



December 3, 2015

Department of Developmental Services (DDS)
Commissioner Elin Howe and Ms. Gail Grossman
500 Harrison Avenue,
Boston, MA 02118

Facsimile: (617) 624-7573

Re: Recommendations Regarding Revisions to the DDS Licensure and Certification Process

Thank you very much for taking the time to consider our comments regarding the revisions to the DDS Licensure and Certification Indicators. As you already know, ADDP represents 130 human service providers who provide services for individuals with developmental disabilities and brain injuries.

ADDP very much appreciates and understands the amount of work you have put toward this effort, and that the intent of the new indicators and revised and strengthened indicators are to comply with implementation of the Centers for Medicare and Medicaid Services (CMS) which regulates home and community based services (HCBS) waivers. ADDP is in full agreement with both CMS and DDS that individuals with disabilities should have access to choice, control and opportunities for growth from their services and housing that is consistent with the new CMS HCBS Final Rule. However, it is important to ensure that these new and modified indicators for licensure and certification are feasible when other corresponding statutes, policies and regulations are taken into account, so unintended consequences do not place a heavy burden on the human service providers who serve these individuals.

Licensure Process:

ADDP also appreciates your concerns in deferring the deeming process for the purpose of licensure in the new licensure and certification process, in order to address the requirements of the CMS HCBS Final Rule. However, many of ADDP's providers do not understand the need for delaying their CARF accreditation deeming for one cycle (from August 2016 – March 2019) to demonstrate success of the new tool when there is already an agreement between CARF and DDS for all licensing indicators with the exception of one new licensure indicator guideline, and the four revised and/or strengthened licensure



indicator guidelines. Many providers have requested that deeming still be allowed for providers, and that the deemed providers should only be assessed based on the new or revised licensing indicators. We appreciate your consideration in this matter, and hope that some type of agreement can be reached between DDS and CARF regarding the new and revised indicators as well, at some point in the near future.

L50: (Revised) Written and Oral Communication with and about Individuals is Respectful

Some ADDP providers are concerned about the use of the words “disability etiquette” and find the description and measurement of this to be ambiguous.

L52: (Revised) Individuals can make and receive calls and use other technology privately

Some ADDP providers are concerned that they have to provide wifi access to all individuals receiving services, and question whether or not they will have the option of reserving the right to use their wifi for business purposes only. It would be appreciated if we could get more clarity on this issue.

L55: (Revised) Informed Consent

Many ADDP providers are concerned about the residential agreements that have been added to this indicator. However, some providers have been told that your legal department will be providing guidance on the creation of this document at some point in the very future. We are hopeful that this is the case, and look forward to the issuance of legal guidance regarding the required residency agreements.

L90: (New – Human Rights) Individuals are able to have privacy in their own personal space

Some ADDP providers are concerned that this right to privacy indicator may prevent staff from being able to conduct a ‘room search’ as described in an individual’s clinical plan, when an individual is unsafe. They are requesting an exception clause pertaining to safety and clinical reasons be added to this indicator.



Certification:

C47: (New) Individuals have full access to the community through transportation available and/or provided.

Some ADDP providers are concerned about the guideline that states the following about providing individuals transportation to and from community resources and activities:

“This might include utilizing a provider vehicle, which is unmarked and indistinguishable from other vehicles typical in the community.” (See C47). The concern here is with providers who have contracts with the Regional Transit Authority (RTA) that cite to the Human Service Transportation’s (HST) Transportation Provider Performance Standards within their service contracts that their provider vehicles used within these contracts “[b]e clearly identified with the corporate or business name affixed to the vehicle in a permanent or semi-permanent manner in no less than two (2) inch high letters. One location of such name shall be on the right side of the passenger’s door, and the other shall be located on the rear of the vehicle, as per Registry of Motor Vehicles regulations. No advertising or other labeling is permitted while Consumers are in the vehicle unless specifically authorized by the Broker.” (Transportation Provider Performance Standards, APPENDIX 1, Section III. A. 2. c., Revised Effective 07-01-14, page 13).

The concerns are because the providers under these contracts have expressed that they generally use these same provider vehicles within the community during program hours as well as for the time allocated under the RTA service contract. Not being able to use these vehicles during the day and needing additional provider vehicles for these alternate times, due to the conflict in requirements between the certification guideline and the HST contract, will be quite costly for some providers. ADDP is hopeful that this conflict can be remedied now that it has been brought to your attention.



Community for Living. Community for Life.

Thank you for taking the time to hear our concerns today, and understanding that what we propose and request is a reflection of wanting to adhere to best practices and applying the best approach for serving individuals with developmental disabilities and brain injuries, and helping providers make the best transition for the individuals they serve.

Thank you very much for your time and consideration.

Best regards,

A handwritten signature in black ink that reads "Tara Hopper Zeltner". The signature is written in a cursive style with a large initial "T".

Tara Hopper Zeltner, MSW, LLM
Attorney & Director of Governmental Affairs