Recommendations of the Pennsylvania Health Law Project
Regarding Managed Long Term Services and Supports

Presented before the Pennsylvania House of Representatives,
Human Services Committee

Introduction

The PA Health Law Project is a non-profit public interest law center that provides free legal advice and representation to low income individuals and persons with disabilities (regardless of income). We have been monitoring and representing individuals enrolled in existing Medicaid managed care programs since their inception. It is with that experience and the experience we have gained representing individuals in the intellectual disability system that we provide these recommendations. The PA Health Law Project is not currently taking a position on whether the Commonwealth should adopt a managed care model for intellectual disability services. However, should the Commonwealth decide to do so, the following are our recommendations for critical elements that should be adopted.

Make better outcomes for participants the prime goal

- "Too often, the chief factor motivating states to enroll people with disabilities in Medicaid managed care plans is a desire to curb the growth in program outlays. Little thought or attention is given to achieving beneficiary-centered outcomes." (Medicaid Managed Care for People with Disabilities, National Council on Disability, p.142)
- Outcomes are currently developed for each individual through the Individual Support Plan ("ISP") process. If managed care is to be successful, program design must be driven by achieving participant outcome goals- not just cost savings. Since outcome goals invariably include maximizing independence, community involvement, employment opportunities and avoidance of expensive institutional care, meeting these outcomes will, in most cases, ultimately result in lower costs without the harm caused by arbitrary, budget driven restrictions on services.

Allow greater use of more generic services with more participant & family control

- Under our current ID system, compensable services are limited by tight service definitions and provider qualifications. These limitations do not necessarily support good outcomes. In a managed care model, there can be greatly flexibility regarding the types of services and supports and providers a managed care organization can cover since managed care plans are not paid by specific services but rather by a per-person "capitation rate". Use of more generic services that are commonly available to persons without disabilities can save money without diminishing quality. For example, for some individuals, a membership in a Y or health club (not currently covered) may provide as good or better outcomes than more costly physical therapy (a covered service).
- Giving participants the support they need through support brokers to determine the types of services and supports that they believe will be most effective in meeting the outcomes established in their plan improves participant satisfaction with services and can result in lower costs in the long run.

Review existing program

- One managed care model being proposed by intellectual disability service providers is based on an existing program run by the Bureau of Autism Services known as "ACAP". Before DPW undertakes the development of a managed care model for intellectual disability services, it should hire an outside contractor to review consumer satisfaction and outcomes with this program to determine how well this model is working. That contractor should also make recommendations about elements of the program that should be replicated or changed if DPW decides to implement a similar model.

Maximize Consumer input in system design and monitoring

- Multiple avenues of input are needed. Advisory councils are important but experience of other states shows participation drops off over time. Analysis of appeals is also important but lack of appeals should not be taken as an indicator that everything is alright since many participants lack the support needed to pursue formal appeals. Fears of reprisal must be addressed to ensure all consumers have opportunities to have input.
- Create external advocacy groups.
- Outreach to participant advocacy groups allows for consumer input while providing a sense of protection from retaliation for individual participants which fosters greater input from participants.
- DPW currently contracts with some advocacy groups to provide training and individual advocacy. This function will be even more important should DPW choose to move to a managed care model for ID services.
- Ongoing in-person consumer satisfaction surveys- continue the existing Independent Monitoring for Quality program ("IM4Q") which currently conducts surveys of participants but revise the survey to include quality concerns related to managed care.

Consumer education

- Create multiple means of providing information about application/service development process, covered services and supports, role of MCO and complaint & appeal rights. Don't rely solely on written materials. Repeat information at contact points. Use advocates and other trusted persons as additional sources of information for participants.

Adequacy of Provider Network

- Ensure adequate capacity of community based network providers with expertise in serving persons with intellectual disabilities to support the number and type of participants (waiting lists for services)
- Ensure availability of variety of service types- home & residential- to ensure service setting that best meets enrollee's needs
- Ensure geographic availability
- Provide a process for contracting with non-participating providers who have special skills
- Special consideration must be given to the provider network for assistive technology, accessibility adaptations and DME- including providers skilled at doing assessments as well as equipment providers and trainers

Supports coordination

- Determine role of supports coordinators in managed care- consider requirements for being independent/conflict-free
- Who develops plan?
- Who coordinates services not covered by the ID system (e.g. medical care)? Identifying the entity responsible and ensuring these services are properly coordinated is essential for the many persons in the ID system who have multiple service needs.
- Define role of supports coordinators in monitoring services

Quality Improvement strategies

- Hire External Quality Review Organization- In PA, this function is currently served by the IM4Q contractors. Continuation of that function is important but additional capacity for data analysis will be needed, especially to take advantage of the "more sophisticated data capabilities" noted by CMS. This will probably require an additional contractor that has the experience to conduct data analysis.
- Involve clinicians in the development of quality measures, including quality of life indicators.
- Quality measures should include identification of "caution flags"
- Quality measures developed for & monitoring of: level of care assessments, support plan development, access to services (adequacy of provider network) and provider qualifications, timeliness of application/assessment process & start of services, care management for participants with multiple or complex needs, and extent to which delivered services meet the support plan
- Thorough incident management reporting protocols & connection to the adult protective services system
- Range of incentives and penalties to improve quality
- Consider placing MCOs at financial risk for institutional placements and some acute care. MCOs should have strong financial disincentives to placing people in institutions. Also, MCOs might be put at financial risk for cost of hospitalizations for avoidable conditions like bed sores.
- Promising practices should be identified, incented through rate setting and shared with all MCOs
- DPW needs to secure sufficient staff "complement" to provide good oversight and monitoring.
- Create a "user friendly" grievance & appeal system that enables persons with intellectual disabilities to bring their concerns and complaints to impartial decision makers without fear of reprisal.
- Monitor grievances and appeals, regardless of the ultimate decision, to identify problems that should be addressed systemically.

Rate setting

- Consider rates based on participants' level of need- similar to rate structure for nursing homes. This helps avoid "cherry picking" where MCOs market to persons with the lowest level of needs.
- Reinvestment- as done with Behavioral Health Managed Care Organizations currently, entities serving as managed care organizations for ID services should be required to

reinvest any revenue not spent on services and administrative costs (profit) into additional services. "Reinvestment dollars" have been crucial in the behavioral health system to the development of new, innovative services and supports which, if successful, will become part of the MCO's regularly covered services.

CMS Summary - Essential Elements of Managed Long Term Services and Supports Programs-

1. Planning & Transition
   - thoughtful and deliberative planning process that permits enough time to develop a clear vision for the program.
   - solicitation and consideration of stakeholder input;
   - education of program participants;
   - assessment of readiness at both the state and managed care plan level; development of quality standards, safeguards, and
   - oversight mechanisms to ensure a smooth transition and effective ongoing implementation of MLTSS.
2. Stakeholder engagement
   - include beneficiaries, providers and advocacy groups
   - Provider and beneficiary educational tours,
   - multiple educational mailings,
   - posting materials on a MLTSS website, and
   - state and managed care plan advisory groups
3. Enhanced services
   - delivered in manner "that offer greatest opportunities of active community and workforce participation"
4. Rate structures that support program goals
   - improve health
   - improve "beneficiary experience of care"
   - reduce costs through #1 & 2 above
5. Support for beneficiaries in accessing program & services
   - from independent & conflict-free source
   - enrollment/disenrollment services (broker)
   - advocate "to help beneficiaries understand their rights"
6. Person center process
   - active participation by beneficiary and/or surrogate in service planning & delivery process
   - comprehensive needs assessment with goals meaningful to participant
   - meaningful choices of supports based on needs assessment
   - opportunity to self direct supports
   - foster independence
7. Comprehensive & Integrated Service Package
   - include contract provisions on coordination and referral to ensure that the beneficiary's service plan is holistic and person-centered
8. Adequate network of qualified providers
   - "adequate capacity and expertise to provide access to services that support community integration, such as employment supports
   - Training and technical assistance for providers
   - Continuity of care requirements

9. Participant protections
   - Strong ODP monitoring of transition to MLTSS & ongoing operations
   - Strong incident management system
   - Participant appeal process that allows for continuation of services while appeal is pending
10. Quality
   - "More sophisticated data capabilities"
   - Holistic beneficiary outcomes- beyond just ID services

Additional resources:

Guidance to States using 1115 Demonstrations or 1915(b) Waivers for Managed Long Term Services and Supports Programs, Centers for Medicare & Medicaid Services, May 5, 2013. http://nasuad.org/sites/nasuad/files/hcbs/files/222/11089/Guidance_for_MLTSS_CMS.pdf

Summary- Essential Elements of Managed Long Term Services and Supports Programs, Centers for Medicare & Medicaid Services, http://nasuad.org/sites/nasuad/files/hcbs/files/222/11088/Summary_Essential_MLTSS_CMS.pdf

Keeping Watch: Building State Capacity to Oversee Medicaid Managed Long-Term Services & Supports, D. Lipson, et. al., AARP Public Policy Institute, July 2012 http://www.aarp.org/health/medicare-insurance/info-07-2012/keeping-watch-building-state-capacity-to-oversee-medicaid-managed-long-term-services-and-supports-AARP-ppi-health.html

Medicaid Managed Care for People with Disabilities, National Council on Disability, March 18, 2013 http://www.ncd.gov/policy/long_term_services

Consumer Choices & Continuity of Care in Managed Long-Term Services & Supports, Paul Saucier et.al., AARP Public Policy Institute, July 2013 http://www.aarp.org/content/dam/aarp/research/public_policy_institute/ltc/2013/consumer-choices-report-full-AARP-ppi-ltc.pdf

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