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CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID
INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
TECHNICAL ADVISORY COMMITTEE MEETING

Via Videoconference
October 3, 2023
Commencing at 10:01 a.m.

Shana W. Spencer, RPR, CRR
Court Reporter

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APPEARANCES

BOARD MEMBERS:

- Rick Christman, Chair
- Melanie Tyner-Wilson (not present)
- Wayne Harvey
- Johnny Callebs
- Christian Stewart (not present)
- Cheri Ellis-Reeves

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P R O C E E D I N G S

CHAIRMAN CHRISTMAN: Welcome,
everyone. My name is Rick Christman. I am
the TAC chair.

Erin, do we have a quorum?

MS. BICKERS: Sorry. I couldn't
find my mute button. I count four.

CHAIRMAN CHRISTMAN: Okay.

MS. BICKERS: So yes, sir. You
should.

CHAIRMAN CHRISTMAN: Okay. Thank
you. And I -- do we not have to approve the
April minutes as well?

MS. BICKERS: My records show that
the only minutes you have left to approve
currently are your August minutes.

Kelli, is that -- do you show that in
your records as well?

MS. SHEETS: I will go back and
look and make absolutely sure. Give me just
a second.

MS. BICKERS: Thank you.

CHAIRMAN CHRISTMAN: Well, I see I
put October in the agenda, so that should be
August.

1 MS. SHEETS: This is Kelli. I show
2 that the minutes from the April meeting --
3 hang on. Yeah. I show that they were
4 approved and the June.

5 CHAIRMAN CHRISTMAN: Okay. So we
6 need a motion to approve the August minutes.
7 Can I hear a motion?

8 MR. HARVEY: I'll make a motion,
9 Rick.

10 CHAIRMAN CHRISTMAN: Thank you.
11 And is there a second?

12 MR. CALLEBS: Johnny Callebs from
13 the Commonwealth Council on Developmental
14 Disabilities. I'll second.

15 CHAIRMAN CHRISTMAN: Thank you,
16 Johnny. All in favor, say aye.

17 (Aye.)

18 CHAIRMAN CHRISTMAN: Any opposed,
19 say no.

20 (No response.)

21 CHAIRMAN CHRISTMAN: That motion
22 carries -- carried.

23 Okay. I was -- attended the September
24 28th MAC meeting. Among the things that were
25 discussed, there was quite a bit of time

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spent on trying to determine whether there's certain regions that have a shortage of various healthcare providers. There was presented some data comparing the various regions against the national average. A lot of discussion as to whether that was accurate or not or helpful.

We also know that the -- with the Medicaid wind-down, the number of members has gone from approximately 1,740,000 to 1,640,000, and so that's a reduction of about 100,000 people.

There was -- one of the members, Mr. Wright, expressed some concern about the reduction of PDS hours in the waiver.

And another important development was Sheila Schuster has been elected to be the chair of the MAC. And Sheila has been, for many years, the -- chaired the Behavioral Health TAC and, from time to time, has expressed concern about the waiting list for Michelle P and SCL, so I think she'll be a great addition.

Let's see. Next on the agenda is the Appendix K timeline, submission of required

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amendments, permanency of some provisions.

Amy, are you on the call?

(No response.)

CHAIRMAN CHRISTMAN: She submitted that as a concern. Is there anything to report on that? Is Pam on the call?

MS. SMITH: Hey, Rick. Yeah. This is Pam with Medicaid. So those have been -- the webinar, the recording, as well as the deck are out on the website for anybody that did not get to attend the 925 session on Appendix K.

The -- all six waivers are out for public comment right now until -- they went out on 9/27. They will remain out for public comment on -- until October 27th. We have received -- the last count that I saw, we were in the 50s for public comment.

But I actually am out this week and just joined for this meeting, so I haven't seen what the count was for this week.

CHAIRMAN CHRISTMAN: Okay.

MS. SMITH: But we have been getting very good feedback. So I would encourage anybody, if you weren't able to

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attend the 925 meeting about Appendix K, to go listen to that recording and look at that deck. But they will stay -- all six waivers will remain out for public comment until the 27th, and we have to have them submitted to CMS by November the 11th.

CHAIRMAN CHRISTMAN: Thank you. That was a very helpful webinar.

Do we have any information about the number of SCL participants who have currently been involuntarily terminated?

MS. SMITH: I do. So since January 1st of 2023, 82 individuals have been involuntarily terminated from a service in SCL. Of those 82, 47 of them are still being served by the current organization, but I want to add to that. Some of them are being served successfully. Like, we're not seeing any additional incident reports. We're not seeing additional concerns.

CHAIRMAN CHRISTMAN: Okay.

MS. SMITH: And then prior to -- and I don't have the date that this goes back to. I need to check with Elizabeth with BHDID. But there were 96 -- so we had 14

1 additional terminations that were prior to
2 2023, but I don't have what date that goes --
3 what date that goes back, that that went back
4 to.

5 CHAIRMAN CHRISTMAN: Would you
6 think that those 14, that many of them are
7 being served now with a provider other than
8 who -- the one that terminated them?

9 MS. SMITH: I would -- I would
10 believe so. Now, all I have right now is --
11 what I have is the numbers. But yeah, I
12 mean, since we're at about -- a little over
13 50 percent have been transitioned either to a
14 different provider, or some of them have went
15 to a different waiver or have went to -- we
16 saw some that were in residential that have
17 went to where they're living with a -- a
18 family member or living in a different
19 situation outside of residential.

20 So I would believe that those 14, I
21 think, have already transitioned over, or
22 they would be included in that total 47. So
23 that is 47 total of all of the terminations
24 they're --

25 CHAIRMAN CHRISTMAN: Okay. Okay.

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MS. SMITH: -- served by.

Regardless of the date they were terminated, those are the ones that are still being served by -- by that provider.

MS. ELLIS-REEVES: Pam, why were they involuntarily taken off the list?

MS. SMITH: It varies. So they were -- so sometimes it is -- or a lot of times, it's behaviors, and they are not able -- so the provider finds themselves in a way that they're not able to adequately serve the individual and to meet all of their needs. We frequently see -- and a lot of times, this happens with new providers, that they say -- you know, they take on individuals, and maybe they're not the best fit to serve them.

So a lot of times, it's related to -- it's related to behaviors, or it's -- you know, sometimes we see -- not so much in this population, more in the brain injury population, where we see -- you know, the individuals are -- and I guess this goes along with behaviors, but maybe it's -- they're disrupting the house.

1 So, I mean, you -- because they have to
2 consider the other individuals that are
3 living in that house as well in that
4 environment because, you know, it's not --
5 it's not fair for, you know, two other
6 individuals or three other individuals to
7 feel unsafe living in their own home. So
8 there's a lot that -- a lot that goes into
9 that before someone is involuntarily
10 terminated.

11 MS. ELLIS-REEVES: Thank you.

12 CHAIRMAN CHRISTMAN: Of these 82
13 people, that represented, like, how many
14 organizations, would you estimate?

15 MS. SMITH: I do not -- honestly,
16 Rick, I do not have how many unique providers
17 that is. That's something I can go back
18 to -- to Elizabeth and Crystal and see if I
19 can get if you all want to add that to the
20 agenda for the next TAC.

21 CHAIRMAN CHRISTMAN: Okay.

22 MS. SMITH: That we can go back,
23 and I can get how many unique organizations
24 that -- the 82 that that represents.

25 CHAIRMAN CHRISTMAN: You may not

1 have this information. But of the 47 people
2 we're talking about now, are there any that's
3 over six months?

4 MS. SMITH: I don't have that. If
5 you want to add that to the agenda for the
6 next one, I can get -- I can get some
7 additional information.

8 CHAIRMAN CHRISTMAN: Would that be
9 helpful for us, members, TAC members, to know
10 these things?

11 MR. HARVEY: I think so, Rick. It
12 would give us a feeling of whether or not
13 it's a problem across the board or if there's
14 just a certain handful of providers or
15 whatever.

16 CHAIRMAN CHRISTMAN: Right. And
17 would you say that if it's over six months,
18 that's sort of a chronic for that individual,
19 it's a problem, a serious problem if it's
20 more than six months or a year? Or what
21 should we ask?

22 MS. SMITH: It -- honestly, it's up
23 to you all what --

24 CHAIRMAN CHRISTMAN: I'm asking the
25 group here.

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MS. SMITH: Okay.

CHAIRMAN CHRISTMAN: Does anyone have a suggestion?

MR. HARVEY: I think six months is a good window.

CHAIRMAN CHRISTMAN: Okay. All right. We talked about the exhaustion of ARPA funds. Do you -- are you any closer to a date on what you would estimate the ARPA funds to exhaust?

MS. SMITH: We're in the process of our first -- you know, of reporting that, what we have used right now through the mass adjustments and what has been billed so far. And I don't have -- I don't have the dates on that yet as we are currently still in the process of doing the analysis of how much has been -- has been spent so far with both the adjustments and the current billing.

CHAIRMAN CHRISTMAN: That's something you will be working on; correct?

MS. SMITH: Correct. We have to report that quarterly, and we're coming up on a reporting date with CMS. So we have to report that in two ways, those expenditures

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in two ways to CMS, both through our routine financial reporting and through our -- reporting our quarterly reporting that we have to do with our spending plan. So we do have to report that to CMS.

CHAIRMAN CHRISTMAN: Thank you.

And it's my understanding, from our last discussion, that when they do exhaust, that it's the intent of the general assembly to make that up with state general funds until July 1st, 2024.

MS. SMITH: That was the language that was in the budget bill, that it was the intent for them to continue funding.

CHAIRMAN CHRISTMAN: Okay. Thank you. It was mentioned that you were going to submit to the governor's office basically the budget on waiver design, rate study, and slots. Is there anything you can tell us about that submission?

MS. SMITH: There's not anything that I can share. But we do -- you know, every year, that's part of the submission that we include, you know, the request for slots, the budget request. So those have

1 been -- you know, we've been working with our
2 financial departments, and so there's not
3 really anything that I can share on those
4 submissions other than we did request slots.
5 We requested, you know, the funding based on
6 the outcome of the rate study.

7 CHAIRMAN CHRISTMAN: That was
8 included in the -- in the budget, the rate
9 study.

10 MS. SMITH: That was included in
11 what we -- in what was submitted, yes.

12 CHAIRMAN CHRISTMAN: Do you think
13 the waiver redesign will involve extra
14 appropriations?

15 MS. SMITH: I can't really answer
16 that, Rick. It'll be up to the people much
17 higher than myself to decide what -- what we
18 are funded.

19 CHAIRMAN CHRISTMAN: But you've
20 analyzed that; correct? When do you think
21 we'll see, like, the waiver redesign for
22 public comment?

23 MS. SMITH: So as far as the
24 waivers themselves?

25 CHAIRMAN CHRISTMAN: Well, no. The

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redesign that we've been working on, you know, for a while. That would require a public notice; right?

MS. SMITH: What -- the change -- any changes that are written into the waivers or that are into the regulations, yes. So if there are -- for example, you know, the -- we will -- the children's feasibility study. The end of this year, there will be information coming out about that. We've been working on the 1915(i) SMI state plan amendment. There will be information coming out about those.

But as far as the official public comment, it is the -- you know, when we amend the waivers and amend the regulations. But we continue to work on and share information about, you know, what we're doing as far as the -- any changes that we're making to the regulations or to the waivers.

CHAIRMAN CHRISTMAN: Well, I guess the changes that you've been working on specifically have been on -- that the waivers would be more consolidated, or they would be more -- there would be more consistency

1 between Michelle P and SCL; is that correct?

2 MS. SMITH: So the focus -- the
3 focus of the waivers and the changes that
4 were made for what is out for public comment
5 right now are based on Appendix K.

6 CHAIRMAN CHRISTMAN: Right.

7 MS. SMITH: We have to get
8 through -- we cannot make any significant
9 changes right now while we're using the ARPA
10 funds because of the maintenance of effort.
11 And we can't -- so, for example, there can't
12 be any services changed.

13 There are some things in the waiver
14 that -- for example, in Michelle P, there are
15 some services that were just copied over from
16 SCL, but they never were funded or never have
17 been utilized. We can't change those right
18 now because that would violate the
19 maintenance of effort, and so we can't do
20 that while we are accessing the ARPA funds.

21 So right now, the changes that you are
22 going to see with the waivers are what is out
23 there for public comment and what we covered
24 in the webinar on the 25th.

25 CHAIRMAN CHRISTMAN: On Appendix K.

1 So it'll be -- well, I guess it goes back to
2 when the ARPA funds exhaust but -- well, let
3 me ask you this. Are you still anticipating
4 some proposal, some changes after the ARPA
5 funds exhaust regarding more consistency and
6 the types of units, numbers of units that
7 you'll be --

8 MS. SMITH: We will be --

9 CHAIRMAN CHRISTMAN: -- proposing?

10 MS. SMITH: We will be looking at
11 all of that. We will be looking at cleaning
12 up the services, for example, that are there
13 that are not used that were, to be honest, a
14 copy and paste error at some point when
15 somebody did the Michelle P waiver. So yes,
16 we will be looking at those things, but that
17 cannot be done until after the exhaustion of
18 the ARPA funds.

19 CHAIRMAN CHRISTMAN: So probably
20 sometime in 2024 likely?

21 MS. SMITH: I can't really predict
22 that, but likely, yes, it will begin in 2024.

23 CHAIRMAN CHRISTMAN: Okay. Any
24 other questions on that?

25 (No response.)

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CHAIRMAN CHRISTMAN: What do we have on waiting lists?

MS. SMITH: Okay. So for Michelle P, we are at 8,618, about -- we still stay at about that 70 percent mark that are under 21. But some additional information that I have is that 25 percent of those individuals are Medicaid eligible, which means they could be accessing any of those state plan, or they may be covered by and most likely are covered by an MCO. But they could be getting behavior services, therapies. They have access to services.

25 percent of them are on the wait list for Michelle P, but they're receiving services in another waiver. And 5 percent are on the wait list, and they're in the process of starting services with another waiver. So they have not -- they haven't got an authorization yet but will be getting one. So of the 8,618, 55 percent of them have access to either services in another waiver or services through state plan.

For SCL, there are 3,326 individuals. No one is on the emergency wait list. We

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have 80 on urgent, 3,246 on future planning, similar to what I gave with Michelle P.

So 26 percent of the individuals on the wait list are Medicaid eligible, so they have access to services. 59 percent are wait-listed, but they're receiving services in another waiver. And 3 percent are in the process. They're wait-listed, but they are in the process of receiving an authorization for services in another waiver.

So 88 percent of the individuals on the wait list either have -- are getting services through another waiver while they're wait-listed, or they have access to other Medicaid services through either MCO or state plan.

CHAIRMAN CHRISTMAN: Okay. So MCOs are required to provide some of the services that they would otherwise get through a waiver?

MS. SMITH: They're required -- it would be the state plan services. So therapies --

CHAIRMAN CHRISTMAN: Right.

MS. SMITH: -- behaviors, any

1 needed -- any services that are medically
2 necessary. It would be the same thing for
3 those that are on fee-for-service or regular
4 Medicaid. They would have access to those as
5 well as any other services that the MCO may
6 offer that state plan does not.

7 CHAIRMAN CHRISTMAN: Right. And
8 then it would be incumbent, then, upon the
9 provider to become approved to provide
10 general Medicaid services; right, not --

11 MS. SMITH: Well, these would --
12 state plan. These would be providers, yes,
13 that are enrolled as state plan providers.

14 CHAIRMAN CHRISTMAN: Okay. Maybe I
15 don't understand this. So is there a
16 difference between state plan providers and
17 providers to MCOs?

18 MS. SMITH: So for an MCO, they
19 would have to be contracted and enrolled with
20 that specific MCO.

21 CHAIRMAN CHRISTMAN: Right.

22 MS. SMITH: For state plan, it's
23 just that's your regular general Medicaid.

24 CHAIRMAN CHRISTMAN: And that would
25 be reimbursed directly by the State?

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MS. SMITH: Yes. And the MCO would be billed through -- would be billed through the MCO that the individual is enrolled in.

CHAIRMAN CHRISTMAN: Is there any other items that anyone on the call here would like to discuss?

(No response.)

CHAIRMAN CHRISTMAN: If not, when is our next meeting, Erin? November?

MS. BICKERS: Sorry. Give me one second. It is -- I'm in the wrong month. That's why I can't find it. December 5th.

CHAIRMAN CHRISTMAN: December 5th. Okay.

Unless there is any other comments, the meeting is adjourned. Thank you.

(Meeting concluded at 10:22 a.m.)

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C E R T I F I C A T E

I, SHANA SPENCER, Certified
Realtime Reporter and Registered Professional
Reporter, do hereby certify that the foregoing
typewritten pages are a true and accurate transcript
of the proceedings to the best of my ability.

I further certify that I am not employed
by, related to, nor of counsel for any of the parties
herein, nor otherwise interested in the outcome of
this action.

Dated this 9th day of October, 2023.

/s/ Shana W. Spencer

Shana Spencer, RPR, CRR