Conflict Free Access and Planning Workgroup Meeting Notes

Date: 1/26/22

Hosts: MDHHS, TBD Solutions

Attendees:

Agnes Ward	CJ Witherow	Jim Johnson	Matt Seager
Alena Lacey	Dana Lasenby	Jody Waite	Mila Todd (Sackett)
Andrew Ling	David Lowe	John Eagle	Remi Romanowski-Pfeiffer
Angela Martin	Debra Hess	Josh Hagedorn	Rich Thiemkey
Annette Downey	Denise Russo	Kara Hart	Robert Wedin
Barb Groom	Diane Bennett	Karen Amen	Sarah A. Ameter
Belinda Hawks	Elizabeth Huseby	Kathleen Johnson	Sarah Green
Beth Guisinger	Emily Whisner	Kathy Lentz	Sean P. Field
Brad Casemore	Grae M. Miller	Leslie Styer	Sherri Boyd
Brittany Pietsch	Jarrett Cupp	Lisa Nordman	Stewart Mills (NMRE)
Cande Rutherford	Jeff Brown	Liz Courtney	Sue Germann
Cecilia Nguyen	Jeff Patton	Mandi Quigley	Tressa Kendall
Chris Lerchen	Jennifer Whyte	Mandy Matthews	

<mark>**Action item:** Please provide feedback to the workgroup charter by Feb. 14. Available online at MDHHS - Conflict Free Access and Planning Workgroup (michigan.gov)</mark>

Key Discussion Points

The following meeting notes are organized according to the slide where the discussion took place. For additional context, refer to the matching slide in the slide deck.

Previous Effort Up to Today

Workgroup members added the following key considerations:

- Enforcement of new vision.
- In terms of the actual practice and operationalizing it, what will Conflict Free Access & Planning policy look like in real time in real life?
- Drawing on best practices and lessons learned in other states.

Journey

Note from MDHHS: March 2023 is the target go-live date because that's when HCBS goes live as a rule. There's a specific focus on conflict-free in the rule. That could shift to a different timeline as we move forward but that's what we are targeting at this point.

Decision Support Journey

Key consideration: When we look at policy development and its impact, sometimes we forget workforce impact-- availability of staff. How do we implement these policies when we have a staffing shortage? A workgroup member recommended that workforce impact is something that's considered throughout this project.

Key consideration: There is a likelihood that were going to encounter systemic barriers. There are over 46 CMHs and they all have their own ways of operating. There will always be barriers about why people can't implement things in a certain part of the state.

- MDHHS feedback: Points are well taken in terms of what's the current environment vs. what flexibilities are allowed. But there are some firm standards that we will expect to be met. Part of the purpose of this group is to frame that. We collected information from previous discussions from 2014 and 2015 as well as more recent information to see what is happening with the CMHs.

What is Conflict?

Defining terms: For the purpose of this discussion, the term Conflict-Free Access and Planning is referencing the broader term of conflict free case management.

Key consideration: Services should be conflict free already and we want to work to achieve full compliance by March of 2023.

What is "Conflict-Free?"

Key consideration: How do the waiver services and the state plan services differ in terms of conflict free language?

- MDHHS feedback: Universally, state plan is the foundation of the authority. The waivers are layered on top of that foundational definition. We're looking at both.

What are Exceptions

Key consideration: Is there an assumption that once you get high enough in the administration of an agency that you are "above conflict"? At some point as you move up the agency hierarchy, the firewall no longer exists …. If one agency does both, can you ever be conflict free?

- Consultant feedback: With the firewall approach, we have two separate organizations, and they have their own incentives. Therefore, that conflict is mitigated. If there is only one organization that is willing and able to do both, we have to look inside and see if we have two different sets of incentives in that same organization.
- MDHHS feedback: In a safeguard approach, there are procedural safeguards that will be in play if we allow for that.

Advocate concern: An advocate expressed hope that the state is really going to have the authority to make decisions about where there are exceptions.

- MDHHS feedback: We will at some point be able to talk through with the group whether the state is going to make that allowance or not. We may decide not to make exceptions. We want input of the group on that as well.

HASA Waivers

Key consideration: HASA is invited to these meetings. However, the focus for this workgroup is the behavioral health part of the discussion.

Charter

Please see action item at the top of the meeting notes.

Varied Approaches Within States

Key consideration: Has CMS been ok with the Michigan approach to CFCM or have they made general or specific criticisms or requirements?

- MDHHS feedback: CMS has not weighed in, other than to publish the federal rule, which offers the framing of what is expected.

Key consideration: Are firewalls the preferred CMS approach (vs. safeguards)?

- MDHHS feedback: CMS will not weigh in on what specifically states must use. However, they do offer insights on what they consider conflict.

Key consideration: Related to the slide on different approaches by state—is there associated data related to outcomes, or cost? Is there one way that's more right or more wrong?

- MDHHS feedback: There are performance measures attached to these 1915c waivers which is the original source for this comparison, and we could look at those performance measures in more detail.
- Consultant feedback: Neither of the studies conducted for this project looked at outcomes of each approach. One study identified approved waiver approaches across the country. All of the detail about how the research was conducted is available in the first of the links on the CFA&P web page. In brief, it comes from a review of all national 1915(c) Waivers.
- MDHHS feedback: It doesn't tell you if those are approaches we want to adopt or not, but it tells you what we know about other states.

What is the combined use of safeguards in the process?

Key consideration: Is there any guidance on the effectives on these different types of safeguards? How do you go about selecting and proving that they minimize risk?

- Consultant feedback: The studies did not address effectiveness of approaches, but the presence of one approach or another. We understand, some safeguards are not intended to be utilized at each step.
- MDHHS feedback: You're going to see in these different segments where decision points are made. This is a way to understand where those decisions points are being made and who has control ultimately.
- Consultant feedback: These safeguards offer more than just risk mitigation—risk mitigation may not even be their primary goal. They also have other purposes and other values they are bringing to person-centered planning.

- Consultant feedback: Just having things sequestered and having the firewalls may be enough to mitigate conflict, but there are other things about these safeguards that are valuable to the process for the person served.

How Often Do CMHs use Resources?

Advocate concern: How will the encounter data be used to assess the use, frequency of "independent advocate" on the safeguard list?

- MDHHS feedback: There isn't a way to identify that in encounters currently.

Summary of Findings

Defining terms: What is defined as an independent support coordinator?

- Consultant feedback: An independent advocate is defined as an outside support.

Key consideration: We know there over 2000 people in Michigan that have a 100% conflict free independent support coordinator. Are we clumping them under brokers going forward? We are probably doing better on conflict free in certain parts of the stare than the data might reflect.

- MDHHS feedback: That's good to know. As we think more about firewalls vs. safeguards, we will want to bring that conversation back around.