



COMMONWEALTH OF VIRGINIA
Virginia Board for People with Disabilities


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January 15, 2016

TO: Holly Mortlock
Department Behavioral Health and Developmental Services (DBHDS)

FROM: Heidi L. Lawyer 

RE: Comment on Policy 1021 (SYS) 97-9 Core Services

I am writing to provide comments on behalf of the Virginia Board for People with Disabilities (VBPD) regarding Policy 1021 (SYS) 87-9 Core Services, which is currently under consideration for updates and revisions. We appreciate this opportunity to participate in the review process for this policy, and we offer the following two recommendations:

- 1. Update the language used policy by changing the phrase “mental retardation services” to “developmental services.”***
- 2. Ensure conflict free case management within the policy by requiring CSBs who provide both case management and direct services to adopt strong firewall procedures.***

Update the language used policy by changing the phrase “mental retardation services” to “developmental services. VBPD applauds the Board’s ongoing efforts to update its policies to reflect person-centered, culturally sensitive language. We fully expect the Board to take this opportunity to update the language in Policy 1021 (SYS) 87-9 Core Services to language that is consistent with the language currently used in other Board policies and regulations, as well as in Virginia’s statutory code. Indeed, VA Code 37.2-500, which prescribes the core services reiterated in this policy, has itself been updated to change “mental retardation services” to “developmental services.” In addition to being more person-centered and culturally sensitive, this language is also more precise, because it more accurately describes the breadth of the services provided by CSBs in Virginia today.

Ensure conflict free case management within the policy by requiring CSBs who provide both case management and direct services to adopt strong firewall procedures. VBPD has recommended conflict free case management in each of its *Assessments of the Disability Services System in Virginia* since 2006. VBPD encourages the Board to include within its policy statement a requirement that CSBs erect sufficient firewalls to prevent actual or perceived conflicts of interest from arising. While the core services contained in Policy 1021 are prescribed in Virginia's statutory code and include both case management and direct services, the provision of both by the same entity can create conflicts of interest that affect choice and quality of services by individuals.

Federal law mandates conflict free case management for individuals who receive Medicaid funded Home and Community Based Services. The Center for Medicare and Medicaid Services (CMS) issued final rules which included this area in 2014. Ideally, case management and direct services should be provided by separate entities. To the extent that this is impossible or impractical, entities that deliver both must have procedures in place that mitigate the risk of conflict. Examples of mitigation procedures include clearly defining and delineating between the case management and direct services roles of the entity; ensuring clear administrative separation between case management and direct services functions; enacting a robust monitoring and oversight system; and enacting an effective consumer complaint system. VBPD encourages the Board to adopt a policy that is unambiguous in this area.

We appreciate this opportunity to participate in the review process for this policy, and we look forward to continuing to work with the Board as it updates and improves its policies to better serve people with mental illness, developmental disabilities, and substance abuse disorders in Virginia.