

MEETING INFORMATION

Title: Community First Choice Implementation Council Meeting
Host: Maryland Department of Health and Mental Hygiene
Day/Time: Thursday, January 24, 2013 1pm-3pm
Location: Department of Health and Mental Hygiene, Rm L3

ANNOUNCEMENTS

- Please send additional comments, questions, or concerns to dhmh.cfc@maryland.gov.
- For more information, visit our webpage at:
<http://mmcp.dhmh.maryland.gov/longtermcare/SitePages/Long%20Term%20Care%20Reform.aspx>

INTRODUCTION

- All persons in attendance introduced themselves. Attendees were reminded to provide adequate comment time to participants on the phone.

MEETING NOTES: 01/10/2013

The 1/10 meeting provided an overview of current progress on the development of the CFC program and an outline of remaining tasks.

- One council member suggested that the MAPC concerns addressed in the 1/10 meeting notes be clarified.
- One council member asked for clarification about the entities involved in the development of the person centered plan. The person-centered plan is developed by the participant, the supports planner, and any individuals the participant selects to be involved in the process. The plan is based on the results of the functional assessment.
- One council member asked for clarification about the regulations/SPA-writing process. Feedback from the Council is used to draft the regulations; the Council will review the regulations in piecemeal and as a whole prior to submission to AELR. The Council will review the SPA prior to submission to CMS.

Council Policy Considerations: none; the meeting was primarily presentation-based.

DISCUSSION

The purpose of today's CFC meeting included (1) Reviewing the agenda for the next 11 months and (2) Discussing provider qualifications for independent personal care providers (attendants). The discussion below will be reflected in the draft regulations which will be circulated prior to the 2/28 meeting.

The discussion was based on the "Provider Requirement for Waiver Services: CFC-Covered Services. Personal Care and Attendant Services" chart that was circulated for the 12/10 meeting. Using the waiver qualifications a guide, qualifications for independent personal care providers were discussed as follows:

Self/Consumer Employed

- The independent personal care provider must be self-employed.

Age Limitation

- LAH, MAPC, and WOA all require that the provider be at least 18 years old. LAH allows participants to waive this requirement, pursuant to Department approval.
- *Policy Consideration:* An age floor ensures a certain level of capability and responsibility, though the waiver criteria should allow enough leeway to address most special considerations.

Legal eligibility

- The Council wishes to clarify what “legally eligible” for work means in the context of CFC. Follow-up is needed for the draft regulations.

English Literacy.

- LAH, MAPC, and WOA require that the provider must be able to speak, read, write, and follow directions in English. LAH and MAPC allow providers to waive this requirement.
- English literacy and the ability to understand the physician, nurse, and other instructions are safety and quality-of-service issues.
- Unless English education is available, allowing a waiver in special circumstances may be preferable.
- One councilmember suggested that the provider registry include information about the provider’s proficiency in English or other languages.
- *Policy Consideration:* Require providers to meet English literacy standards, but allow waivers on a case-by-case basis.

CPR/First Aid

- LAH and WOA require that personal care attendant be certified in CPR and first aid. LAH allows participants to waive this requirement, pursuant to Department approval.
- CPR/First Aid are a minimum safety requirement that support patient needs.
- Primary concerns:
 - Allowing a waiver for participants with a DNR.
 - The cost of obtaining and maintaining certification is significant for providers and poses a barrier to care.
 - Possible methods to alleviate the cost barrier: include the cost of certification in the plan of care and individual budget, have the Department host trainings, have the provider assume the cost as “the cost of being eligible” to provide services.
- *Policy Considerations:* Support the inclusion of CPR/First Aid as a requirement, but consider ways to alleviate the cost burden and develop sufficient criteria for waiving the requirement.

Instruction and Training

- The participant should be the primary individual directing the care provided by the personal care attendant. Instruction and training from other individuals – nurse monitors, health professionals, and Department representatives – contribute to service quality.

- One councilmember suggested that instruction and training should be considered from a “social service” model and suggested that oversight of the attendant should be from the participant only.
- Two councilmembers noted that due to the nursing facility level of care threshold for participation in the program, there is a medical component to services. Such needs could be addressed in the instruction and training of the personal care attendant; the way in which the services are provided are still directed by the participant.
- Nurse monitoring is an element of service quality; the frequency will vary depending on the needs of the individuals.
- *Policy Consideration:* The regulations could amend the existing OAW language so that the participant is recognized as the primary director of services provided by the personal care attendant. Qualified health professionals provide support in the instruction and training of the attendant.

Acceptable to the participant

- MAPC and WOA require that the attendant is “acceptable to the participant.”
- *Policy consideration:* The provider shall be “chosen” or “selected by” the participant.

Criminal Background Check

- LAH, MAPC, and WOA require attendants to submit to a criminal background check. LAH allows participants to waive the check completely; LAH and WOA allow an attendant to provide services if a conviction of felony, moral turpitude, or theft occurred 10 or more years ago or the crime doesn’t indicate behavior that is harmful to participants.
- The Department currently performs criminal background checks, which investigates criminal history. These are different from Background checks, which include criminal history, credit history, employment history, etc.
- Currently, criminal background checks done in one program are not transferrable to another; this poses time, cost, and access problems for providers, consumers, and the Department.
- The ability to waive the requirement in the interest of receiving expedient services is important in a self-direction program.
- *Policy consideration:* Criminal background checks are useful and should be required. They should be waiveable. The entity responsible for paying for the check needs to be determined.

Approval and Supervision

This is part of the nurse monitoring discussion which will be addressed in a future meeting.

Records

- LAH and MAPC require attendants to document services provided to the participant and submit them to a central office (case manager, the Department).
- Keeping accurate records is an important component of continuity of services and continuity of care, as well as billing and ensuring compliance with the person-centered plan.
- One councilmember requested that records should be available to participants upon request.

- *Policy consideration:* the attendant is responsible for documenting the services they provide; the participant should have access to those records upon request.

Ineligibility

- Current waiver limitations do not permit family members to provide services to program participants. Such a limitation is not applicable under CFC. As such, the limitations to provider eligibility should include:
 - Conviction of a felony, crime involving moral turpitude, or any behavior that is potentially harmful to participants.
 - Citation on the Maryland Geriatric Nursing Assistants registry with a determination of abuse, misappropriation of property, or neglect.

Delegated nursing functions

- Delegated nursing functions must be performed by a nursing assistant, certified medicine aide, or medication technician per Board of Nursing Regulations (see COMAR 10.39.01, COMAR 10.39.03, COMAR 10.39.04, and COMAR 10.39.07).
- This is part of the nurse monitoring discussion which will be addressed in a future meeting.

PUBLIC COMMENT

Additional Concerns and Suggestions:

- One stakeholder differentiated between criminal background checks and background checks, and suggested that the council look into which type of check is preferable for CFC.
- Criminal background checks will be performed by agencies and individuals undergoing CNA, CMT, or CMA certification. The questions about the checks discussed today are unique to independent personal care providers.
- One stakeholder suggested that CPR/First Aid certification should be done at the worker's expense because they are being credentialed to do a job. To compromise, the certification requirement could be delayed by 60 days so that they can pay for certification following payment for services.
- One stakeholder suggested that local medical centers or health departments often host CPR/First Aid certification classes at a reduced cost.

OVERVIEW OF COUNCIL POLICY CONSIDERATIONS

- In general, the council considers the current policies adequate, though amendments to individual qualifications may be necessary in order to ensure quality and self-direction. See notes above for policy considerations specific to each provider requirement.