

Advocacy Center
Quarterly Report to the DD Council
(December 18, 2014)

Update/progress on agency initiatives

1. Settlement Reached in Litigation Involving Medicaid Notices

A federal judge has approved a settlement between the Louisiana Department of Health and Hospitals (DHH) and the Advocacy Center in a class action lawsuit brought on behalf of Medicaid recipients.

This case, *Wells v. DHH*, involves the notices being sent by DHH to people on Medicaid when services are denied or partially denied. This includes the notices sent by DHH as well as those sent by any of its contractors, including its five “Bayou Health” plans, which provide general medical services to Medicaid recipients, and Magellan, which coordinates behavioral health services.

The lawsuit claimed that these notices did not give enough information about the reasons for denials or partial denials of prior approval. Also, the suit claimed that Medicaid notices should be written in clearer language. With better notices, recipients will understand the decisions, know specifically what has been approved and what has been denied, and know what other information would help to get an approval.

If your request for Medicaid services was denied or reduced and you didn’t receive a notice or don’t understand why, contact the Advocacy Center.

2. Income and Eligibility for Waiver Services

The Advocacy Center recently set a letter to the Department of Health and Hospitals expressing concerns about how Medicaid staff calculate waiver eligibility based on income and medical expenses. If eligibility is not counted correctly, this could discourage individuals from working and may exclude individuals from the waiver programs entirely. In some cases, individuals with incomes over 300% of the federal SSI rate can qualify for waiver services. If you or anyone you know has been denied waiver services based on income or has concerns regarding income and waiver eligibility, contact the Advocacy Center.

3. Concerns Regarding Transition

The Advocacy Center is very concerned that students with disabilities are not receiving adequate transition services. Under the Individuals with Disabilities Education Act (IDEA), public school districts must help special education students and their parents make the transition from high school to life after school. Transition planning is determining what services, education, employment, and even living skill activities will best help each student meet his or her needs. Individual Education

Programs (IEP's) must provide a transition plan for meeting the student's post-school goals.

Attached are two flyers, explaining transition and how Louisiana Rehabilitation Services can get involved in transition planning.

Please share the flyers and encourage parents to contact us if they are not receiving appropriate transition services.

4. New Orleans' First Wheelchair Accessible Taxicab Now In Service

After more than 3 years of advocating for accessible cab services in New Orleans, people who use wheelchairs or scooters can now schedule a cab to take them to their destination like everyone else. Prior to this new taxi service, people with mobility impairments had to schedule transportation services 24 hours in advance of need. With this new service, a person with a disability can now schedule accessible transportation within minutes of making a phone call. People who are in need of an accessible cab can call the Move NOLA Taxi dispatcher at (504) 533-0000.

5. State run program designed to “provide enhanced supports to individuals in the community who may be at risk of having sexually inappropriate behaviors”

The Office for Citizens with Developmental Disabilities recently began a program targeting people who are "at risk" of sexually inappropriate behaviors and receive support from OCDD, including those on and transitioning to waivers and who receive significant state funded support.

For those individuals identified, a special OCDD team will review their plans of care and make recommendations to the individual's team for additional or different supports and services that may help. OCDD has said that they do not intend to restrict anyone's rights in this process.

The Advocacy Center is monitoring the program and assisting individuals who are impacted. There seems to be some confusion in the regional offices and we have seen delays in transition to home and community-based services related to the program. If you know of anyone who has had problems with the program, please let us know.

6. Changes to Bayou Health Coming Soon

In 2012, the Louisiana Medicaid program converted to managed care for most Louisianans who qualify for Medicaid.

This Medicaid program, called Bayou Health, is comprised of five private plans. Each person who receives his health care through Bayou Health has the option to choose a new plan during one “open enrollment period” each year. (Plans can be changed at any time if the enrollee can prove there is a good reason to change.) The open enrollment

period ends on January 20, 2015. Anyone who has previously opted out of Bayou Health can opt back in at this time.

Anyone who currently receives services from one of Bayou Health's plans should have received a letter in November from Bayou Health about open enrollment.

For the new Bayou Health contract period starting February 1, 2015, a major change is that **some people who were previously not able to participate in Bayou Health will be able to participate. We will soon publish this list on our website.**

Other changes include:

- **Community Health Solutions** will no longer operate as a separate plan. Community Health Solutions members **have the option of choosing a new plan, or they will be auto-assigned to a plan before February 1, 2015.** Anyone who is auto-assigned to a plan should be assigned to one that includes his or her current primary care doctor. Patients of primary care physicians who work with Louisiana Healthcare Connections will be moved to that Plan.
- **UnitedHealthcare** still has a Bayou Health Plan, but it is different from the current UnitedHealthcare Plan. The new Plan requires enrollees to get most Medicaid services from providers that are in the Plan, instead of being able to use any Medicaid provider. Additionally, the extra benefits offered by UnitedHealthcare will be different. Members of UnitedHealthcare **have the option of choosing a new plan or they will be auto-assigned to a plan before February 1, 2015.** Again anyone who is auto-assigned to a plan should be assigned to one that includes his or her primary care doctor. Patients of primary care physicians who work with UnitedHealthcare, will be moved to that Plan.
- A new Health Plan, **Aetna Better Health of Louisiana**, is now available.

Members of **Amerigroup, Amerihealth Caritas, or Louisiana Healthcare Connections will remain in those plans unless they call to request a change.**

Anyone who is not happy with the services they currently receive, and current members of the two plans that are changing (Community Health Services and UnitedHealthcare), should consider all options.

When reviewing the options, the most important consideration is whether your doctors and other providers participate. If you like your doctors and want to stay with them, you should choose a plan they will accept.

The State of Louisiana offers a website to help you find out which plan your doctors accept. Click here: <https://bayouhealth.com/LASelfService/faces/search.xhtml>. You can also call 1-855-BAYOU-4U (1-855-229-6848) to find out, or check with your doctors.

If you take prescription drugs, you should compare the differences in prescription drugs covered by the plans. Until September 1, 2015, different plans will cover different prescription drugs. After that date, all plans have agreed to cover a single list of drugs.

The State also publishes a chart with the incentives or extras that each Bayou Health plan offers. It is available here: http://www.dhh.louisiana.gov/assets/docs/BayouHealth/Open_Enroll_Comp_Chart.PDF

Remember, anyone who wants to make a change to his or her Bayou Health Plan must call the State before January 20, 2015 at 1-800-BAYOU-4U (1-800-229-6848). These changes go into effect on February 1, 2015.

If you have trouble getting the care, services, or medical supplies you need, call the Advocacy Center at 1-800-960-7705.

7. Supported Independent Living Program Update

The Advocacy Center will be asking the legislature for funding for the SILAP program, which provides ombudsman services to people with disabilities living in the community as funding was not included in the Attorney General's 2015-2016 budget. We would appreciate support from the DD Council at the legislature.

8. APS Pro Bono Project Update

On December 5, 2014, the Advocacy Center held a five-hour CLE to provide private bar attorneys with all of the information and training needed to represent Adult Protective Services Clients. Ten (10) attorneys attended the CLE. Of the ten attorneys in attendance, four (4) indicated that they plan to pursue this pro bono work, while two (2) indicated that they were undecided. The Advocacy Center filmed the CLE for future use as a video training tool. Once that video is edited and ready for use, a copy will be provided to the DD Council.

9. Recent Successes

Access To In Home Services

The mother of an eight-year-old child on the Children's Choice Waiver who has a significant disability that causes her to need an array of medical services, contacted the Advocacy Center for help. She asked the child's Children's Choice support coordinator about helping locate providers of specialized therapies in the home, but they could not find any providers. It was very important that the child receive these therapies at home because of her disability. The mom then contacted Medicaid's Specialty Resource Line, where it was suggested that she call Waiver Services. Waiver Services referred her to one of the Human Services Authorities. None of these agencies helped find a provider to provide in-home therapy.

The Advocacy Center attorney sent a letter to lawyers for the Department of Health and Hospitals, explaining that the Department was required by federal Medicaid law to locate and arrange for the provision of these needed therapies in the home, if that is what the

doctor prescribed. The Department was able to find providers of all of these therapies for the child and she continues to live at home with her parents.

Child Receives Services to Stay At Home

The parent of a two year old with cerebral palsy and other significant disabilities contacted the Advocacy Center for help after she received a notice that her son's home nursing hours were being reduced from 56 to 30 per week. This would mean that his mother would have no time to sleep or care for her other children. The Advocacy Center attorney helped the mother understand how to appeal and other issues related to accessing services via managed care. The mother appealed and the specialist at the managed care company approved the needed 56 hours per week. The child is now happily living at home with his mother.

Alternative School Is Not Appropriate

The Advocacy Center was contacted by the parents of a 5 year old with autism who was acting aggressively in his pre-K classroom. School officials wanted to send him to the alternative school, which seemed inappropriate for a child that young. The Advocacy Center attorney represented the child at a Manifestation Determination Review and the team found that the child's behaviors were related to his disability. At a separate meeting, the school rewrote the child's behavior plan and agreed to complete a functional behavioral assessment. The child is now doing much better in his neighborhood school.

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

Objective 3.1 4,000 people on the waiting list will begin receiving home- and community-based services by educating stakeholders, policy makers and the public about the waiting list and needed systems reforms.

Activity 3.1.2 Collaborate with other advocacy groups to plan and support Disability Rights Rallies.

Activity 3.1.3 Advocate for systems change initiatives, revenue generating strategies, policies and practices needed to expand supports and services.

Activity 3.1.4 Monitor the possible restructuring of long-term supports and services to a managed care system and advocate for an increased quality and quantity of services to be included in the reorganized system.

Activity 3.1.5 Research impact of managed care on individuals determined to be dual eligible and make recommendations to DHH.

Activity 3.1.6 Monitor the effect of Medicare/Medicaid dual eligibility on services for people with developmental disabilities.

The Advocacy Center continues to be concerned regarding the extensive waiting list for home and community based services and the transition to managed long term services and supports. No new information to report in this area.

Objective 3.2 Admissions to residential facilities will decrease by increasing access to behavioral and medical intervention in the community and the discontinuation of people adjudicated into state-operated facilities.

Activity 3.2.1 Advocate in collaboration with the Advocacy Center for

- additional providers with specialized expertise in behavioral services;
- the development of plan upon admission that includes specific activities, persons responsible and timelines for discharge or transition; and
- improving the home and community based system by soliciting feedback from individual families using or trying to access behavioral health services and sharing that information with the DHH leadership.

Activity 3.2.2 Advocate for self-direction to be exempted from medication administration requirements.

Activity 3.2.3 Advocate for adequate rates that support services for people with complex medical and behavioral needs.

Advocacy Center staff has successfully assisted several individuals with developmental disabilities to access community services via Magellan. We will be monitoring the integration of behavioral healthcare into Bayou Health and managed LTSS. We also continue to work with the Department of Health and Hospitals regarding access to therapeutic foster care and to address issues for individuals as we receive them.

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

- changes to the rate structure of the Residential Options Waiver to encourage private ICF/DD providers to convert their beds so individuals can transition to waiver services,

Activity 3.3.2 Advocate for initiatives that allow residents of private ICFs/DD to obtain waiver services.

The Advocacy Center continues to monitor access to waiver services for individuals with disabilities, particularly for individuals in group homes. Nothing new to report.

Objective 7.3 There will be an increase in the number of charter schools, early education programs, and other publically funded education facilities that approximate the percentage of students statewide served with developmental disabilities across all LEAs.

Activity 7.3.1 Advocate for improved oversight and monitoring of admissions and service delivery to students with disabilities in Charter Schools, early education programs, and other publicly funded education facilities in collaboration with the Advocacy Center.

Advocacy Center staff will continue to collaborate with the DD Council and LA TEACH to address systemic educational issues as resources permit.

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

Activity 7.4.1 Monitor and advocate as necessary against the use of 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.

Nothing new to report.

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,
 - LRS and OCDD will collaborate to mandate that all supported employment vendors/providers complete a university-based 40-hour training,
 - Support family members and other advocates to serve on the Louisiana work team in developing an Employment First agenda and implementation plan including participation in state level meetings.

The Advocacy Center recently began a project to monitor sheltered workshops to ensure they are complying with federal wage and hour laws.

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.

The Advocacy Center will continue to support efforts to increase LRS funding as resources allow.

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.

The Advocacy Center collaborated with the LA Developmental Disabilities Council and a number of disability groups to promote employment of people with disabilities in October 2014. We welcome additional opportunities to collaborate in the future.



ADVOCACY CENTER

LRS INVOLVEMENT in a STUDENT'S TRANSITION PLAN for EMPLOYMENT

What Are Transition Services and Planning?

Federal law requires that school districts plan for transition of students with disabilities to independent living, higher education, or employment after they finish school.

Transition services are provided to the student by the school district and other agencies, such as Louisiana Rehabilitation Services (LRS).

What Is LRS and What Services Does It Offer?

LRS is a state agency that assists persons with disabilities to obtain or maintain employment.

LRS transition services include vocational guidance and counseling, vocational evaluation, instruction, community experiences, and other services as needed to achieve the employment goal. General LRS services may include assistance with college tuition or another training program, job placement services, assistive technology, rehabilitative technology, transportation, and mental or physical health assistance, as determined by a job goal and what is needed to reach this goal.

What Is LRS Required To Do?

LRS is required to perform outreach at schools, as well as complete the student's Individualized Plan for Employment (IPE) within 90 days of eligibility determination.

Who Is Eligible For LRS Services?

An applicant must have a physical or mental disability that results in a substantial barrier to employment, and must require vocational rehabilitation services to prepare for or secure employment. The student or parent can apply directly for LRS services by contacting the LRS regional office nearest them. All students with disabilities who are interested in employment should apply for LRS services. LRS will determine eligibility.

Who Participates In the LRS Planning Process?

The student and their LRS counselor must agree on a career goal for the student's Individualized Plan for Employment (IPE). The student's IPE is separate from their IEP (Individualized Education Plan). Various assessments may be done by LRS to determine the feasibility of an employment goal, as well as the services that will be needed to meet that goal. These services are also included in the IPE.

How Can the Advocacy Center Help?

The Client Assistance Program (CAP) can assist with questions and concerns during a client's application and services with LRS. CAP can also assist with appeals of eligibility denials, and other adverse decisions by LRS. To contact CAP call 1-800-960-7705.



ADVOCACY CENTER

TRANSITION SERVICES and PLANNING

The Advocacy Center (AC) is a statewide non-profit agency providing **FREE** legal services to people with disabilities and seniors.

What Are Transition Services and Planning?

Transition services are a set of services provided to the student by the school district and sometimes other agencies. These services assist the student as he or she moves from high school to independent living, higher education (including college, vocational school and trade school) or employment. This is called “transition.”

Under the Individuals with Disabilities Education Act (IDEA), public school districts must help special education students and their parents make the transition from high school to life after school. Transition planning is determining what services, education, employment, and even living skill activities will best help each student meet his or her needs. Individual Education Programs (IEP's) must provide a transition plan for meeting the student's post-school goals.



Who Has the Right To Receive Transition Planning?

Every student with an IEP has the right to receive transition planning, no matter the student's skill level.

When Do Transition Services Start?

Transition services must start no later than the student's 16th birthday. Services sometimes start at a younger age. That is up to the student's IEP team. Transition planning takes place as a part of the IEP meeting.

Who Takes Part In the Transition Planning Process?

All IEP team members, including the student and parents, decide on transition services.

It is important for both the student and the parent to participate in transition planning, so that the student gets the best plan for his or her future.

Under IDEA, school districts are responsible for inviting representatives from other agencies, such as rehabilitative services or post-school education, to be part of the transition planning process. These agencies may also be responsible for providing some of the services needed by the student. If these other agencies do not provide the agreed upon transition services, school districts must find other ways to meet the transition goals of the student.

School districts must notify parents when transition services are to be discussed at IEP meetings and they must also get parental consent every time they want to invite a representative from an outside agency to an IEP meeting.

What Does Transition Planning Include?

Transition planning includes creating goals for the student after he or she finishes school. The goals will be based on transition assessments related to training, school, employment, and independent living skills. These goals should reflect the student's strengths, preferences, and interests. In determining these goals, the IEP team must determine what instruction and educational services will help prepare the student for a successful transition from school to post-school life.

As a part of transition planning, the IEP team must develop a statement of the transition services (including courses of study during the final years of high school) that the student needs in order to reach his or her post-school goals. The statement of transition services should:

- Define every activity that must occur,
- Identify who has primary responsibility for each activity, and
- Specify the dates that each activity will begin and end.

A student's courses of study should be meaningful to the student's future plans and motivate the student to complete his or her education.

How Long Do Transition Services Continue?

A school district is responsible for providing transition services as long as the student is eligible for special education services.

When a student graduates with a regular high school diploma or ages out of eligibility, the IDEA requires that school districts complete a summary of the student's academic achievement and performance. The summary of performance includes recommendations on how to assist in meeting the student's post-school goals.

If you need help or have questions about how the Advocacy Center assists with Transition Services and Planning, call or email us.

TOLL-FREE 1-800-960-7705 (Voice or Via Relay)
8325 Oak St • New Orleans LA 70118

www.advocacyla.org
advocacycenter@advocacyla.org
www.facebook.com/advocacyla