BRAIN INJURY ASSOCIATION OF NEW YORK STATE

10 Colvin Avenue | Albany, NY 12206-1242
Phone: (518) 459-7911 | Fax: (518) 482-5285
1-800-444-6443 | 1-800-228-8201
Website: www.bianys.org | E-mail: info@bianys.org

THE VOICE OF BRAIN INJURY

On January 27, 2016, the NYS Department of Health (DOH) issued a draft transition plan to move the Traumatic Brain Injury (TBI) and Nursing Home Transition and Diversion (NHTD) Waiver Programs into managed care. The Brain Injury Association of New York State has grave concerns about the quality of this transition plan and its inadequacy to ensure the continued safe integration of individuals with brain injury in their home communities. This document details the issues inherent in that document, and addresses many of the specific items that must be addressed in order to protect those individuals currently receiving services and those who will need them in the future.

Brain Injury is a significant disabler, leaving many with devastating injuries and requiring ongoing assistance throughout their lives. The individuals currently served by the TBI and NHTD Waiver programs have been successful because of the interventions and support of the program. The TBI Waiver Program has served as a model of successful community support and integration, leading to the creation of the Nursing Home Transition and Diversion (NHTD) Waiver Program, and contributing to the development of other community-based programs, including the Community First Choice Option (CFCO). Any changes to this program require insightful implementation in order to ensure participants' continued success in the community. **As with the behavioral health and substance abuse populations, participants on these Waiver programs have special needs that must be at the forefront of all decision-making.**

The Brain Injury Association of New York State believes that the proposal to move the TBI and NHTD Waiver Programs into Managed Care will dissolve the protections and supports that are integral to the successful independent lives of participants has no cost saving benefits. We would like to see the Waivers carved out of Managed Care and restored to their original intent: as person-centered programs addressing the unique needs of this community. We will continue to advocate for increased assistance in meeting the specialized needs of current Waiver participants, as well as anyone who may require these services in the future. **If the Waivers are transitioned into managed care, it must be via a transition plan that is well-structured with a realistic timeframe that includes all services currently provided under the programs, addresses the specific needs of this population, and provides appropriate protections and oversight of service provision**.

It bears repeating here that the implementation **the UAS as an evaluation tool, when it is clearly inadequate in assessing cognitive issues related to brain injury, is of the utmost concern.** Continuing to use a tool that has not been adequately tested and which data indicates results in 30% of current TBI Waiver participants receiving scores that will disqualify them from services jeopardizes the health and safety of those individuals.

The following is an outline of concerns about the proposed transition plan, questions about the implementation, and recommendations:

1. **This transition plan does not adequately outline a structure that takes into account all aspects of the current Waiver programs and how those services will be provided under Managed Care.**
    - The transition plan does not cover all available services for people with brain injury, including housing and environmental modifications, and how they can access those services. These services were outlined and discussed throughout the workgroup and subcommittee meetings and outlined in several DOH crosswalk documents.
    - The process of transitioning these participants is not adequately outlined and does not provide appropriate protections to ensure that individuals with cognitive issues are assisted throughout the process and all services remain in place.
    - There are no prevention efforts to prevent institutionalization of people currently receiving Waiver services, nor is there a tracking process to ensure that participants currently receiving services under the Waiver programs continue to live independently in the community
    - While the Regional Resource Development Centers (RRDC) are included, their oversight abilities and brain injury expertise are not utilized to the fullest extent.
    - Detailed descriptions of the contract process for providers and what Managed Care must include in the contracts are not part of the draft.

    Recommendations: We request that the DOH

    - Create one single document, similar to the current Waiver manual, that outlines the full process for transition, all services available to participants, qualifications and training requirements for providers, details on Managed Care contracts and what participants and new prospective enrollees can expect as they transition.
    - Create a prevention program to keep current participants from ending up institutionalized, including the creation of a high-needs community rate cell within Medicaid reimbursement, and tracking systems to monitor this population within the Managed Care system.
    - Further develop the role the RRDC plays in the new program, taking into account their expertise with this population. If the RRDCs are to be effective, they need to make the final decisions as to who receives services without the intervention of the Managed Care program and they should oversee the training requirements of the providers for their regions.
    - Provide the actual language being considered for the transition plan. It is unclear from the documents received at workgroups and subcommittee meetings what language is actually being developed for the plan, as opposed to simply presented for discussion. Providing updated transition plan drafts for each meeting would show the group what recommendations are and are not being included in the draft.

2. **The UAS does not properly gauge the cognitive disabilities so often impeding the ability of individuals to live independently.**
    - The tool fails to fully evaluate the cognitive problems associated with brain injury that impede an individual's ability to function independently. The response of the DOH was to provide additional training that focuses more on the trainer's ability to evaluate the situation to identify cognitive issues, as opposed to changing the tool to better test for cognitive problems.
    - After implementing training updates, the data shows that 30% of individuals currently receiving services under the TBI Waiver will not meet the eligibility requirements as assessed by the UAS.

    Recommendations: We request that the DOH

    - Cease using the UAS until it is fully analyzed using independent and objective standards and can be shown to appropriately assess cognitive disabilities.
    - Ensure that the UAS is not being utilized to remove a certain percentage of participants from the Medicaid roster, based upon subjective opinions of need.
    - Regardless of the assessment used, there must be a method in place to ensure that the individuals currently living in the community under these Waivers have adequate time and assistance to secure appropriate supports outside of the Waiver. Adequate protections must be in place to secure the health and safety of these individuals.

3. **The transition plan does not adequately reflect service needs of this population.**
    - Three of the four services described (Independent Living Skills Training, Positive Behavioral Interventions and Support Services, and Structured Day Programs) include a note that they may be included as a CFCO service. If so, how will these services be accessed?
    - The proposed "Community Integration Services" is an amalgam of Service Coordination and Community Integration Counseling. It makes little sense to combine these services, as they are not interchangeable. This will affect every single participant in the programs, because Service Coordination is an essential service under the Waivers. CIC is a counseling service requiring a qualified professional able to provide therapeutic services, whereas SC is a much different service with its own specialized level of qualifications.
    - HCSS services for oversight and supervision services are not included in the plan.
    - Definitions of services do not reflect the services as described under the TBI and NHTD Waiver programs. These services were crafted with the specific needs of an individual with brain injury in mind, and must continue to reflect those needs.
    - Specialized Substance Abuse Programs are removed from services
        - Cognitive issues related to brain injury can make standard substance abuse programs ineffectual. In particular, the structure of traditional substance abuse services does not allow for the fatigue, memory, and cognitive challenges that a person with a brain injury may face. Specialized substance abuse services address the multitude of problems that may add to a substance abuse problem for a person with brain injury, allowing them to get help for their substance abuse needs in a program that takes their injury and special circumstances into account.

Recommendations: We request that the DOH

- Adjust definitions to better match the services to their Waiver definitions and specifically address the cognitive issues related to brain injury. Include HCSS for oversight and supervision to address health and safety needs of the population.
- Reinstate substance abuse services addressing the unique needs of individuals with brain injury.

4. **Transition plan is at such an early stage of development, with many details and procedures yet to be determined and numerous outstanding issues and concerns, that the current timeline does not provide an adequate amount of time to create a comprehensive plan.**
    - The transition plan is at such an early stage of development, with many details and procedures yet to be determined and numerous outstanding issues and concerns, that the current timeline does not provide an adequate amount of time to create a comprehensive plan.
    - Many people served under the Waivers are unaware of the major changes planned for the programs that serve them.
    - Providers are not completely informed and engaged in this process

    Recommendations: We request that the DOH

    - Delay the transition of the TBI and NHTD Waiver programs so that all details can be worked out in a thorough manner.
    - Utilize the expertise and insight of the stakeholder community to develop appropriate service definitions and outline procedures and qualifications through the workgroup process.
    - Implement an outreach program to the participant population informing them of the change and encouraging them to become engaged in this process. A timeline extension would provide more time to engage this population in input and public comment.
    - Implement an outreach program to the provider community to ensure that they provide insight into transition plan development, and that they understand how their organizations will work within Managed Care.