

## **System of Care Plan/DD Regulations History and Input Process**

In 1996, the Vermont State Legislature embedded in law the process by which the state continues its commitment to community-based services. The Developmental Disabilities Act of 1996 (DD Act) requires the Department of Disabilities, Aging and Independent Living (DAIL), through the Developmental Disabilities Services Division (DDSD), to adopt a plan known as the State System of Care Plan that describes the nature, extent, allocation and timing of services that will be provided to people with developmental disabilities and their families. The State System of Care Plan, (from here on called the "Plan"), along with the Regulations Implementing the Developmental Disabilities Act of 1996 and the Developmental Disabilities Services Annual Report, cover all requirements outlined in the developmental disabilities statute. In 2014, the Legislature passed Act 140 amending the DD Act. It includes a new requirement that the department adopt certain categories of the Plan through the State rulemaking process. This means that they must be included in the department's Regulations Implementing the Developmental Disabilities Act of 1996 (DD regulations). Those categories include:

1. Priorities for continuation of existing programs or development of new programs;
2. Criteria for receiving services or funding;
3. Type of services provided; and
4. A process for evaluating and assessing the success of programs.

The remaining parts of the Plan are submitted to the State Program Standing Committee (SPSC) for Developmental Disabilities Services for advice and recommendations 60 days prior their adoption. Once the Plan priorities are determined, the Commissioner of the department considers funds available to the department in allocating resources.

Gathering information about the needs of people with developmental disabilities in Vermont and the effectiveness of our services and supports is an ongoing endeavor. The Plan builds on experience gained through previous plans and is developed every three years and updated annually, as needed, with input from a variety of individuals interested in services and supports for people with developmental disabilities. Input is obtained by the State through a process of gathering information from conversations with stakeholders, current Local System of Care Plans (as required through Administrative Rules on Agency Designation), public hearings and written comments for the rules and the Plan, and satisfaction surveys of individuals receiving services.

The department also considers changes to the rules and the Plan based upon changes in state and federal regulations, policies and agreements. These include the rules for Home-and Community-Based Services (HCBS) that have been issued by the Centers for Medicare and Medicaid Services (CMS); and the Global Commitment to Health 1115 Demonstration Waiver. One of the key groups consulted during the development of this Plan is the State Program Standing Committee for Developmental Disabilities Services. In accordance with the Developmental Disabilities Act, specifically 18 V.S.A. §8733, this Governor appointed body is charged with advising DAIL on the status and needs of people with developmental disabilities and their families and advising the Commissioner on the development of the Plan. All these methods of input provide the perspective of a wide range of individuals.

## **Plan for Revising the Plan and Regulations**

The process for revising the System of Care Plan and Regulations typically takes a full calendar year or longer. The current Plan is set to expire on 6/30/22. A team in the Developmental Disabilities Services Division (DDSD) began work on revisions in the summer of 2021. The work has been impacted by the ongoing pandemic and significant turnover of DDSD staff (8 of 19 positions turned over between 6/21 and 1/22). Stakeholders, including individuals with developmental disabilities, family members, advocacy organizations, and providers have also all been impacted by the pandemic, resulting in the need to prioritize immediate needs. Work has continued but at a slower pace than anticipated.

Three specific areas of focus have been brought to the Department for consideration in the Plan:

1. Allowing parents to be paid with Medicaid funds for providing care to their children with DD,
2. Housing and other support services specific to the needs of adults with autism, and
3. Increased housing models for adults with developmental disabilities beyond those currently available.

The Department agreed to consider these areas in the next Plan. Below is a description of how DDSD will gather input on the Plan and regulations in general and specifically on these topics.

### General plan for updating Plan and regulations

As noted above, certain categories of Plan must go through the legislative rule making process in order to be changed. These changes are made to the DD regulations and then incorporated into the Plan. DDSD is currently working on drafting proposed changes to the DD regulations. The parts of the regulations where changes are being proposed are Part 2, which outlines the criteria for determining whether a person has a developmental disability, and Part 8, which describes the grievance and appeal process. DDSD is proposing changes to the criteria for determining DD in response to a VT Supreme Court ruling which indicated that IQ scores up to 75 needed to be considered for eligibility. The grievance and appeal section needs to be amended to align with changes in federal requirements for grievance and appeals in Medicaid funded services. It is anticipated that that the proposed changes will be presented for review and feedback to the SPSC in February. Then they will be sent to Interagency Committee on Rules (ICAR) for review. After the review by ICAR, the proposed rules are filed with the Office of the Secretary of State, posted online and published in newspapers. Public hearings are scheduled 30 days after the posting. Hearings are generally scheduled for day and evening sessions and in various regions of the state. The posting also advertises how to provide written public comment on the proposed changes. All comments from hearings and in writing are then responded to by DDSD. The comments are considered, and suggested changes may be incorporated into the final draft of the proposed rules. This final draft, along with the department's responses to comments, is then sent to the Legislative Committee on Rules (LCAR) for review. LCAR holds another public hearing where interested stakeholders have the opportunity to provide feedback again. LCAR then votes on whether to approve the proposed rules. LCAR may make suggestions for revisions to the rules based on stakeholder feedback.

The remainder of proposed changes to the Plan are presented to the SPSC at least 60 days prior to the new Plan being implemented. Although not required in statute, DDSD typically solicits feedback on

those changes through other additional means, such as surveys, forums and targeted outreach to specific groups of stakeholders. DDSD will broadly advertise these requests for input.

Plan for feedback on specific focus areas:

DDSD plans to hold public forums on the three areas of special focus. For each topic area, the first forum would be to collect ideas about how to address issue. DDSD will also offer the opportunity to send written feedback. DDSD will also review information collected previously on these topics. Then, after collecting ideas, additional opportunities will be made available to comment on proposed ideas to incorporate into the Plan. Depending on the proposed changes, parts of the DD regulations may also need to be changed. Depending on timing, the DD regulations may need to be amended again in a subsequent process after the changes being proposed for Part 2 and 8. In addition, as noted previously, the SPSC would be provided an opportunity to provide feedback 60 days prior to implementing the Plan. DDSD will broadly advertise opportunities to provide input on these topics.