

Members

Sen. Marvin Riegsecker, Chairperson
Sen. Rose Ann Antich
Rep. Sheila Klinker
Rep. Robert Alderman
Sylvia Marie Brantley
Christopher Durholz
Suda Hopkins
Sally Lowery
Ervin Picha
Joanne Rains
Thomas Van Meter
Betty Williams



INDIANA COMMISSION ON MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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Authority: P.L. 245-1997, P.L. 272-1999

MEETING MINUTES¹

Meeting Date: September 28, 1999
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Marvin Riegsecker, Chairperson; Rep. Sheila Klinker; Rep. Robert Alderman; Sylvia Marie Brantley; Christopher Durholz; Suda Hopkins; Sally Lowery; Ervin Picha; Joanne Rains; Thomas Van Meter; Betty Williams.

Members Absent: Sen. Rose Ann Antich.

Call to Order

Senator Riegsecker called the meeting to order at approximately 1:35 p.m.

Implementation of the 317 Task Force Plan

Ms. Debra M. Simmons Wilson, Director, Division of Disability, Aging & Rehabilitative Services (DDARS), provided Commission members with a copy of a news release entitled "FSSA Serving More Hoosiers with Developmental Disabilities" which discusses efforts taken by the Family and Social Services Administration (FSSA) in response to the \$39.3 million appropriation made in the budget this past legislative session (see Exhibit A). Ms.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Wilson highlighted certain information in the news release, including FSSA's priorities in providing services, the number of people served, and the process of streamlining delivery of services to persons with developmental disabilities. Ms. Wilson stated that DDARS is in the process of compiling its first management report to show the number of persons served and the money spent from the new appropriation and she will present that report to the Commission when it is completed.

Ms. Wilson distributed a spreadsheet to the Commission members which shows, by category, the developmental disabilities community-based services funding plan for new funding for fiscal year 2000-2001 biennium (see Exhibit B). Ms. Wilson pointed out that one of the items on the spreadsheet indicates that \$500,000 had been allocated for Bureau of Developmental Disabilities Services (BDDS) and Waiver Unit staffing due to the need to hire more personnel to oversee the additional services that are being provided through the recent appropriation. Ms. Wilson informed the Commission that DDARS has recently received approval to hire an additional 15 staff persons.

Referring to the spreadsheet, Senator Riegsecker asked Ms. Wilson how many hours the \$1,500 per person for respite services covered. Ms. Wilson stated that number of hours of service would vary, as not all service providers charge the same rate. Commission member Chris Durcholz related that when his family sought respite services for his son, the cost was \$13 per hour. Senator Riegsecker also expressed interest in knowing what the eligibility requirements are for receiving respite services. Ms. Wilson told the Commission that she would compile some criteria and utilization data on respite care and present that information at a future meeting. Senator Riegsecker stated that many people have told him that the availability of respite care is often the deciding factor in whether or not they will be able to care for developmentally disabled family members in their homes. In response to a question from Commission member Sylvia Brantley, Ms. Wilson stated that payment for respite care services for a particular individual can exceed the \$1,500 figure reflected in the spreadsheet, but that due to funding limits, it is DDARS's goal to maintain that benchmark.

Commission member Dr. Joanne Rains asked Ms. Wilson why the figures on the spreadsheet for services provided to children were so much higher than the figures in other categories. Ms. Wilson stated that she had no specific data, but that in general, services provided to children are more expensive than services provided to adults (e.g., more 24-hour services).

Commission member Ervin Picha inquired as to the status of the quality assurance section and if the section has established standards yet. Ms. Wilson remarked that there are currently four work groups meeting to work on various aspects of the quality assurance program, and one of those work groups is in the process of establishing standards. Ms. Wilson observed that it is DDARS's goal to establish a quality of life unit to track individual outcomes.

In response to questions from Representative Klinker, Ms. Wilson explained that none of the \$39.3 million appropriation is being spent to transition people out of state developmental centers into the community, but that DDARS's general budget appropriation contained money for that purpose, as well for paying Liberty Healthcare for its operation of the Muscatatuck State Developmental Center.

Representative Klinker asked if the "personalized planning" referred to in the news release took into consideration the wishes of the developmentally disabled person, family members, and the case manager. Ms. Wilson explained that the "personalized planning" is the same as the "person-centered planning" recommended by the 317 Task Force and

that it includes the involvement of the individual and the individual's advocates. In response to concerns raised by Representative Klinker regarding persons who are moved off the Medicaid waiver, Ms. Wilson responded that eligibility for the waiver is established by the federal government and that DDARS has a responsibility to stay true to those requirements and to not keep persons on the waiver who no longer qualify. Responding to a question from Senator Riegsecker, Ms. Wilson stated that the federal requirements for eligibility have not changed substantially in recent years. Representative Klinker requested that FSSA provide the Commission with the eligibility requirements for the Medicaid waivers.

Representative Alderman questioned why, despite the recent appropriation of \$39.3 million, there are still many people on the waiting list for services. Ms. Wilson explained that the appropriation is being used to provide services to people on the waiting list, but that the \$39.3 million was not sufficient to completely eliminate the waiting list. Ms. Wilson remarked that the 317 Task Force had estimated the cost of eliminating the entire waiting list to be approximately \$140 million. In response to a question from Representative Alderman's regarding whether any of the \$39.3 million will be reverted to the general fund, Ms. Wilson stated that she was not planning on reverting "one red cent."

Senator Riegsecker remarked that although the methods of achievement may sometimes differ, the goal of the Commission and DDARS is the same -- to provide quality services to Indiana's developmentally disabled population.

Group Homes

Ms. Simmons Wilson then provided Commission members with the following documents: a map showing the distribution of group homes in Indiana by county and an eight-page handout containing information on the different types of group homes, the conversion of children's group homes to adult homes, the waiting lists for group homes, funding for group homes, various issues relating to group homes, and information on group homes in several other states (see Exhibits C and D, respectively.) Ms. Wilson informed the Commission that DDARS is responsible for licensing group homes and is currently not licensing any new group homes. Ms. Wilson told the Commission that there are specific requirements a facility must meet to be licensed as a group home. Ms. Wilson also stated that the Residential Facilities Council, whose members represent various groups interested in persons with developmental disabilities, deals with problems regarding particular group homes.

In response to questions from Senator Riegsecker regarding church-affiliated group homes, Ms. Wilson stated that the licensing requirement is based on whether a group home receives Medicaid funding, not on the facility's affiliation. Ms. Wilson told the Commission that many church-affiliated group homes receive Medicaid funding and are licensed by DDARS. Ms. Wilson reported that DDARS does not license group homes that do not receive Medicaid funding.

Commission member Sylvia Brantley inquired if the money spent for services for an individual on a Medicaid waiver must be at least one dollar less than the cost of serving that individual in an institution. Ms. Wilson remarked that the budget for a particular individual is based upon that person's needs. Kathy Gifford, Assistant Secretary, Office of Medicaid Policy and Planning (OMPP), added that on a program-wide basis, the cost of providing services to individuals on the waiver must be less than specified benchmark amounts. Ms. Gifford noted that this comparison was previously made for each individual instead of the program as a whole. Ms. Gifford remarked that this change has allowed for

more flexibility in providing services to individuals on the waiver.

Referring to the eight-page handout provided by Ms. Wilson, Senator Riegsecker asked if Indiana needs 200 new group homes to eliminate the waiting list of approximately 1,200 people. Ms. Wilson explained that the information in the handout did not reflect how many beds are currently vacant in group homes and available for persons on the waiting list to move into. Ms. Wilson stated that based on the current demand for group home placement, it is DDARS's position that no new group homes are needed in Indiana at this time. Responding to Senator Riegsecker's question regarding how DDARS plans to address the waiting list for group homes, Ms. Wilson stated that DDARS is attempting to make sure that individuals residing in group homes still need and want to be there. Ms. Wilson observed that many individuals currently living in group homes may be able to move into community placements, thus freeing up more group home beds for persons on the waiting lists.

In responding to a question from Representative Alderman, Ms. Wilson commented that the majority of individuals who have been moved out of state developmental centers have been placed in community placements, not group homes.

Commission member Betty Williams asked if all individuals who are transitioned from state developmental centers to community placements receive services through the person-centered planning process. Ms. Wilson explained that DDARS is involved in planning the delivery of services for all persons who move out of the state developmental centers. Ms. Wilson noted that not all persons transitioned out of state developmental centers qualify for a Medicaid waiver, but that they may still be eligible for state funds.

Mr. Gerald Coleman, Assistant Commissioner, Health Care Regulatory Services, Indiana State Department of Health (ISDH), informed the Commission that the ISDH is responsible for conducting annual surveys of Indiana's licensed group homes, of which there are currently 548. Mr. Coleman provided the Commission members with a three-page handout containing information on the different types of Intermediate Care Facilities for the Mentally Retarded and Developmentally Disabled (ICF/MR-DD) in Indiana and the federal regulations regarding the inspection of each type, the nine most frequent violations found in Indiana ICF/MR-DD facilities in 1998 and 1999, and an overview of the ICF/MR-DD survey process (see Exhibit E). Mr. Coleman informed the Commission that there are eight major conditions and over 400 standards that are reviewed during each survey. Mr. Coleman stated that the annual surveys reveal an average of 1-2 deficiencies per group home, with approximately 45% of group homes found to be deficiency free.

Responding to questions from Senator Riegsecker, Mr. Coleman stated that recommending decertification for receipt of Medicaid funds is the only enforcement remedy that ISDH has for violations by group homes. Mr. Coleman also stated that the ISDH has recommended decertification for three group homes this year, but has not recommended any group homes be decertified in the previous five years.

Representative Alderman requested Mr. Coleman to provide the Commission with data on the occurrence of some of the more severe violations found in group home surveys. Mr. Coleman stated that he would provide this information to the Commission at a future meeting.

Responding to questions from Representative Klinker, Mr. Coleman stated that some of the federal regulations regarding the survey of group homes involve whether the individuals residing in the group home require the ICF/MR level of care. At the request of Representative Klinker, Mr. Coleman said that he would provide a copy of the regulations

on this issue to the Commission at a future meeting. Mr. Coleman stated that while the regulations on this issue are not new, ISDH has only been citing violations of them since 1997, after being instructed to do so by the federal Health Care Financing Administration (HCFA). Mr. Coleman noted DDARS, not ISDH, has the responsibility to find a new placement for a group home resident who no longer requires an ICF/MR level of care.

In response to questions by Commission member Thomas VanMeter, Mr. Coleman reported that the surveys of group homes are done on an annual basis and that the surveys, which are conducted without notice to the facility, last approximately two to four days.

Answering a question from Senator Riegsecker, Mr. Coleman stated that the United States Department of Justice (DOJ) does not have any input into the ISDH survey process. Senator Riegsecker asked the same questions of Ms. Wilson, who responded that the DOJ has been focusing on the state developmental centers and community placements, but she assumed that the same standards (i.e., least restrictive setting) apply to group homes as well.

Mr. Costa Miller, Executive Director, Indiana Association of Rehabilitation Facilities (IN-ARF), stated that Indiana is playing catch-up in providing services to persons with developmental disabilities, but the 317 Task Force Plan and those persons implementing the plan should be complimented. Mr. Miller, referring to the handout from the ISDH, asserted that there is a correlation between the lack of sufficient staff and substituting techniques for managing inappropriate behavior for active treatment. Mr. Miller observed that two key issues related to staffing in group homes nationally as well as in Indiana are an inability to attract staff and inadequate training. Mr. Miller commented that more money needs to be appropriated for hiring and training staff in group homes. In addition, Mr. Miller stated that services for dually-diagnosed individuals are insufficient. Mr. Miller remarked that it is unknown how many group homes are needed in Indiana. Mr. Miller asserted that it is important to keep in mind that people who are moving from institutions or group homes need to avoid becoming isolated.

Responding to a question by Senator Riegsecker, Mr. Miller remarked that DDARS's approach to group home waiting lists (i.e., "cascading," or moving out people who no longer need or want to be placed in a group home and moving in people from the waiting list) does work.

In response to questions from Representative Klinker regarding the need for group home placements for children, Mr. Miller noted that providing services to children is very expensive, especially if those children are placed out of state. Mr. Miller stated that members of his organization recognize that there is an opportunity to provide group homes for children, but to date there is not enough interest in the private pay sector to support such expansion. Mr. Miller remarked that it would take a policy decision from an elected or appointed official to encourage growth in this area.

Ms. Lynn Nelson, Deputy Director of Aging and In-home Services, Area Agency on Aging, Area 4 (Lafayette), informed the Commission that the Area Agencies on Aging (AAA) have existed in Indiana for approximately 25 years. Ms. Nelson told the Commission that the AAAs play the following four key roles in the system of providing services to persons with developmental disabilities: single point of entry; blending funding sources; maximizing case management dollars, including the use of volunteers; and accessing private funds.

Responding to a question from Representative Klinker, Ms. Nelson stated that the Area 4 AAA is currently working with DDARS in order to allow the AAA to authorize the spending

of Medicaid waiver funds.

Ms. Carolyn Ernstberger, sister of Muscatatuck State Developmental Center (MSDC) resident, commented that she would like to see some of the facilities at MSDC that are being emptied as a result of residents being moved into community placements converted into group home type facilities. Ms. Ernstberger suggested that if such conversion would be too expensive to achieve through state dollars, the empty facilities could be leased to a private organization for conversion and operation.

Senator Riegsecker stated that he has also thought about looking into the possibility of having group homes on the campus of a state developmental center. Senator Riegsecker suggested that Ms. Ernstberger express her idea and concerns to the newly created Governor's council studying state operated facilities.

Representative Klinker remarked that such an idea had been discussed before, but the DOJ was not supportive, and that makes the idea practically impossible, due to the necessity of receiving federal Medicaid reimbursement for the center.

Committee Discussion

Commission member Ervin Picha noted that one of the biggest threats to the implementation of the 317 Task Force Plan is the inability to recruit staff and to train and pay them adequately. Mr. Picha stated that some sort of incentives need to be offered. Representative Klinker suggested that offering free education might be a possible incentive.

Adjournment

There being no further business to come before the Commission, Senator Riegsecker adjourned the meeting at approximately 3:40 p.m.

Future Meetings

The next meeting of the Commission will be Wednesday October 13, 1999, at 10:00 a.m. in the Room 156-B of the State House.

The Commission's final meeting this year will be Tuesday October 26, 1999, at 10:00 a.m. in Room 156-B of the State House.

(Indications of meeting dates, times, and room locations in these minutes are subject to change. Please refer to the most recent Calendar of Meetings distributed by the Legislative Information Center for official meeting information.)