

**COLORADO  
DEPARTMENT OF HUMAN SERVICES  
DIVISION FOR DEVELOPMENTAL DISABILITIES  
And  
DEPARTMENT OF HEALTH CARE POLICY AND  
FINANCING  
LONG TERM BENEFITS DIVISION**



**CONFLICT OF INTEREST  
TASK FORCE**

**REPORT**

September 15, 2010

**Table of Contents**

**Introduction.....3**

**Task Force Members.....4**

**Recommendations.....5**

**Background and Overview of the Work of the Task Force.....14**

**Public Comment.....15**

**Attachments**

**A: Solicitation of Task Force Membership Memo.....17**

**B: Values Statement.....20**

**C: Option Analysis Template.....21**

**D: Options for Addressing Conflict of Interest.....22**

**E: Public Comment Forum Notice.....28**

## **Introduction**

The Colorado Department of Human Services (CDHS) and the Department of Health Care Policy and Financing (HCPF) have been aware of potential conflicts of interest in the developmental disability services delivery system related to the multiple roles that Community Centered Boards (CCBs) hold for some time. Several Community Centered Boards and the Division for Developmental Disabilities developed and implemented various safeguards intended to mitigate the potential for conflicts of interest. However, results of the State Auditor's Office 2009 Audit of the Home and Community Based Services Waiver for People with Developmental Disabilities indicated that the potential for conflicts of interest, examined in a December 2007 study by the University of Southern Maine (USM), Muskie School of Government titled "Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards" had not been resolved. To this end, in February 2010, the Departments solicited applications for and convened a stakeholder group to develop recommendations for resolving the conflict of interest issues inherent in the developmental disabilities system, the Conflict of Interest Task Force (COITF) (Please see Attachment A). To ensure broad representation of the various stakeholders, the Departments selected members to represent the following constituencies from locations throughout the State:

- Self-advocates
- Family members
- Community Centered Board staff and Boards of Directors
- Service providers
- Advocacy organizations
- The Developmental Disabilities Council
- The Legal Center for People with Disabilities and Older People
- Long Term Care Advisory Committee
- County Departments of Human Services
- Single Entry Point Agencies
- Other interested parties.

For the purposes of this Task Force the Departments utilized the following definition of conflict of interest: "A "conflict of interest" is a "real or seeming incompatibility between one's private interests and one's public or fiduciary duties."'" This definition clarifies that conflicts may exist in a system whether or not they are acted upon at any given time. The Task Force was charged with generating and evaluating options for system redesign and for making recommendations to the Departments regarding how to best resolve the conflicts of interest inherent in the developmental disability service system as outlined in the State Auditor's Office 2009 Audit of the Home and Community Based Services Waiver for People with Developmental Disabilities. This Report presents those recommendations. It is respectfully submitted on behalf of the Task Force Members listed below.

### Task Force Members

<b>Member</b>	<b>Association</b>	<b>Organization</b>	<b>Location</b>
Maeline Barnstable	Family, CSHA	Colorado Speech and Hearing Association	Denver
Jean Benfield	Self Advocate		Pueblo
Kathy Jean Brown	Family		La Veta
Tim Cairns	Family, Advocacy	The Association for Community Living	Boulder
Randy Chapman	Legal Advocacy	The Legal Center for People with Disabilities and Older People	Denver
David A. Ervin	CCB	The Resource Exchange	Colorado Springs
Jeff Konrade-Helm	Family		Thornton
Denise Krug	Service Provider	Goodwill Industries	Colorado Springs
Aileen McGinley	Advocacy	AdvocacyDenver	Denver
John Meeker	CCB	Developmental Pathways	Englewood
Carol Meredith	Family, Advocacy	The Arc of Arapahoe and Douglas County	Centennial
Sally Montgomery	Service Provider	Mosaic	Loveland
Timothy S. O'Neill	CCB	Foothills Gateway	Fort Collins
Marijo Rymer	Advocacy	The Arc of Colorado	Denver
Jennifer Sorensen	Single Entry Point	Mesa County Department of Human Services	Grand Junction
Warren Taylor	CCB Board of Directors	North Metro Community Services, Inc.	Henderson
Marcia Tewell	Public Policy Advocacy	Developmental Disabilities Council	Denver
Jayne Tschirhart-Short	Service Provider	Community Support Services	Aurora
Ann M. Turner	Service Provider	Cheyenne Village	Colorado Springs
Tom Turner	CCB	Community Options, Inc.	Montrose
Jenise May*	CDHS	Deputy Executive Director, Office of Veteran's and Disability Services	Denver
Sandeep Wadhwa, MD*	HCPF	Medicaid Director and Chief Medical Officer	Denver
Sharon Jacksi, PhD*	CDHS	Director, Division for Developmental Disabilities	Denver
Barbara B. Prehmus*	HCPF	Director, Long Term Benefits Division through June 28, 2010 Federal Policy and Rule Officer	Denver

\*Departmental Representatives were non-voting members.

## **Recommendations**

The Task Force recommendations were designed to address the seven areas subject to potential conflicts of interest initially identified by the University of Southern Maine in the study, Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards and outlined in the June 2009 Performance Audit Conducted by the Legislative Audit Committee, Controls Over Payments, Medicaid Community-Based Services for People with Developmental Disabilities, Department of Health Care Policy and Financing and Department of Human Services Performance Audit.

1. Information and Referral—CCBs are the focal point for clients and families to learn of available services and supports in the community. As a direct provider of care, the CCB has the discretion to limit access to information about other service provider agencies in favor of its own providers.
2. Eligibility Determination—CCBs conduct level-of-care determinations giving the CCB discretion to limit equitable access to services and providing CCBs an opportunity to screen out difficult-to-serve individuals.
3. Administration of the Waiting List—CCBs are responsible for managing waiting lists for services. This gives the CCB discretion to favor one individual over another or to fill openings in its own service provider agencies prior to filling vacancies at private service provider agencies.
4. Service Planning—CCBs create service plans and could identify service needs that benefit its own service providers or steer consumers to the CCB versus private providers for services.
5. Provider Selection—CCBs are responsible for assuring that clients are informed of all qualified providers in their area, however, the CCB could steer clients to the CCB's providers rather than to private service providers.
6. Rate Negotiation—CCBs can set different payment rates for providers that choose to have the CCB process all Medicaid billings on their behalf. This allows CCBs to pay its own providers more for the same service than it would pay other service provider agencies that choose to bill through the CCB.
7. Monitoring Services—CCBs are responsible for monitoring the implementation of the client's individualized plan, tracking and responding to client complaints, and reporting incidents. This role could allow CCBs to enforce a different standard for quality of care for its own providers versus for private providers.

For the purposes of this Task Force, the Departments utilized the following definition of conflict of interest: “A “conflict of interest” is a “real or seeming incompatibility between

<sup>1</sup> BLACK'S LAW DICTIONARY, Eighth Ed., Thomson West, St Paul, MN (2004) in Addressing Potential Conflicts of Interest Arising from the Multiple roles of Colorado's Community Centered Boards (2007), Booth, M. & Griffith, E., Institute for health Policy, Muskie School of Public Service, University of Southern Maine.

one's private interests and one's public or fiduciary duties.”” This definition clarifies that conflicts may exist in a system whether or not they are acted upon at any given time. The Task Force decided that they would attempt to reach consensus in decision-making regarding their recommendations and would make decisions by a majority vote if they could not. They also determined that in any cases where votes were taken, their report would reflect the vote taken and briefly describe the respective positions of the majority making the recommendation and any substantial minority opinion. It is the belief of the Task Force that this will give the Departments the most thorough information to consider regarding their deliberation process.

Specific recommendations, regarding how each individual function should be addressed are presented first. There is a general recommendation regarding the separation of certain functions overall, that follows. There is a final recommendation regarding the need for fiscal analysis of all recommendations prior to any implementation. This section will end with a list of topics the Task Force would like the Departments to consider when making their decisions.

## **Information and Referral**

### **Recommendation 1 (16 votes)**

**Formal information and referral functions regarding all DD Waivers, services, supports and Medicaid programs be assigned to either, existing single access point entities (SEPs), or a similar system of entities contracting with the State to provide initial information and referral for persons wishing to access any of these identified services.**

- **The SEPs or contractors will function completely independently from (separate finances and governance) any service providers.**
- **These SEPs or contractors will be available in local geographic areas throughout the State.**

**This change resolves the conflict of interest issues inherent in the formal information and referral process.**

- **16 of 17 voting Task Force Members believe this formal information and referral function should be coupled with eligibility determination.**

Since only one Task Force member voted against this recommendation, no formal minority position was identified.

## **Eligibility Determination**

### **Recommendation 2 (Full Consensus)**

**Eligibility determination for all DD Waivers, services, supports and Medicaid programs, be assigned to either, existing single access point entities (SEPs), or a similar system of entities contracting with the State to provide eligibility determination for persons wishing to access any of these identified services.**

- **The State will have final authority to approve eligibility.**
- **The SEPs or contractors will function completely independently from any service providers (separate finances and governance).**
- **These SEPs or contractors will be available in local geographic areas throughout the State.**

**This change resolves the conflict of interest issues in the eligibility determination process.**

- **16 of 17 voting Task Force Members voted that eligibility determination should be coupled with formal information and referral functions.**

### **Administration of the Waiting List**

#### **\*Recommendation 3 (Full Consensus)**

**Wait List administration, including case management necessary while someone is on the Wait List and initial notification, up to the point when the consumer is referred for service planning, be done by an independent third party who is not a service provider.**

- **The third party could be the State Division for Developmental Disabilities or the Department of Health Care Policy and Financing.**
- **Consideration to geographic location of the consumer should be considered as well as length of time on the wait list when openings in services occur and people can be removed from the wait list and begin receiving services.**

**This change will resolve the conflict of interest issues in administration of the Wait List.**

**This change could result in more consistent administration throughout the State and in data that is more meaningful about who is actually currently waiting for needed services and who is on the wait list for future needs.**

**\*The Division for Developmental Disabilities in CDHS is currently managing the waiting list for all HCBS DD Waiver programs with the exception of the Supported Living Services Waiver. Waiting list case management is currently being conducted by CCBs.**

## **Service Planning (Case Management)**

### **Recommendation 4 (9 votes)**

**Service planning (case management) will be done by an entity (or entities) that can provide local availability of case management services and is independent, with separate finances and governance, from those entities responsible for eligibility determination or service provision.**

- **These entities will assist the self-advocate or family with provider selection and monitor individual service plan implementation.**
- **This change should be implemented by a ‘phasing in’ process with as little disruption to consumers and families as possible.**
- **Careful consideration should be given to needs and conditions of rural and frontier communities with a possible process for formal exceptions in some small or remote locations.**

**This separation of functions will resolve conflict of interest issues.**

**Disruption to consumers and families receiving service planning in the current structure could be minimal. It is possible, and even likely in some circumstances, that the same Case Managers would be working with the same consumers, but be employed by different organizations.**

**Offering consumers and families a choice to seek services in a system where potential conflicts of interest exist does not address or resolve the conflicts of interest.**

### **Minority Position (8 votes)**

CCBs continue to offer both service planning (case management) and direct service provision. Consumers and families would have a choice between the CCB and another entity (the local SEP or another identified third party), to provide service planning.

- The entity that provides service planning, either the CCB or another entity, would monitor individual service plan implementation.

This option offers consumers and families choice.

It leaves much of the existing structure intact, which could cause less disruption to families.

It recognizes that the majority of consumers and families report being satisfied with their current service planning (case management).



Separation of functions will not prevent personal favoritism by individual case managers for specific service providers.

While this option does not resolve conflicts of interest, it may mitigate the likelihood that they will occur.

## **Provider Selection**

### **Recommendation 5A (9 votes)**

**Assistance with provider selection will be done by local entities that are independent, with separate finances and governance, from those responsible for eligibility determination or service provision.**

- **These entities will also conduct service planning (case management).**
- **Careful consideration should be given to needs and conditions of rural and frontier communities with a possible process for formal exceptions in some small or remote locations.**

**This separation of functions will resolve conflict of interest issues.**

**Offering consumers and families a choice to seek services in a system where potential conflicts of interest exist does not address or resolve the conflicts of interest.**

### **Minority Position (8 votes)**

CCBs continue to offer both assistance with provider selection and direct service provision. Consumers and families would have a choice between the CCB and another entity (the local SEP or another identified third party), to assist with provider selection.

- These entities would also conduct service planning.

This option offers consumers and families choice.

It recognizes that that the majority of consumers and families report being satisfied with their current service planning (case management).

Separation of functions will not prevent personal favoritism by individual case managers for specific service providers.

While this option does not resolve conflicts of interest it may mitigate the likelihood that they will occur.

### **Recommendation 5B (Full Consensus)**

**There should be a uniform, standardized, criteria-based and transparent process utilized by every entity assisting with provider selection throughout the State.**

- **This process must include informed consumer and family choice of providers.**
- **This process must include a statewide tracking system to identify which providers are serving which consumers.**

**This change will promote fair and equitable access to service provision throughout the State.**

**This change will also improve local communities' abilities and the State's ability to do more effective development and recruitment of providers and community planning.**

### **Rate Negotiation**

#### **\*Recommendation 9 (Full Consensus)**

**The State will set rates for all services for people with developmental disabilities.**

**Independent contractors and other service providers should be able to bill the State directly or contract with the State through a third party billing and payment entity (OHCDS or other billing agent).**

- **The OHCDS function should remain with CCBs.**

**This system addresses conflicts of interest by instituting a common rate system based on intensity of service.**

**It allows small independent providers to have assistance with difficult and complicated Medicaid billing that might eliminate them from providing services if they were required to do it themselves.**

**\*The Departments have completed this recommendation. Standardized rates have been set.**

### **Monitoring Services**

#### **Recommendation 6 (9 votes)**

**Service monitoring should be an included function in the duties of the entity that provides service planning (case management) separate from service provision.**

**The separation of functions will resolve conflict of interest issues.**

### Minority Position (8 votes)

If service planning (case management) is not separated from service provision and families can choose a CCB or another entity to provide service planning, service monitoring should be provided by the State Division for Developmental Disabilities or another independent third party contractor.

This would promote unbiased monitoring of services.

### Recommendation 7 (Full Consensus)

**Incident investigations involving mistreatment, abuse, neglect or exploitation (MANE investigations) should be conducted by an unbiased entity, either a State agency or contractor unaffiliated with either the involved service provider or consumer.**

**This will promote fair and unbiased investigations in these serious circumstances.**

### Recommendation 8 (Full Consensus)

**An independent third party entity should handle complaints about quality of services and appeals of decisions affecting services. The third party entity should be unaffiliated with either the complaining or appealing consumer or the entity about which the complaint or appeal is being made.**

- **This would not be the same entity that conducts MANE Investigations.**

**Independence in addressing complaints and appeals promotes a fair and unbiased process.**

### General Recommendation

#### Recommendation 10 (9 votes):

**Formal Information and Referral, Service Planning, Provider Selection and Monitoring of Services must be separated from Service Provision.**

- **Governance and financial direction of entities providing services should be independent from entities providing any of these functions.**
- **Consideration of rural or frontier communities must be given if this change is made.**

**This separation of functions will resolve conflict of interest issues. Multiple recommendations regarding how to separate each of these functions were presented earlier in this report.**

**Offering consumers and families a choice to seek services in a system where potential conflicts of interest exist does not address or resolve the conflicts of interest.**

Minority Position (8 votes):

CCBs continue to provide all of these functions simultaneously and offer each family a choice between their local CCB for all functions (in 19 of 20 CCB service areas) and an additional option for Formal Information and Referral, Service Planning, Provider Selection and Monitoring of Services.

- This option could include a different CCB in a different area, a 21<sup>st</sup> CCB designed to offer consumers and families choice throughout the State or another third party depending on the function.

This option would offer consumers (and families) choice.

This option would leave much of the existing structure intact, which may cause less disruption to families.

It recognizes that the majority of consumers and families report being satisfied with all of the functions they are currently receiving.

Separation of functions will not prevent individual favoritism by individuals providing different functions.

## **Additional Recommendation**

### **Recommendation 11 (Full Consensus)**

**These recommendations are being presented without a clear indication of their fiscal impact (either positive or negative) to the State. The Task Force recommends that the Departments and any implementation group created to address these recommendations complete a comprehensive fiscal analysis of these recommendations prior to implementation to ensure that adequate resources are available and that services to people with developmental disabilities will not be negatively impacted.**

- **The Departmental Representatives on the Task Force indicated that the first responsibility of the Task Force was to make recommendations based on the best possible outcomes for individuals with developmental disabilities, rather than eliminating options based solely on anticipated costs.**
- **While the Task Force did address some components of cost and funding in their analysis of issues, they did not have sufficient time to complete a comprehensive fiscal analysis of these recommendations.**

## **Considerations for Implementation of the Recommendations of the Task Force**

Task Force members identified the following factors important for the Departments to consider in any possible implementation plan.

- Local access to case management and service providers across the State was identified as one of the most important issues to consumers and their families through the public comment solicited by the Task Force.
- Implementation should cause as little disruption to consumers, families and their existing services as possible.
- Consideration of some process for phasing in structural changes or providing grandfathering for existing programs and circumstances should be considered if they would lessen disruptions to consumers and families.
- Wait list case management for high need consumers and emergencies is intensive work. It requires a great deal of time and attention in some cases.
- There is a need for focus on and support of local community capacity building in terms of planning and provider recruitment.
- Task Force members identified the benefit of building a system where there is an actual single entry point for all waivers and services, rather than the multiple “single” entry points that currently exist and make entering the system so confusing and overwhelming to families.
- Another concept Task Force members identified to address confusion in the existing system is a “no wrong door” approach for consumers and families to access information and services.
- A robust quality assurance component with actual incentives and sanctions will help ensure effective, quality services for consumers.
- The issue of Guardianship needs to be addressed for this consumer group.
- People who have developmental disabilities and who are non-verbal and unsupported by others may need additional consideration to ensure they have access to adequate and quality services.
- Consumers and families have the right to choose from among qualified providers willing to deliver their services.
- Early Intervention services are separate from these services directed to adults and should remain so.

## **Background and Overview of the Work of the Task Force**

The Departments assigned a Facilitator to coordinate the work of the Task Force, facilitate their meetings and prepare this report on their behalf. Jean McAllister, Administrator of the Colorado Commission for Individuals Who Are Blind or Visually Impaired, served in that role. The Task Force originally scheduled seven and ultimately held nine working meetings and one Statewide Videoconference to take public comment on the following dates:

March 9, 2010

March 25, 2010

April 8, 2010

April 22, 2010 April 29, 2010

May 13, 2010

May 27, 2010 June 1, 2010 (Public Comment Video Conference),

June 10, 2010

June 24, 2010

Prior to beginning their deliberation of options, the Task Force developed a Values Statement to guide their work (Please see Attachment B). As a part of this process, they made a commitment to have transparency in their work and decided to post all meeting notices, meeting Minutes, documents and presentation materials they reviewed on the CDHS Website ([http://www.cdhs.state.co.us/ddd/COI\\_Documents.htm](http://www.cdhs.state.co.us/ddd/COI_Documents.htm)), as well as this final report.

They began their work by gathering extensive information about the developmental disability system in Colorado and the concerns expressed by the Legislative Audit Committee and the University of Southern Maine Study about potential conflicts of interest present in the Developmental Disability system in Colorado. Their work included reviewing multiple documents, receiving numerous presentations, reviewing data and receiving information regarding developmental disability services in other states. A list of materials they reviewed follows. All of these documents and presentation materials are available on the website listed above.

- Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado's Community Centered Boards, Report to the Colorado Department of Human Services, Division of Developmental Disabilities, 2007, Institute for Health Policy, Muskie School of Public Service, University of Southern Maine
- Controls Over Payments Medicaid Community-Based Services for People with Developmental Disabilities Department of Health Care Policy and Financing and Department of Human Services Performance Audit June 2009, Office of the State Auditor
- Conflict of Interest Safeguards Workplan, Division for Developmental Disabilities, 1/15/10
- Analysis of Statutory Changes Needed to Address Potential Conflicts of Interest, January 21, 2010

- Demographic Data on the Current CCB System
- Report of the State Auditor Access to Medicaid Home and Community-Based Long-Term Care Services Department of Health Care Policy and Financing Performance Audit January 2009
- Overview of Changes Made by DDRC and Alliance to Mitigate Potential Conflicts of Interest
- Foothills Gateway, Inc. Conflict of Interest Task Force Presentation Study Funding Associated with Single Entry Point and Target Case Management Activities Performed by Community Centered Boards (CCBs), November 2009, Meyers and Stauffer, LC
- FY 2007 DDD TCM Satisfaction Survey Results
- Special Report to the Joint Budget Committee on the History of Community Centered Boards and the History of the Controversy Surrounding Separation of Case Management (or Managed Care Duties) from Service Provision, January 1996
- Additional Option Idea from Jayne Tschirhart-Short
- DDD Data on Breakouts of CCB Billing for CCB Provided Services and Private Provider Services
- Overview of Structures of Services for Developmental Disabilities in Other States
- Presentation of Indiana's Case Management System, Caliber Case Management Services
- Overview of Services for Children with Developmental Disabilities including Early Intervention Services
- Data on Specific Conflicts of Interest Reported to the Division for Developmental Disabilities, to Arcs and to Parent to Parent
- Presentation of Accountable Care Collaborative Option for System Redesign by Carol Meredith
- Policy Statement on Service Coordination, Arc of the US and American Association on Intellectual and Developmental Disabilities
- Presentation on Changes in the Developmental Disabilities Service System in South Dakota
- Options for Resolving Potential CCB Conflicts of Interest by John Meeker and David Ervin
- System Re-design Ideas for Addressing Potential Conflict of Interest from Alliance
- Recommendations for System Re-Design to Address Conflicts of Interest in the CO System of Supports for People with Developmental Disabilities from The Arcs, the Legal Center and the DD Council
- Final Report for the COI TF from Jeanie Benfield, Consumer Representative

Task Force Members developed a process for generating and evaluating options based on a template developed by Task Force Member, Marijo Rymer (Please see Attachment C). They went through a painstaking analysis of each of the potential areas of conflict of interest identified in the USM Study and the June 2009 Audit and generated multiple options for addressing possible conflicts of interest in different parts of the Developmental Disability service system. After careful analysis of multiple options, they

narrowed the list down to a group of 50 options and other issues they wanted to seriously consider (Please see Attachment D). At this point, the Task Force concluded that they had sufficiently discussed and analyzed the differing options were prepared to address making decisions about their recommendations.

### **Public Comment**

The Task Force identified the importance of public comment early in their process. They reserved time for public comment at each of their meetings and heard comment at all but two of those meetings. They did a broad solicitation throughout the Developmental Disability stakeholder community (Please see Attachment D) and held a Statewide Public Meeting via Videoconference at four locations throughout the State; Denver, Pueblo, Sterling and Grand Junction, to gather as much public comment as possible. They also received 159 written comments throughout their process. Themes that Task Force Members identified in their reception of the public comment are listed below.

- Generally, Task Force members perceived that the input was genuine and well intended. They expressed their appreciation and respect for the people who made comment either in person or in writing. They kept the themes expressed by members of the public, particularly consumers and families, present throughout the development of their recommendations.
- Some members were impressed with the number of families that attended and some members were disappointed.
- A large majority of the public, both family members and self-advocates, did not want change in their current services or personnel.
- Much of the input was emotional, some of it based in fear of loss of services or centralization of case management services in the metro area.
- There was overwhelming support for the local availability of case managers.
- Many people expressed a feeling that the system is not broken.
- Sensitivity to how rural communities will be impacted was another issue of broad concern identified through public comment.
- Several individuals identified problems they believed to be related to conflicts of interest.
- Some Task Force members expressed concern that they did not hear from provider agencies or Arcs. One Task Force member reported that she made calls to some of the providers to see why they had not attended, and was told that there was a hesitation from them to voice their concerns since their customers are referred by the CCBs.
- Several Task Force members expressed surprise that there was not a lot of comment on the extremely high turnover rates in some areas.



# STATE OF COLORADO



**Colorado Department of Human Services**

*people who help people*



Bill Ritter, Jr.  
Governor

Karen L. Beye  
Executive Director

**VETERANS AND DISABILITY SERVICES**  
Jenise May, Interim Deputy Executive Director

**DIVISION FOR DEVELOPMENTAL DISABILITIES**  
Sharon S. Jacksi, Ph.D., Director  
4055 So. Lowell Boulevard  
Denver, Colorado 80236  
Phone 303-866-7450  
TDD 303-866-7471  
FAX 303-866-7470  
[www.cdhs.state.co.us](http://www.cdhs.state.co.us)

## MEMORANDUM

**TO:** Colorado Developmental Disabilities Stakeholders

**FROM:** Jenise May, Interim Deputy Executive Director, CDHS Veterans and Disability Services  
Sharon Jacksi, Ph.D. Division Director, CDHS Division for Developmental Disabilities  
Sandeep Wadhwa, MD, MBA, HCPF Medicaid Director and Chief Medical Officer  
Barbara B. Prehmus, Director, HCPF Long-Term Benefits Division

**SUBJECT:** Establishment of a Task Force Regarding Conflict of Interest in the Colorado Developmental Disabilities System

**DATE:** February 24, 2010

---

The purpose of this memorandum is to provide stakeholders in the Colorado Developmental Disabilities system with information regarding the establishment of a task force to address conflict of interest issues within the Developmental Disabilities system. We invite stakeholders to apply to participate in an evaluation of the conflict of interest issues in the provision of single entry point, case management and program services for individuals with developmental disabilities.

Results of the State Auditor's Office 2009 audit of the Home and Community Based Services waiver for People with Developmental Disabilities indicated that the potential for conflict of interest initially raised by the Centers for Medicare and Medicaid Services, and further examined in a December 2007 study by the University of Southern Maine (USM), Muskie

School of Government titled “Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado’s Community Centered Boards” had not been resolved.

To this end, the Colorado Department of Human Services (CDHS) and the Department of Health Care Policy and Financing (HCPF) are convening a stakeholder task force to develop a resolution to the conflict of interest issues inherent in the Developmental Disabilities system. CDHS and HCPF have no pre-determined outcome for this evaluation of the current system. The task force will evaluate all options presented to them or developed by the task force, as well as the system options identified in the USM report, and recommend the best option for the system that resolves the conflict of interest issues.

The charge of the task force is to evaluate options for system re-design specific to resolving conflict of interest issues and to make recommendations to CDHS and HCPF. The task force is to recommend new statutory requirements for C.R.S. 27-10.5, if necessary. CDHS and HCPF intend to have a separate stakeholder process to look at modernizing the Home and Community Based Services waivers to look at broader issues of improving performance, access, efficiency and satisfaction.

Task force meetings will be open to the public. Public comment will be taken in two meetings to be held in different parts of the state. Written comments will also be accepted to ensure all stakeholders have the opportunity for input.

The task force will be composed of 15 members from the following stakeholder groups:

- Self-advocates
- Family members
- Community Centered Board staff and Board of Directors
- Service providers
- Advocacy organizations
- The Developmental Disabilities Council
- The Legal Center for People with Disabilities and Older People
- University Center for Excellence in Developmental Disabilities Education, Research, and Service (UCE), JFK Partners
- Long Term Care Advisory Committee
- County Department of Human Services
- Single Entry Point representative
- Other interested parties

Sharon Jacksi, DDD Director, and Jenise May, Interim Deputy Executive Director for Veterans and Disability Services, Sandeep Wadhwa, MD, MBA, Medicaid Director and Chief Medical Officer, Barbara Prehmus, Director, Long-Term Benefits Division will also participate.

In order to have the most successful and efficient meetings, the Departments have asked Jean McAllister, Administrator of the Commission for Individuals who are Blind or Visually Impaired, to facilitate all task force meetings. Jean previously facilitated the DD Definition Task Force and we look forward to working with her on this project.

The composition of the task force will be selected based on an application process. If you are interested in participating in this task force, please complete the attached letter of interest form and submit to Sharon Jacksi, Ph.D. by March 3, 2010. Participants must commit to attendance as part of the application for this task force.

The task force will begin deliberation in March 2010 and will make recommendations for system re-design specific to resolving conflict of interest issues to CDHS and HCPF by May 30, 2010. The task force will then develop an implementation plan and address statutory changes, if necessary, by October 30, 2010. The Task force will meet from 10 a.m. to 3 p.m. on the following dates:

Tuesday, March 9th  
Thursday, March 25th  
Thursday, April 8th  
Thursday, April 22nd  
Thursday, April 29th  
Thursday, May 13th  
Thursday, May 27th

Anyone who is interested or who has questions may contact Sharon Jacksi at 303.866.7454 or [Sharon.Jacksi@state.co.us](mailto:Sharon.Jacksi@state.co.us).

Cc: Jenise May, Interim Deputy Executive Director for VDS  
Barbara Prehmus, HCPF  
Jean McAllister, CDHS  
Sandeep Wahdwa, M.D., HCPF  
DDD Staff  
Lesley Reeder, HCPF

COLORADO  
DEPARTMENT OF HUMAN SERVICES  
DIVISION FOR DEVELOPMENTAL DISABILITIES  
And  
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
LONG TERM BENEFITS DIVISION

**CONFLICT OF INTEREST**  
**TASK FORCE**

**VALUES STATEMENT**  
Approved 3-25-10

- ❖ **Our work will be done with transparency:**
  - Meetings will be open;
  - Decisions will be made in open meetings; and
  - Stakeholders will have access to the materials we review and to our final report.
  
- ❖ **We acknowledge and respect the right and ability of individuals with developmental disabilities to self-determination and choice.**
  
- ❖ **Our work to address conflicts of interest in the Developmental Disabilities Service System will have three primary focal points:**
  - **Services**
    - The goal of service provision will be to have enhanced quality of life for consumers (positive impact or outcome).
    - Services should provide choice to consumers.
    - Services should be accessible to consumers regardless of where they live.
  
  - **Accountability**
    - To consumers
      - Services to meet needs as determined by the interdisciplinary team
      - Services that enhance quality of life
    - To taxpayers and funders
      - Responsible use of public funds
  
  - **Positive partnerships will provide the most effective service provision system**
    - With providers
    - With consumers
    - With advocates
    - With families

**Conflict of Interest Task Force**

**Option Generation and Analysis Template**

**COI Issue \_\_\_\_\_**

1. What is the current status of this function?
2. Which groups of individuals or programs are affected by this function?
3. What is the current experience for individuals and families for this function?
4. What are the COI concerns re: this function?
5. What options could eliminate COI re: this function?
6. What other factors should be considered re: this function as the system is re-designed?
7. How is this function funded now?

**Option Analysis for Option \_\_\_\_\_**

1. What changes would be required under this option?
2. How would these changes affect clients and families?
3. What are the arguments in favor of this option?
4. What are the arguments against this option?
5. What are the financial impacts associated with these changes?
6. Are there potential unintended consequences or other considerations affecting this issue that don't fall within the categories?

**COI Task Force**  
**OPTIONS FOR ADDRESSING CONFLICT OF INTEREST**  
**June 10, 2010**

- Possibly expand existing ombudsman through CDPHE to address DD issues
- Real penalties need to be in place – real regulation (\$?)
- Service planning and referral not done by agency that provides services
- All rate negotiation and OCDHS functions be done by the State
- Monitoring must be included in any system
- Monitoring of service plans by independent agency
- Centralized service provider selection process
- Maintain local relationships: use SEPs for ED/CM/Svc Planning with accommodation for rural areas
- Current CCBs or SEPs be given as a choice for families for both directions ED/CM/Svc Planning
- 1. A single entry point for all long term services and supports including DD and for the functions I & R and ED
- 2. Wait list administration be state responsibility
- 3. If SEPs are responsible for CM there will be very clear standards re: caseload, unique needs of people with DD and their families and a genuine local presence
- **OR**
- 3a. State could contract for CM services in metro area (1<sup>st</sup> soon) and exceptions could be made for rural areas (CCBs continue CM and service with additional safeguards)
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, **standardized across the State** - related to mitigation of COI so any CCB could be “Exempted” to do both
- **AND**
- Create a 21<sup>st</sup> entity to provide an option to clients and families
- Wait list handled by State DDD
- State provide an ombudsperson (with teeth and authority) and no CCB does any investigation

- Strong State QA presence/process with real consequences and authority
  - CCB monitoring of individual service plans
    - CCB Service Agencies would be monitored by PASAs in good standing (not CCBs) as a part of ongoing, regular self monitoring
  - State still does formal, external monitoring every 2 years
  - Referral system completely transparent (#of people – not percentages) that go to each agency
  - Rural CCBs would be required to actively recruit service agencies to come to their area to provide choice
- 
- Eligibility needs to be determined by State or a single contracted entity
  - State Administer wait list
  - I & R statewide happen through a single entity for consistency
  - I & R for service planning should go to some single entry point (like Indiana's – with person centered plans done in a timely way)
  - Service brokering should be handled locally by SEP (not like the current Colo ones) or families
- 
- State simplify billing system so Independent Contractors can bill directly (no need for OCDHS)
  - Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
  - Service provision is local
    - Service Agencies should be able to “market” their services to families from wait list forward
    - Standardization of process across the board
- 
- Choice has to be on table, including keep some the same based on client need
- 
- Real one stop shop for families
- 
- State retain eligibility determination, wait list, and QA (Monitoring)
  - I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community
- 
- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- 
- Grandfather or phase in to changes (rather than providing choice for clients and families)

- Use State definitions: Rural, Frontier, Urban

### **Parking Lot**

1. People can choose between Alliance CCBs now
2. How much local dollars for what
3. How to minimize local dollars impact (1/8 mill)

In the following section, the options are grouped by area they impact, per your request

### **Information and Referral**

- Service planning and referral not done by agency that provides services
- A single entry point for all long term services and supports including DD and for the functions I & R and ED
- Referral system completely transparent (#of people – not percentages) that go to each agency
- I & R statewide happen through a single entity for consistency
- I & R for service planning should go to some single entry point (like Indiana’s – with person centered plans done in a timely way)
- Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
  - Service Agencies should be able to “market” their services to families from wait list forward
  - I & R Service Planning, Provider Selection and Rate Setting RFP’d out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community

### **Eligibility Determination**

- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- Eligibility needs to be determined by State or a single contracted entity
- Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
- Maintain local relationships: use SEPs for ED/CM/Svc Planning with accommodation for rural areas
- Current CCBs or SEPs be given as a choice for families for both directions ED/CM/Svc Planning
- 1. A single entry point for all long term services and supports including DD and for the functions I & R and ED

### **Administration of the Waiting List**



- State Administer wait list
- Wait list administration be state responsibility
- Wait list handled by State DDD

### **Service Planning (Case Management)**

- Maintain local relationships: use SEPs for ED/CM/Svc Planning with accommodation for rural areas
- Current CCBs or SEPs be given as a choice for families for both directions ED/CM/Svc Planning
- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community
- Later rather than sooner one SEP, one application for all waivers, Eligibility, I&R and Service Planning done through this entity
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, standardized across the State - related to mitigation of COI so any CCB could be “Exempted” to do both  
**AND**
- Create a 21<sup>st</sup> entity to provide an option to clients and families
- Service planning and referral not done by agency that provides services
  4. If SEPs are responsible for CM there will be very clear standards re: caseload, unique needs of people with DD and their families and a genuine local presence
- OR**
- 3a. State could contract for CM services in metro area (1<sup>st</sup> soon) and exceptions could be made for rural areas (CCBs continue CM and service with additional safeguards)
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, standardized across the State - related to mitigation of COI so any CCB could be “Exempted” to do both  
**AND**
- Create a 21<sup>st</sup> entity to provide an option to clients and families

### **Provider Selection**

- Centralized service provider selection process
- Open silos – if SEPs are created for multiple waivers – the Service Agencies can provide services for multiple waiver clients
- I &R Service Planning, Provider Selection and Rate Setting RFP'd out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community

- Referral system completely transparent (#of people – not percentages) that go to each agency
- Rural CCBs would be required to actively recruit service agencies to come to their area to provide choice
- Service brokering should be handled locally by SEP (not like the current Colo ones) or families
- **Service provision is local**
- Allow Service Provision and CM to be provided by CCBs to be approved by some State annual designation process, **standardized across the State** - related to mitigation of COI so any CCB could be “Exempted” to do both **AND**
- Create a 21<sup>st</sup> entity to provide an option to clients and families
- **Service planning and referral not done by agency that provides services**

### **Rate Setting**

- I &R Service Planning, Provider Selection and Rate Setting RFP’d out (guarantees separation) with a requirement for local entity or written plan for becoming part of local community
- **State simplify billing system so Independent Contractors can bill directly (no need for OCDHS)**
- **All rate negotiation and OCDHS functions be done by the State**

### **Monitoring Services**

- Strong State QA presence/process with real consequences and authority
- CCB monitoring of individual service plans
  - CCB Service Agencies would be monitored by PASAs in good standing (not CCBs) as a part of ongoing, regular self monitoring
- State still does formal, external monitoring every 2 years
- **Real penalties need to be in place – real regulation (\$?)**
- **Monitoring must be included in any system**
- **Monitoring of service plans by independent agency**
- State provide an ombudsperson (with teeth and authority) and no CCB does any investigation

### **General Application or Applies to Multiple Areas**

- **Choice has to be on table, including keep some the same based on client need**
- **Real one stop shop for families**
- **Grandfather or phase in to changes (rather than providing choice for clients and families)**
- Use State definitions: Rural, Frontier, Urban

- State simplify billing system so Independent Contractors can bill directly (no need for OCDHS)
- Possibly expand existing ombudsman through CDPHE to address DD issues
- State provide an ombudsperson (with teeth and authority) and no CCB does any investigation



# STATE OF COLORADO

Governor Bill Ritter, Jr.

**DEPARTMENT OF HEALTH CARE POLICY AND FINANCING**

Joan Henneberry, Executive Director  
Sandeep Wadhwa, MD, MBA, Medicaid Director and Chief Medical Officer  
Long-Term Benefits Division  
Barbara B. Prehmus, Director  
1570 Grant Street  
Denver, CO 80203-1818  
303-866-2993  
303-866-4411 Fax  
303-866-3883 TTY

**DEPARTMENT OF HUMAN SERVICES**

Karen L. Beye, Executive Director Services  
Office of Veterans and Disability Services  
Jenise May, Interim Deputy Executive Director  
Division for Developmental Disabilities  
Sharon Jacksi, Director  
3824 West Princeton Circle  
Denver, CO 80236  
303-866-7450  
303-866-7470 Fax  
303-866-7471 TTY

**TO:** All Interested Parties

**FROM:** Jean G. McAllister, Facilitator on behalf of the Conflict of Interest Task Force, Colorado Departments of Human Services and Health Care Policy and Financing

**SUBJECT:** Forum to Provide Public Comment Regarding the Redesign of the System for Developmental Disabilities in Colorado

**DATE:** May 18, 2010

---

The Colorado Department of Human Services (CDHS) and the Colorado Department of Health Care Policy and Financing (HCPF) has assembled a Task Force of stakeholders from the developmental disabilities system to develop recommendations for a resolution to the conflict of interest issues inherent in the Developmental Disabilities system.

Results of the State Auditor’s Office 2009 Audit of the Home and Community Based Services waiver for People with Developmental Disabilities indicated that the potential for conflict of interest initially raised by the Centers for Medicare and Medicaid Services, and further examined in a December 2007 study by the University of Southern Maine (USM), Muskie School of Government titled “Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado’s Community Centered Boards” had not been resolved or sufficiently addressed. The 2009 Audit referenced above categorized those potential conflicts in seven areas on pages 43 and 44 of the Audit: Information and Referral, Eligibility Determination, Administration of the Waiting List, Service Planning, Provider Selection, Rate Negotiation and Monitoring Services.

Consequently, the charge of the COI Task Force is to evaluate options to resolve conflict of interest issues and to make recommendations to CDHS and HCPF. The task force is to recommend new statutory requirements for C.R.S. 27-10.5, if necessary. The Task Force

will evaluate all options presented to them or developed by the Task Force, as well as the system options identified in the USM report, and recommend the best option for the system that resolves the conflict of interest issues.

The Task Force is interested in hearing public comment regarding options that will resolve conflict of interest issues inherent in the developmental disabilities system. It has set aside the following date and time for any interested persons to provide comment to the Task Force.

**Tuesday, June 1, 2010  
1:00 pm to 5:00 pm**

Please save this date and time. In the interest of allowing as many stakeholders as possible access to provide input, the Task Force will be taking comment through a video teleconference with multiple sites throughout the State. Sites are confirmed in four areas of the State at the following locations.

Denver:                   The Auditorium at Fort Logan Campus  
3520 W. Oxford Ave.  
Denver, CO 80236

Grand Junction:       The Facilities Conference Room at Grand Junction Regional  
Center  
2800 Riverside Parkway  
Grand Junction, CO 80501

Pueblo:                   The Colorado Mental Health Institute, Conference Room A  
1600 W. 24<sup>th</sup> Street  
Pueblo, CO 81003

Sterling:                 Logan County Human Services  
508 S. 10<sup>th</sup> Avenue  
Sterling, CO 80715

The University of Southern Maine (USM), Muskie School of Government report, “Addressing Potential Conflicts of Interest Arising from the Multiple Roles of Colorado’s Community Centered Boards” and the State Auditor’s Office 2009 Audit of the Home and Community Based Services Waiver for People with Developmental Disabilities are attached to this email. These reports identify potential conflicts of interest that must be addressed by this Task Force.

If there are any specifically identified options being considered prior to the Public Comment Meeting, they will be sent in a separate memo.

Time to speak may be limited, so that all parties wishing to provide comment to the Task Force will have time to do so. It would be helpful if a written version of the testimony could be provided at the time comments are made. The Task Force will also take written comment from anyone who is not able to attend the public forum on June 1st. Written comment will be accepted through May 31<sup>st</sup> (or at the meeting on June 1<sup>st</sup>) and should be directed to:

Jean G. McAllister  
Facilitator, COI Task Force  
1575 Sherman Street, 1<sup>st</sup> Floor  
Denver, CO 80203  
[Jean.McAllister@state.co.us](mailto:Jean.McAllister@state.co.us)  
Fax#: 303-866-5024

Ms McAllister will distribute all comments to the Task Force. If there is time, written comments will be read into the record on June 1st.

If anyone needs special accommodations for the public forum (e.g., interpreter services), please contact Roberta Aceves at 303-866-7030 or [Roberta.Aceves@state.co.us](mailto:Roberta.Aceves@state.co.us)