

Waldrop Settlement Agreement

Presentation to the Disability Concerns Subcommittee
of the
Legislative Health and Human Services Committee
September 25, 2015

Background

- In May 2015 a court-approved settlement agreement was reached in the *Waldrop* lawsuit against the State brought by Disability Rights New Mexico (DRNM) and the ARC of New Mexico (NMARC). The Department of Health (DOH) and the Human Services Department are implementing changes to the Developmental Disabilities Waiver (DDW) Program as a result of the Settlement Agreement. In early June DOH, HSD, DRNM and the NMARC issued joint letter to inform DDW participants and interested parties about the changes.

Key elements of the changes

- The DDW will continue to use the Supports Intensity Scale (SIS) for:
 - person centered planning and
 - to establish group assignments with suggested service packages and a proposed budgets for program participants.
- Regardless of the individuals' DDW Group assignment, services outside the suggested service package will be available if the person's planning team can justify the clinical need for these services.
- The DOH and the Human Services Department (HSD) will also use a new "Outside Review" process for all adult DDW participants' service plans and budgets, excluding Jackson Class Members.
- As the basis for this review, DDW participants' planning teams will need to justify, using clinical documentation, each requested service.

Key elements of the changes (continued)

- The DOH will contract with a the University of New Mexico as the “Outside Reviewer” to determine whether all requested services are clinically justified based on established criteria.
- In order for the Outside Review process to begin no later than November 2015 an amendment to the UNM Master Agreement was processed for FY16.
- Trainings for state staff, participants, providers and the Outside Reviewer contractor began in June 2016

Legal / Administrative Impact

- Under the terms of the settlement agreement, DOH and HSD will provide the option of an agency review conference which would provide an opportunity to informally resolve a dispute over any denial, suspension, reduction, termination or modification of DDW benefits or services before a fair hearing occurs.
- The Court's Order approving the settlement agreement means that DOH and HSD will need to comply with certain court-ordered deadlines and requirements.
- The Court's oversight of the Waldrop case ends two years following the receipt of the first DDW ISP/Budget by the Outside Reviewer.

Resources Needed

- DOH will be requesting a Supplemental Appropriation for FY16 and a Special Appropriation for FY17.
 - Provide additional services to participants covered by the Settlement Agreement
 - Pay for new infrastructure related to the Outside Review (OR)
 - Hire staff to manage the OR contract, train the field, staff Agency Conferences/Fair Hearings and support planning teams.
- Funding for ongoing operation of the OR and related staffing will be included in the base request for FY18.

Questions

- Legal questions about the implementation of the Settlement Agreement can be directed to:
 - Jennifer Hall,
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P.O. Box 25687
Albuquerque, New Mexico 87125
- Administrative Questions can be directed to:
 - Roberta Duran, Deputy Director, DDS, DOH (Roberta.Duran@state.nm.us)
 - Angela Medrano, Deputy Director, MAD, HSD (Angela.Medrano@state.nm.us)
- Information for DDW Participants and Providers is posted at:
 - Actnewmexico.org
- DDS Regional Offices are able to provide technical assistance to planning teams