay in their home without the assistance they need to avoid going into a nursing home. These additional slots were funded for 2013.
- Bullying (HB 407/SB 619)– AC worked with a number of groups to support a bill to provide additional protections against bullying for students. This bill failed. SB 764, an alternative bullying bill, does not include a prohibition of bullying based on specific characteristics. However, it does provide for staff training and reporting of bullying incidents, among other things. This bill was signed by Gov. Jindal and is now Act 861.

5. Home Nursing Services Issues

As reported previously, Advocacy Center staff initiated legal action on behalf of children who are being denied Medicaid home nursing services or

whose hours are being reduced even though the children's conditions haven't improved. Additionally, there are problems with the DHH contractor suggesting alternate services instead of home nursing without informing parents and doctors about the limitations of the alternate services. If you know any Medicaid-eligible children (especially those on the NOW waiver waiting list) who have faced cuts in home nursing services, please encourage them to call the Advocacy Center.

Update: The judge in *Chisholm v. Greenstein* heard arguments on April 25. A decision is pending.

6. Preparations for the 2012 Presidential Election

The Advocacy Center will be partnering with the Secretary of State to conduct outreaches regarding voting rights and demonstrations of accessible voting machines during August and September 2012. Contact the Advocacy Center if you are interested in training on voting rights and/or demonstrations at upcoming conferences and events. Staff will distribute more information on the events at the Council meeting or via email.

7. Recent Successes

One Call That's All

A client receiving the NOW called the Advocacy Center to report a life-endangering situation. His provider agency told him that they would no longer perform tracheotomy care. Rather, the provider would simply call 911 if the tube became dislodged or leaked. This was extremely dangerous - the client could easily die in the minutes it took for an ambulance to arrive. Further, the provider refused to cooperate with his "sliding scale" insulin maintenance. The client's sleeping schedule was inconvenient to the provider's shift changes. He would have to conform to their schedule of insulin dosing.

The client told his provider he was calling AC. According to the client, all he had to do was say our name and the provider got nervous. An AC attorney made one call to OCDD. By the next day, the provider decided our client's care would remain unchanged - he would be an "exception" to their new rules.

Birthday Cakes No Longer Used as "Leverage" at Supports and Services Center

Recently, a resident at a supports and services center complained to his

AC advocate that he was not allowed to have a birthday cake for his birthday because he was on "red status", one of the levels in the facility's behavioral modification system. When individuals are put on red status for "maladaptive behaviors," many of their privileges are taken away. The psychology staff, who monitor the Level System, felt that having birthday cake was a privilege and that individuals on red status should not be able to participate in that privilege.

The AC advocate brought the issue directly to the Client Rights Officer (CRO). The CRO investigated and learned that the "birthday cake situation" was even worse than reported. Every month, the kitchen at the facility produces a cake for each home in celebration of all resident birthdays. Some home supervisors did not even bother picking up the cake for their home. The CRO also confirmed that the highly restrictive level system was being used to deny things such as birthday cakes.

In response to the Advocacy Center's complaint, the Administrator at the facility ordered all home supervisors to pick up cakes each and every month and informed all staff and residents that residents are allowed to have birthday cakes regardless of their level.

Status of agency's activities/participation on DDC plan initiatives and impact

Objective 3.2 Admissions to developmental centers will cease by increasing access to behavioral and medical intervention in the community and the discontinuation of people adjudicated into developmental centers.

Activity 3.2.1 Advocate in collaboration with the Advocacy Center

- For additional short term emergency placement for behavioral health and medical stabilization
- For increased capacity of the HCBS system to address the needs of individuals with behavioral and medical support needs

Advocacy Center staff continue to investigate access to adequate behavioral and medical health services for individuals living in institutions and in the community. The recent announcement by the Department of Health and Hospitals regarding the inclusion of waiver recipients and acute services for residents of ICF/DD into Medicaid managed care complicates

the issue further. Advocacy Center staff continue to monitor the situation and welcome reports of problems.

Objective 3.3 The number of people in private ICFs/DD per capita in Louisiana will decrease to reach the national average through the transition of people to home and community based services.

Activity 3.3.1 Advocate for:

- A Money Follows the Person (MFP) policy to allow residents of private ICFs/DD to obtain waiver services
- The MFP grant program to target residents of private ICFs/DD

Advocacy Center staff continue to support the DD Council's efforts in this area.

Objective 7.4 Students will be protected from discipline practices that cause harm and/or violate their rights.

Activity 7.4.1 Educate legislators, policy makers and the general public about harmful practices (e.g., restraint and seclusion, corporal punishment, unnecessary use of law enforcement, etc.) and alternative positive evidence based options (e.g., positive behavior practices, etc.) and advocate for policies and practices that promote the safe and effective practices in collaboration with the Advocacy Center.

Advocacy Center staff continue to outreach to parents of children with disabilities regarding the inappropriate use of restraint and seclusion. Staff welcome calls from parents on these issues.

No additional update.

Objective 9.1 Louisiana will develop and implement an Employment First plan.

Activity 9.1.1 Advocate for

- policies that incentivize services for individualized integrated, competitive employment and dis-incentivize segregated, sheltered day habilitation services,
- sheltered workshops to transition people into individualized, competitive, paid employment and discontinue admissions into segregated day programs,

- collaborative policy making and practices across state agencies that promote students being supported in and transitioning into competitive paid employment,
- implementation of ongoing multiagency employment data collection, management and analysis.

Advocacy Center staff continue to work with members of the Employment First work group to implement these policies. Staff recently met with Dr. Laura Brackin regarding OCDD's efforts in this arena and look forward to supporting these efforts.

Objective 9.3 The Louisiana Vocational Rehabilitation (VR) program's federal draw down will increase.

Activity 9.3.1 Advocate for Louisiana to draw down the entire VR grant award and serve individuals with the most severe disabilities.

No action on this objective.

Objective 9.4 Family members and others will be knowledgeable about options for integrated, competitive employment in collaboration with the Advocacy Center and the LSU-HSC Human Development Center.

Group home ombudsmen continue to promote access to a variety of employment options and alternatives to sheltered workshops during quarterly visits. As part of the supported living ombudsman project, staff will promote options for competitive, integrated employment.

As noted in 9.1.1, the Advocacy Center is committed to supporting the efforts of OCDD in this arena.