State of Vermont
Agency of Human Services
280 State Drive
Waterbury, VT 05671-1000
[phone] 802-241-0440
[fax] 802-241-0450
www.humanservices.vermont.gov

Jenney Samuelson, Secretary
Todd Daloz, Deputy Secretary

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Re: Response to Public Comments for Global Commitment Register notice GCR 22-112 Developmental Disabilities Services Program Value-Based Payment Model

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Two comments were received and are included below along with a response from the Agency of Human Services (AHS).

Comment: We are writing to express our concerns regarding the Value-Based Payment Model proposed for Developmental Disability Services, in particular the 2% withhold tied to "reporting based" performance measures.

Our concern is that the proposed provision has no mechanism to hold recipients' services harmless from the mistakes and failures of their agency. The proposal allows the Agency of Human Services to withhold up to 2% from the bundled Medicaid payments to provider agencies when those agencies fail to meet reporting requirements.

As the Policy Summary indicates, the "Population Affected" are Medicaid recipients in the Developmental Disabilities Services program. Should the provider agencies fail to do timely reporting, the agency will lose 2% of its funding. That loss will affect recipients of Developmental Services.

While we do not anticipate that individuals' budgets will be cut, the miscreant agency has to somehow absorb the 2% loss. It stands to reason that any agency having difficulty doing regular reporting will also have difficulty absorbing a 2% decrease. Most likely that would come from staffing costs at a time when agencies are having difficulty maintaining staff. Reduced staff will reduce services to Medicaid recipients in the Developmental Disabilities Services program.

Most agencies are able to maintain their reporting obligations. However, we are all aware that every few years one agency will have significant problems and face challenges in the re-designation process. It is hard to believe that giving that kind of cut to an agency in trouble will help maintain services.

We oppose the 2% withhold unless there is a clear demarcation to hold recipients harmless from the cuts. Holding recipients harmless includes holding staffing harmless.

Thank you for the opportunity to comment, and your attention to this matter.

Comment: I have some questions and concerns with the proposed GCR 22-112:

Does the 2% that was withheld from GCR-22-070 for VBP get put into self-, surrogate-, and family-managed services' budgets? In other words, does GCR-112 reduce GCR-070's 8% budget increase down to 6%? Or because they are exempt the 2% gets immediately into the self-, surrogate-, and family-managed services' budgets?

The State should not be incentivising providers to provide reports that they are already required to provide. Self-, surrogate-, and family-managed services do not have any such flexibility or leniency from the State, yet have the same responsibilities. Like I said in my comments about GCR 22-073, the State continues to provide more resources to home health agencies that continue to underperform, while excluding self-, surrogate-, and family-managed services from any such resource increases. Why is the State spending $2,300,000 on agencies to get them to do a job they already committed to when they became a home health agency?

Incentivising Critical Incident Reports is especially dangerous. This gives the agencies reason to create false CIRs or incentivise care practices that create a critical incident. With the latter being actually harmful to the individuals that they provide care for. I find this specific incentive especially egregious, even if the intention of the State is to somehow help the agencies, this can clearly be exploited at the detriment of the necessary care that is provided.

Self-, surrogate-, and family-managed services suffer from the same recruitment, training, and retention of nursing staff issues that home health agencies have, yet are consistently left behind when it comes to resource allocation. This is not acceptable, especially because many of the individuals cared for by self-, surrogate-, and family-managed services are such because the home health agencies would not provide the needed care that these individuals required. After over 20 years of trying to lead these underperforming agencies with the carrot, it seems to me that it is well past time to lead these agencies with the stick.

The State needs to ask itself who is the intended target of the federal HCBS funding. The agencies who are consistently underperforming for decades? Or Vermont's most vulnerable who are consistently left behind?

State Response:

The model described in GCR-22-112 includes an 8% provider rate increase effective July 1, 2022, with 2% earmarked as a value-based purchasing (VBP) component, effective in the first quarter of 2023. This model is applied to the State's provider network of 15 Designated Agencies and Specialized Service Agencies and is not applied to services managed by individuals, families or surrogates.

This model is based on five reporting requirements: Encounter Data claims, coordination with the independent assessing entity for standardized needs assessment, Flexible Family Funding reporting, Wait List reporting, and One-Time Funding reporting. These measures were developed such that provider practices would be improved and state initiatives would be advanced. Adopting a VBP component in alignment with annual Provider Agreements is a new approach for Developmental

Disabilities Services, so the measures chosen were meant to be achievable while also adding value. In addition to measures that ensure the State receives timely reporting of data, GCR-22-112 includes measures to assess the success of state initiatives related to federal compliance and progress toward goals related to greater fiscal oversight and integrity.

It should also be noted that for this first year of VBP implementation, there is an additive 1% payment component for providers to earn additional revenue by meeting performance standards. Should providers not earn their full 2% of funding via the reporting-based payment measures, they have the ability to earn funding back by meeting other measures. The State will closely monitor performance in this first year and consider any necessary changes that may be needed for future years to continue to promote quality of care and improved provider performance and stability.

The State is engaged in efforts to support the workforce challenges facing the Developmental Disabilities Services (DDS) system. Recently, the Developmental Disabilities Services Division re-established a Workforce Workgroup, consisting of stakeholders, to focus on the addressing the specific issues and needs facing the DDS system. This workgroup will work in conjunction with the Agency of Human Services Designated Agency/Specialized Service Agency Workforce Task Force.