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PROTECTION & ADVOCACY
SERVICE, INC.

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December 19, 2014

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Attention: HCBS Program Transition
Medicaid Policy
Michigan Department of Community Health
P.O. Box 30479
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Secretary
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Dear HCBS Transition Planning Team;

Mark Lezotte, Esq.
Treasurer
Detroit

Thank you for the opportunity to comment on the recently released draft of Michigan's statewide transition plan on the implementation of the new Home and Community-Based Settings (HCBS) rules. The new rules were issued by the Centers for Medicare and Medicaid Services (CMS).

Michelle Huerta, Esq.
Immediate Past President
Livonia

As a committed and longtime member of the Michigan disability advocacy community, Michigan Protection & Advocacy Service, Inc. (MPAS) fully supports CMS' efforts to clearly define integrated community based supports and services and we also strongly support CMS efforts use of public funding to enhance integrated community based services as defined.

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MPAS also appreciates the demands on the Michigan Department of Community Health in planning and managing this vast, overarching paradigm shift in the design and delivery of supports and services to eligible populations. This endeavor, like others of its size, will prove to be time consuming and complex, but it will inevitably result in increased levels of independence and community inclusion for people with disabilities. Throughout this process, MPAS enthusiastically offers its expertise and support. The following comments regarding the draft statewide transition plan, although direct, are intended to be a constructive critique as Michigan moves forward in an expeditious yet responsible manner.

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General Comments:

Stakeholder Participation and Development of Plan

Overall MPAS has been disappointed with the level of stakeholder engagement allowed by the parties responsible for the development of the plan. To our knowledge there were only three (3) statewide stakeholder meetings. The first was a preliminary meeting simply educating stakeholders on the new rules and Michigan's responsibilities under these rules. This meeting amounted to only a dissemination of information that could have been obtained by visiting the CMS website.

There was an attempt at a second statewide stakeholders meeting, however this meeting was plagued with technical difficulties that prevented any meaningful questions or interactive dialog. This second attempt failed to engage stakeholders' input.

The third and final statewide conference call, which was intended to go over the draft plan, was scheduled before the plan had been released. In other words, the stakeholders were asked to comment on a plan that had not been seen. The third meeting did yield some conversation but nothing of significance since the details of the plan were yet unknown.

It is worth noting that the department did attend other events to discuss the development of the draft plan. MPAS attended several of these gatherings but was underwhelmed with the amount of new developments or details. We also had concerns with, what seemed to be, very inconsistent messages delivered to different audiences.

Format of Plan

MPAS is very disappointed that the draft plan contains no narrative that could explain the rationale or details of the plan. The plan format is disjointed, non-specific, and extremely confusing. The timelines in the plan are inconsistent and appear to be out of chronological sequence. A narrative could have assisted interested parties in providing more substantive comments and feedback.

Given the significant scope of this project, it is our opinion that Michigan's Plan amounts to a "large chart" that lacks a detailed clarifying narrative. It is inconsistent in providing direction and guidance and it is not an acceptable plan.

Specific Comments:

1. Person Centered Planning must be independently facilitated by a person or agency selected by the beneficiary:

The basic underpinning for the successful implementation of a plan to transition to truly integrated community based supports and services is inextricably linked to the integrity with which the Person Centered Plan is conducted. The integrity of the Person Centered Plan can not be compromised or limited by the array of services offered by the provider. Our preference is to

allow the Person Centered Plan to be facilitated by a person or agency that is independent of the service providing agency and is selected by the beneficiary.

2. Self Assessment:

We have significant concerns over the use of provider self assessments.

It is clearly within a providers' best interest to deem themselves "in compliance" with the new rules. Self assessments simply constitute an unacceptable conflict of interest. We would prefer a stronger reliance of an objective evaluator performing onsite assessments at every residential and non-residential setting receiving any 1915(c) waiver dollars.

Moreover, in the current draft plan, it is unclear whether or not every provider will perform a self assessment or if there is a statistically significant random sampling.

In addition, questions arise as to what happens when the findings of the "validating" entity do not match the findings of the provider self assessments. If, in fact, a validated sampling is used, how are the other compliant or none compliant providers (who were not a part of the sampling) then identified? Also, once these results are released to stakeholders, is there a plan to appeal a finding? If so, how does that work and who handles the appeals?

3. Non-Residential Services:

There is no indication as to how the non-residential services will be evaluated for their compliance with the new rules. It seems awkward at best to assume that a single evaluation tool could adequately assess both a group home and a sheltered workshop.

The draft plan indicates that both residential and non-residential settings under the Habilitation Supports Waiver (HSW) funds have already been identified. How was this done? What tool was used? Why has this information not been made available?

4. Plans for a modified Transition Plan:

Under section 1, the draft plan indicates that the department will "develop a modified statewide transition plan" starting 1/1/16. However, there is no information on plans for stakeholder input or outreach which corresponds with this activity. By January 2016, the department should have a greater amount of information regarding the various settings and their levels of compliance providing for an invaluable opportunity to reach out to stakeholders for input on how to proceed.

5. Remediation:

This section refers to settings "assumed to be in compliance". At the beginning of this plan, it is not wise to assume compliance at any setting and at the January 2016 juncture, a comprehensive onsite assessment, performed by an objective party using a well-developed and vetted assessment tool should have already determined compliance. In the rules, CMS does make an allowance for settings that are assumed to not comply with the new rules. There is no counter assumption for settings that are "assumed to be IN compliance.

Michigan's draft plan states that the Michigan Department of Community Health (MDCH) will be responsible for designing and implementing remedial strategies for settings found to be out of

compliance. Does that indicate that MDCH will have a specific plan for each non-compliant setting and a strategy to assure that each setting comes into compliance in a timely manner? Will there be benchmarks in place for each setting specific to their level of compliance and who is responsible for monitoring the progress for compliance? Will that information be public?

For settings deemed not able to come into compliance, what is the states' responsibility in helping those individuals find a provider that is in compliance? How will that be done so that beneficiaries do not fall through the cracks? And what type of assurance will be provided to know that those individual's preferences are being taken into consideration in accordance with their Person Centered Plan?

Sincerely,



Elmer L. Cerano
Executive Director

cc: The Arc of Michigan
United Cerebral Palsy Michigan
United Cerebral Palsy Detroit
Association for Children's Mental Health
Michigan Developmental Disabilities Council
Wayne State University- Developmental Disabilities Institute
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