

Making Sense of System Change

245D, Waiver Rates, and Positive Supports

October 14, 2014



Minnesota Department of **Human Services**

The Situation:

Many lead agencies and providers are overwhelmed with the amount of system changes they are expected to understand and implement. This is leading to confusion, delayed actions, behavior driven by risk aversion, and fear.

Uncertainty around...

- **What 245D does and does not require?**
- **Implementing Positive Supports?**
- **What the Olmstead Plan does and does not require, especially regarding “choice?”**
- **Applying the Disability Waiver Rate System to secure the supports needed for people with complex needs?**

Effects of uncertainty...

- **Providers thinking they need to allow any choice by an individual.**
- **Hesitant to serve people with complex behavior support needs, especially when aversive/deprivation procedures have been used.**

Effects of uncertainty...

- **Rates based on budget restraints rather than individual needs.**
- **Delayed service agreements.**
- **Difficulty finding willing service providers.**
- **Involuntary discharges.**

Our objectives:

- **Reduce fear based on uncertainty/confusion, and its impact on service decisions.**
- **Replace uncertainty/myths with accurate information.**
- **Provide technical assistance on how to make DWRS work to meet the needs of individuals.**

Our objectives:

- **Provide training and support for Positive Supports and Person-Centered Thinking/Planning.**
- **Prevent involuntary discharges.**

Overview of system changes

245D

- **New uniform licensing standards for service providers**
 - Includes prohibitions on aversive/deprivation procedures.
 - Requirements for Positive Support Transition Plans.

Positive Support Transition Plan

- **PSTP**

- **Identify baseline, triggers, escalation, crisis and recovery stages for an individual and contain positive, person-centered strategies to intervene during each stage of crisis.**
- **Implement positive support strategies to: (1) eliminate the use of prohibited procedures; (2) avoid the emergency use of manual restraint; and (3) prevent the person from physically harming self or others.**

Positive Support Strategy

- **A strategy that emphasizes teaching a person productive, alternative strategies/behaviors for dealing with times of stress without the use of aversive or punishing procedures.**

Jensen Settlement Agreement

- **Requirements of the Jensen Settlement Agreement (JSA)**
 - **Develop Positive Supports Rule, prohibit most aversive/deprivation procedures.**
 - **Create an Olmstead Plan.**

Olmstead Plan

- **Requirements of the Olmstead Plan**
 - **Individual planning leading to supports and services based on:**
 - **Involvement of the individual and family**
 - **Use of Person-Centered principles and processes**
 - **Expression of choice and quality of life**
 - **Life options and alternatives**
 - **Provision of adequate services in integrated settings**

Disability Waiver Rate System

- **DWRS**

- **The frameworks calculate a payment rate based on information about:**

- **The amount of direct staffing (staff hours or ratio) purchased for an individual.**
- **The amount of nursing assessment and treatment (RN or LPN) purchased for an individual.**
- **Transportation purchased for an individual.**
- **Deaf/Hard of Hearing Customization purchased for an individual.**

DWRS and people with complex needs

An individual can apply for an exception when their needs cannot be met with the rate produced by the framework due to other cost drivers. Common examples of other cost drivers include the following:

- **Wage differential**
- **Training costs**
- **Supervision intensity**
- **Absence costs**

DWRS and people with complex needs

Applications must include a thorough account and documentation of:

- Summary of recipient need
- Extraordinary program/service response (to meet need) that is not acknowledged by the framework
- Cost of extraordinary program/service response
- ISP/CSSP
- Cost documentation

DHS is committed to assuring that lead agencies have sufficient funding:

- **County budgets can be adjusted when serving persons with extraordinary needs**
- **Anoka Metro Regional Treatment Center**
- **Minnesota Security Hospital**
- **Jensen Settlement**

How To Request Funding

- **Funding requests should be made by the lead agency through your Regional Resource Specialist (RRS)**
- **Funding is calculated after review of current budget and determination of need**

Other Budget Supports

- **DD Waiver Safety Net Funding**
- **Second year to control over authorization or over spending (with corrective action plan)**
- **Shift funds across counties to meet statewide priorities**
- **Shift funds across counties to address impact of rates implementation**

Common
misconceptions
&
Accurate information

DWRS and people with complex needs

Misconception #1:

“Exceptions are too much work.”

Reality: Exceptions require consideration...but not more than is reasonable in service planning for people with complex needs.

DWRS and people with
complex needs

Misconception #2:

“The process takes forever.”

Reality: None of the exception requests has exceeded the stated 30 days to process. Only the most complex exceptions have taken longer than a few days.

DWRS and people with
complex needs

Misconception #3:

***“None of the exceptions get approved
anyway.”***

**Reality: DHS has received 142
exception requests. None have been
denied. (Roughly 70 have been
withdrawn, 50 have been approved,
and 20 are currently pending.)**

DWRS and people with complex needs

Misconception #4:

“We’re on our own.”

Reality: DHS offers technical assistance! If information is incomplete or unclear, *we will walk you through it.*

245D

- **“Providers can’t keep people safe if they ‘can’t touch anybody’ (i.e., use of manual restraint), even in an emergency.”**
 - **Emergency Use of Manual Restraint is allowed under 245D**

245D

- **“Emergency Use of Manual Restraint and Positive Support Transition Plans (PSTPs) won’t be allowed after 2014.”**
 - **Both will remain allowed (and in some cases, a PSTP will be required) after 1/1/2015.**

Olmstead Plan

- **“I’ve been ‘person-centered’ my entire career. I don’t need more training on being person-centered.”**
 - **We’re moving from “person-centered” as an ill-defined philosophy to a uniform definition of Person-Centered Planning, clearly stated Person-Centered Principles, and specific tools, processes, training and technical support to implement.**

Olmstead Plan

- **“We can’t keep people safe if being ‘person-centered’ means letting people do whatever they want.”**
 - **That’s right! – and that’s not being Person-Centered.**
 - **“Person-centered planning is an organized process of discovery and action meant to improve a person’s quality of life. Person-centered plans must identify what is *important to* a person and what is *important for* a person.”**

~~Olmstead Plan 245D~~

- **“We can’t keep people safe if being ‘person-centered’ means letting people do whatever they want.”**
 - **Restriction of a person’s rights is a serious matter and requires that a specific set of criteria are met, and specific steps followed; 245D.04.**
 - **“only if determined necessary to ensure the health, safety, and well-being of the person.”**

Resources

- **DHS-Disability Services Division**

- DWRS
- Positive Supports
- Person-Centered Thinking/Planning

dsd.responsecenter@state.mn.us

651-431-4300

- **DHS-Licensing Division, HCBS Unit Help Desk**

- 245D

dhs.245DLicenseHelp@state.mn.us

651-431-6624

Resources

- **Additional information on the Disability Waiver Rate System available at:**
 - <http://mn.gov/dhs/partners-and-providers/continuing-care/reform-initiatives/rate-setting/disability-waiver-rates.jsp>

Resources

- **DHS-Disability Services Division**
 - **Regional Resource Specialists**

<https://edocs.dhs.state.mn.us/lfservlet/Public/DHS-4850B-ENG>

Resources

- **Positive Supports Community of Practice**
 - Bi-weekly Telepresence and web-based Live Stream presentations and training on positive behavior supports, person-centered planning, 245D, and the new Positive Supports Rule.
 - positivesupports@state.mn.us

Resources

- **Training on Person-Centered Thinking and Person-Centered Planning through the University of Minnesota**
 - **DirectCourse competency-based online training**
 - <http://mn.gov/dhs/partners-and-providers/continuing-care/provider-information/college-direct-support.jsp>
 - **One-day & Two-day workshops**
 - **12-month intensive organizational training/TA in implementing person-centered practices and positive behavior supports (“Cohort training”)**
 - <http://rtc.umn.edu/pctp/training/index.asp>

Questions?

Please submit to:

positivesupports@state.mn.us