



Recommendations for Improving Protective Services for Adults with Developmental Disabilities through Reorganization and Enhancements

June 4, 2008

“Individuals with disabilities are safe and secure in their homes and communities, taking into account their informed and expressed choices.”

(Quality Framework, Center for Medicare & Medicaid Services)

“People have the information, skills, opportunities and supports to live free of abuse, neglect, financial and sexual exploitation, and violations of their human and legal rights, and the inappropriate use of restraints or seclusion. Quality assurance systems contribute to and protect self-determination, independence, productivity, and integration and inclusion in all facets of community life.”

(Areas of Emphasis, Administration on Developmental Disabilities)

The Oregon Developmental Disabilities Coalition believes the following recommendations will improve Protective Services for adults with developmental disabilities who are receiving or have received Medicaid or General Fund services from the Developmental Disabilities system, including:

- Service Coordination /Case Management,
- Support Services,
- Foster Care,
- In-Home Comprehensive Services,
- Supported Living,
- Comprehensive Services,
- Employment & Alternatives to Employment Services.

We believe that every individual with developmental disabilities has a right to be safe and secure no matter where they live or work. It is the consensus of the DD Coalition that many of the problems within the system stem from our inability to attract and retain a sufficient number of skilled staff. Strengthening the quality of the workforce through enhanced wages and benefits will pave the way for other changes and improvements that we have prioritized below.

We recognize the constraints of limited funding. We have prioritized our recommendations within each category to reflect what we believe to be changes that will have the most profound impact on our ability to protect individuals with developmental disabilities. We have also included changes that we believe are critically important but will cost little or no money. They may simply require leadership and commitment.

INCREASE PREVENTION EFFORTS

Improve and increase Community DD Program monitoring.

Outcome: Case management / service coordination workloads that allow for sufficient levels of monitoring. Improved ability to identify situations that may lead to abuse and increased early identification of abuse / neglect.

Possible Action Needed: Increased funding for case management or decrease other responsibilities. Prioritize individuals to receive more intensive case management / service coordinator / personal agent monitoring.

Increase quality of staff.

Outcome: Increased recruitment and retention of qualified staff. Reduction in the number of incidents of abuse and neglect. Increased access to training and technical assistance.

Possible Action Needed: Additional funding for staff compensation and rates.

Create administrative structures to support families, and individuals hiring direct support staff in all service elements.

Outcome: Increased recruitment and retention of qualified staff. Reduction in the number of incidents of abuse and neglect. Increased access to training and technical assistance.

Possible Action Needed: Creation of and funding for administrative structures to support families and self advocates in recruitment and hiring activities.

Create external monitoring function.

Outcome: Increased number of trained, independent “eyes on” individuals with developmental disabilities. Balances potential conflicts of interest by case managers / service coordinators serving as monitor.

Possible Action Needed: Funding. Statutory authority.

Increase prevention awareness and reporting by schools, families, self advocates, businesses, providers, service coordinators, personal agents and community members.

Outcome: Reduced incidents of abuse and increased reporting of incidents that occur.

Possible Action Needed: Expanded public awareness campaign; increased technical assistance and training to voluntary and mandatory reporters, including individuals with disabilities and families.

Clarify quality assurance / protective service strategies to for individuals living in their family homes.

Outcome: Brokerages and Community DD Programs would have guidelines for monitoring services provided in the family home and for intervening when necessary. Families would have access to technical assistance.

Possible Action Needed: Participate in process of revising Support Services rule.

ASSURE INDIVIDUAL RIGHTS

Increase investigations and prosecutions of crimes against people with disabilities.

Outcome: Stronger laws and rules or increased enforcement of current laws and rules. More successful prosecutions of people who commit crimes against people with developmental disabilities and reduced number of potential re-abusers in the system.

Possible Action Needed: **Work with the Police, District Attorney’s Offices, the Courts, and Policymakers to increase awareness and strengthen or enforce current laws and rules.** Would require funding to increase training, education and technical assistance to DAs, Police, Courts and others. Legislation may be needed to address some of the issues related to prosecutions when the victim is not considered a “reliable” witness. Consider including disability as a part of the identified hate crimes.

Increase State funded support for guardianships and targeted advocacy services for individuals involved in Protective Services or at risk.

Outcome: Increased safety and advocacy for vulnerable individuals with developmental disabilities. Funded guardianships / targeted advocacy for dependent adults who have no appropriate personal / family advocates and are in unsafe situations either in their family home or other situations.

Possible Action Needed: This would require additional funding beyond what the State currently spends to increase the number of publicly funded guardianships or targeted advocacy services. Additional training and education is needed for professionals in the DD system to recognize and seek guardianships when appropriate.

REQUIRE STATEWIDE CONSISTENCY IN PROTECTIVE SERVICES

Remove all protective services investigations from the responsibility of the Community Developmental Disabilities Program. Create regional or centralized organizational structure for investigations.

Outcome: Achieves greater statewide consistency, higher quality investigations, reduces possible conflicts of interest that may occur when investigations are implemented by the local DD Program, and will increase likelihood of successful prosecutions. More timely investigations and finalized reports. Increased overall professionalism of investigators.

Possible Action Needed: Requires legislative action and potentially increased funding for additional staff, training and technical assistance. Clarify the roles of the State, County, Office of Investigations and Training and others.

Create tiered system that links abuse and neglect violations to consequences. Clarify definitions of abuse and neglect. Create a single Protective Services Rule.

Outcome: Clarified definitions and processes will result in greater statewide consistency and implementation across service elements throughout the state. A consistent, foundational approach to protective services actions, public information dissemination and employment decisions. Stronger basis for working effectively with DAs, Police, and the Courts.

Possible Action Needed: Develop stakeholder consensus on tiers of abuse / neglect and link to consequences. Legislative and rule changes will be required to implement changes across the system.

Require statewide consistency in implementation of protective services and quality assurance processes and systems.

Outcome: Greater statewide consistency and more accountability.

Possible Action Needed: Leadership at the state level. Clarify roles and processes. Greater investment in training of personnel at all levels. Require accountability measures at all levels of implementation. Strengthen the relationship between state and local quality assurance activities. Standardize and improve the quality of responses to incident reports at the local and state level across service elements.

Create standardized system of fines. Use revenue to improve protective services and quality of care.

Outcome: Increased accountability.

Possible Action Needed: Legislative action. Make the use of fines consistent across the state and targeted to systemic organizational issues. Target revenue to address quality issues within the DD system. Create plans of correction and establish consistent follow through.

ENHANCE USE OF DATA

Create a publicly available listing of individuals who have been found to have been substantiated for abuse / neglect.

Outcome: Provides employers, families / self advocates with more information for decision making. Includes outcome of findings. Identifies individuals who cannot be hired.

Possible Action Needed: Full implementation of HB 2175. Utilizes tiers of abuse and neglect and links to consequences. Decide what to do about violations of quality care. Include personnel protections. Address concerns about possible unintended consequences such as reduced reporting or decreased number of quality applicants because of concerns about impact on future employment.

Improve systems for analyzing and utilizing data that is collected.

Outcome: Proactive ability to identify and act on individual and system issues.

Possible Action Needed: State leadership to prioritize issue. Additional staff. Community involvement in process.

Encourage the use of an employment application format that contains a place for prospective employees to check permission to contact previous employer.

Outcome: Allows prospective employer to check previous employment (see below).

Possible Action Needed: Advocacy by families and providers. Make state contract requirement.

Create legal protection for previous employers to frankly respond to employment related questions by prospective employers regarding job applicants.

Outcome: Increased protection for previous and prospective employers. Increases employment transparency. Decreased number of low performing workers moving from job to job. Increased safety for people with disabilities.

Possible Action Needed: Research on other states. Discussion with Bureau Of Labor & Industry. Legislation.

Expand DHS Facility Complaints website to include DD facilities.

Outcome: Increased transparency in the DD system. Public access to facility data on substantiated violations resulting in civil penalties.

Possible Action Needed: In progress. DHS anticipates DD facilities will be added by August 2008. Advocates should monitor development.

Increase collaboration and information sharing among agencies involved in protective services.

Outcome: Child protective services notifies DD protective services when a child is removed from a home that also has an adult with developmental disabilities as a resident.

Possible Action Needed: Interagency agreement.

Possible long-term strategy to improve the quality of services for people with developmental disabilities and their families:

Create an independent ombudsman for developmental disabilities.

Outcome: Complaints are investigated and resolved without conflict of interest. Advocacy is available to make improvements in quality of life and quality of care for people with developmental disabilities.

Possible Action Needed: Additional funding would be required to create an independent ombudsman. The Coalition believes this would not be the best use of limited public dollars to improve protective services. Explore whether it would be possible to increase the capacity and involvement of the current Governor's Ombudsman program and achieve the same outcome.

Oregon DD Coalition
www.oregonddcoalition.org

http://www.nytimes.com/2008/06/26/washington/26rights.html?_r=2&adxnnl=1&oref=slogin&partn