Conflict Free Access and Planning Workgroup Meeting Notes

Meeting Details

Meeting Name:	Conflict-Free Access and Planning
Meeting Date & location:	February 18, 2022 @ 1:00 p.m. – 2:00 p.m. – Teams Meeting
Call in number	Teams Meeting
Leader/Facilitator:	Remi Romanowski-Pfeiffer, Belinda Hawks
Next Meeting:	March 18, 2022 @ 11:00a.m. – 12:30p.m.

Key Discussion Points

Process Notes and Questions

- Feedback form: As you talk to your organizational partners, don't forget to add comments and questions to the feedback form available via SharePoint.
- Timeline: This meeting continues the "inform" phase of this workgroup.
- For this workgroup, what is a point person? A point person is a member of this workgroup, and they are a person that can be an expert at their organization. Where needed, they will be able to pull in subject matter experts and say, "I know somebody who knows more about this." They must be able to convene experts and speak to a broad range of experiences.

Defining Terms

- Defining conflict: Conflict is when a single provider organization conducts eligibility and needs assessment and direct service delivery. Or a single provider organization conducts planning activities including planned development and plan monitoring and direct services as well.
- Defining direct service: A direct service would be something that a person has in their plan that is not planning and is not monitoring. It could be all those varieties of HCBS services that are not the actual planning or assessment piece.
- Is conflict something that exists at the level of an organization? It really is about the entity itself because of the financial relationship the staff has within a single entity. There is a financial relationship even if different people have different tasks within that entity.
- Is it a conflict of interest when the CMH has a contract with a provider to provide services? That is the strictest interpretation of CMS guidance. However, MDHHS has yet to determine specific expectations.
- For the purposes of this discussion, does planning includes monitoring of the plan as well? Yes, planning as a bundled activity does include the development of the plan and monitoring of the plan.

Understanding Firewalls

- What does the firewall, or mitigation against conflict look like? A firewall is really referring to the bifurcation of that provider conducting the eligibility needs assessment and planning activities

and the provider that is providing the direct service. There is a separation at that point between planning and direct service delivery.

- Exceptions: MDHHS has not determined whether exceptions will be permitted. If they will be, regions that couldn't implement firewalls would be required to implement safeguards or procedural firewalls. There must be a procedure in place to make sure the risks are mitigated. So even if the State allows an exception in some regions, those regions will still have to account for risks within their organization. If you think of the exception regions as a house, within that house the roof would need to be lifted off and the State would need to look down into the house and make sure there are pieces and components within that region that are protecting people from risk.

Inform Phase: Discussion and Feedback

- Currently, a CMH cannot pay anybody without a valid contract in place. How would it look if CMHs ceased to contract with direct service providers? Who pays and who are they responsible to?
    - There are several different options as far as how it would look systemwide. A final decision has not been made.
    - Essentially, the CMH would not be the one in charge of contracting for that direct service provider.
    - There are different implementation options. We are calling them "families." There are different families of options for how the system could look, but it couldn't be the CMH that is holding that contract.
- How would wraparound or Assertive Community Treatment (ACT) work in a conflict-free system? That is a great question. The whole crux of it is to have a person go to one team to get all these services at once. That would need to be considered in implementation.
- Are crisis services considered to be a direct service? That is something that we are going to have to flag as well. When we start to look at examples of implementation options, we will have to consider crisis services, make sure that those are accounted for, and be clear on who is doing what.
- Are there currently any agencies that do just assessment and planning and how do they get paid? The litmus test is to develop criteria that you can compare your relationships against. If you look at your current contractual relationships, do they meet that test? That may be the best way to think about how payment relationships will look.
- Is it fair to say that any model where CMHs provide direct services will likely not pass the litmus test? It is fair to say that we are going to look at that model and compare it against what the state wants to adopt and answer the question, "Is it going to be allowed? Will there be an exception process, and if so, what would that look like?"
- Historically, CMHs had structures set up—which could be expanded—where there were very different departments and different staff reporting to different people who did the eligibility assessment versus the planning versus the operating of the service within that CMH. Would that be a viable exception opportunity? The key question we must ask is, "Where are the decision points and what control does the person themselves have over those decisions and choices?" The closest Michigan has come that looks like a firewall would be the 1915(i) ABA benefit when it existed for that 0 – 5 group. That doesn't exist at this point because it is no longer an (i), but it

would be one that we want to look at and see what the CMHs did to address that firewall requirement.

- We have to look at risk involved. If we adopt something that pulls away lifelines that we find within direct service providers at the CMH level, we could reduce access to services. MDHHS understands that concern and the related workforce capacity concern. This will be carefully considered in the dialogue moving forward.
- How big of a system overhaul is this going to be for everybody? Are some CMHs more prepared than others? This may be particularly challenging in rural areas. It may be helpful to think about the fact that CMHs can already be doing some things within the Medicaid Benefit and within the Mental Health Code that really elevate the choice and the decision making of the individual and separate that conflict. This can be done through independent facilitation, through the focus on the person-centered plan, and self-determination. There are ways to have those safeguards already in play and should be in play. We have been, for at least the last three years, talking about the use of those services, particularly independent facilitation and how we are going to begin to track by code modifiers the use of those services and be able to monitor utilization. That is something that we will be able to incorporate into our monitoring.
- Can MDHHS start to track the utilization of independent support brokers, independent support coordinators and independent support assistants? MDHHS is interested in considering how to do that and make those distinctions be a part of the reported code.