



OHIO LEGAL RIGHTS SERVICE

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for people with disabilities

February 9, 2009

ODMRDD Futures Committee

Via e-mail to: futures-feedback@odmrdd.state.oh.us

To Whom It May Concern:


Ohio Legal Rights Service is (OLRS) is an independent state agency and the federally and state designated Protection and Advocacy (P&A) system and Client Assistance Program for people with disabilities in the State of Ohio. The mission of OLRS is to protect and advocate, in partnership with people with disabilities, for their human, civil and legal rights.

OLRS submits the following preliminary comments in response to ODMRDD's request for comments regarding the New Futures Waiver. OLRS reserves the right to make future comments as more information is released regarding this waiver.

OLRS acknowledges the provision of additional resources to meet the needs of these children. OLRS remains concerned that this waiver will only provide services to a limited number of children. Yet children should be able to receive these same services without a waiver under the federally mandated Early Periodic Screening Diagnosis and Treatment (EPSDT) program.

Further, by their very nature, waiver services are community-based. There is concern that the New Futures Waiver will be used to provide services in an institutional setting which goes directly against the purpose of waiver programs. ODMRDD should insure that the waiver is used to provide services in the community, and prevent the unnecessary institutionalization of these children.

Respectfully submitted,


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Attorney at Law


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Disability Rights Advocate

OLRS Comments regarding New Futures Waiver
February 9, 2009

Eligibility

1. Comment

Ohio Department of MR/DD (ODMR/DD) should provide a mechanism to ensure statewide awareness and access to the waiver lottery process.

Recommendation

ODMR/DD should designate the County Boards of MR/DD and Mental Health (MH) to initiate outreach measures to ensure all potential recipients are aware of the lottery and are afforded the opportunity to apply.

2. Comment

ODMR/DD should determine eligibility criteria beyond ICF/MR level of care and will ensure the use of a standard instrument to be used statewide for each potential recipient.

Recommendation

ODMR/DD should convene a group of representatives from the Regional Specialty Networks to develop an instrument or procedure for ODMR/DD approval for statewide use.

3. Comment

ODMR/DD should clarify whether otherwise qualified applicants will be prioritized for inclusion in the lottery process and how any waiting list will be maintained.

Recommendation

ODMR/DD should provide written notification to all waiver applicants of the priority procedures at the time of application. The explanation should include a description of priority criteria and how it will be applied.

Service Provision

4. Comment

ODMR/DD should create provisions within the waiver to provide transition support to clients who age out of the program at age 14 and are not yet eligible for adult services which do not begin until age 16.

Recommendation

ODMR/DD should, convene a team to ensure continued access to the medically necessary services required under EPSDT 180 days prior to the termination of waiver eligibility.

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5. Comment

ODMR/DD should not support the use of waiver dollars to purchase institutional respite at ICF/MR facilities.

Recommendation

ODMR/DD should require the use of community based options for out of home respite to promote community integration at every opportunity.

6. Comment

ODMR/DD should ensure that waiver provisions do not limit access to services required by EPSDT.

Recommendation

ODMR/DD should ensure that the waiver includes the provision of behavioral treatments and interventions recommended by a practitioner of the healing arts within the scope of their practice as required under EPSDT.

7. Comment

ODMR/DD should not permit the waiver to supplant special education or related services as required for the provision of a free and appropriate public education under the IDEIA.

Recommendation

ODMR/DD should remove references to IDEIA special education and related services from the program language and refer to the services that are available as described under EPSDT.

8. Comment

ODMR/DD should avoid duplication and/or expansion of Targeted Case Management (TCM) functions which appear within the proposal which creates the new position, Support Services Broker.

Recommendation

ODMR/DD should seek the guidance of recent CMS documents which describe the need to eliminate multiple case managers for individual clients who participate in more than one public program and encourage consolidation of this function.

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Grievance

9. Comment

ODMR/DD should provide a state hearing process for all recipients to address complaints regarding all aspects of waiver participation.

Recommendation

Access to a state fair hearing should be provided without any requirement for exhaustion of lower level complaint options. *The ODMR/DD should offer, free mediation services with or without a complaint on file, but not allow the process to be used to delay access to a fair hearing*