

**PROMISE 1115 Waiver Amendment-** The State of Delaware is seeking an amendment to its existing 1115 demonstration waiver to more comprehensively provide services to individuals with behavioral health needs with an intended implementation date of January 1, 2015. For transparency the State published the Amendment in the Public Register and received comments and questions. The State also conducted three public hearings, (1) New Castle County Public Hearing- September 23<sup>rd</sup>, (2) Kent County Public Hearing- September 25<sup>th</sup> and (3) Sussex County Public Hearing- September 24<sup>th</sup> and received questions and comments. Following are the questions and comments as well as the State's responses.

### **Summary of Comments Received with Agency Response**

A Client, the Disabilities Law Program of Community Legal Aid Society, Inc., (CLASI), the State Council for Persons with Disabilities (SCPD), the Governor's Advisory Council for Exceptional Citizens (GACEC) and a comment from an individual identified for publication purposes as Public Comment #5 offered the following observations and recommendations summarized below. Each comment has been considered and the agency's response follows.

**Agency Response Note:** With regard to the following comments, please note that each "Agency Response" provided below was developed and prepared by staff of the Division of Substance Abuse and Mental Health (DSAMH) in collaboration with the Division of Medicaid and Medical Assistance (DMMA).

### **Client Comment**

*Please Note: For purposes of confidentiality, the name of the letter writer and the location of the mental health facility are not identified.*

This letter is to lodge a complaint against the changes that are occurring to the XXXX Mental Health Facility.

The planned changes, forcing the patients out of this facility, were not, I think, made with the patients' well-being in mind. As a client of this facility, I am greatly opposed to the changes. The XXXX Mental Health Clinic has not only provided me with a safe place, but the groups offered have been invaluable as well. My therapist there is someone I have put my complete trust in and any headway I have made in therapy will now be completely derailed. Forcing mental health clients to start all over again is detrimental to their well-being. I would not be surprised if there was an increase in hospitalizations after the implementation of your new plan.

**Agency Response:** Thank you for sharing your thoughts and concerns with us regarding PROMISE. We received your letter, and wanted to let you know that we will consider your thoughts and concerns as we move forward with PROMISE. Thank you again.

### **Disabilities Law Program of Community Legal Aid Society, Inc. and the State Council for Persons with Disabilities**

Please consider this letter and attachments as commentary submitted in response to the solicitation appearing at <http://www.dhss.delaware.gov/dhss/dsamh>. A link at that Web location connects to a 38-page document dated August 22, 2014 entitled "1115 Demonstration Amendment for State of Delaware PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment) Program Changes", hereinafter "Amendment".

As background, we understand that DHSS is proposing an amendment to the DSHP 1115 Waiver to offer an enhanced benefits package to eligible persons. The target population is described as “individuals meeting the Olmstead settlement BH target population as well as other Medicaid-eligible adults with serious mental illness and/or substance abuse disorder needs requiring HCBS to live and work in the most integrated setting.” Amendment, p. 1. Specific eligibility standards are outlined at pp. 3-6.

The enhanced benefit package (pp. 7-8) includes the following fifteen (15) supports:

- care management
- benefits counseling
- community psychiatric support and treatment
- community-based residential supports, excluding assisted living
- financial coaching
- independent activities of daily living/chore
- individual employment supports
- non-medical transportation
- nursing
- peer support
- personal care
- psychosocial rehabilitation
- respite
- short-term small group supported employment
- community transition services

Individuals enrolled in the Pathways program would be categorically ineligible for enrollment in the PROMISE program. Amendment, p. 3. For individuals enrolled in the DSHP and DSHP+ program, case management and services would be coordinated. Amendment, p. 3.

The Disabilities Law Program and the SCPD endorse the initiative subject to consideration of the following.

First, we highly recommend that Target Criteria A (pp. 3-5) be amended to include “Major Neurocognitive Disorder Due to TBI” (DSM-5), a/k/a Dementia Due to Head Trauma (294.1x) under DSM-IV. Consistent with Attachment “A”, characteristics associated with Dementia Due to Head Trauma are described as follows:

These symptoms include aphasia, attentional problems, irritability, anxiety, depression or affective liability, apathy, increased aggression, or other changes in personality. Alcohol or other Substance Intoxication is often present in individuals with acute head injuries, and concurrent Substance Abuse or Dependence may be present.

Concomitantly, Target Criteria B should be amended to include at least trauma-based “Major Neurocognitive Disorders”.

On a practical level, individuals with a diagnosis of “Major Neurocognitive Disorder Due to TBI” will generally present with an array of symptoms at least equivalent to the included PTSD, OCD, and anxiety-based disorders. The former individuals also frequently have co-occurring physical/spinal cord deficits which could be addressed with many of the supports in the services menu, including personal care, nursing, and respite. Moreover, the diagnosis of Major Neurocognitive Disorder Due to TBI requires persistent and significant impairments:

In DSM-5, not all brain injuries can be considered potentially causative of NCD (neurocognitive disorder). The diagnostic criteria for NCD due to TBI require that the TBI be associated with at least one of four features: loss of consciousness, posttraumatic amnesia, disorientation and confusion, or neurological signs, such as neuroimaging findings, seizures, visual field cuts, anosmia, or hemiparesis (Ref.5, p. 624). Furthermore, the NCD must have its onset either immediately after the TBI or after recovery of consciousness and must persist past the acute post injury period. Thus, trauma that produced no cognitive or neurological changes at the time of the incident cannot produce an NCD under this scheme.

J. Simpson, M.D, Ph.D., DSM-5 and Neurocognitive Disorders, Journal of the American Academy of Psychiatry and the Law (June 1, 2014) (Attachment “B”).

Second, there is some inconsistency/tension in the descriptions of choice of providers. Compare the following:

All adults receiving PROMISE services will have a choice of practitioner among the contracted and qualified providers. At 8.

If the individual is identified as a CRISP individual, the individual will be enrolled in the PROMISE program only and will receive all services necessary for community living from the PROMISE program through CRISP. At 3.

The Department may wish to conform the reference on p. 8 to acknowledge the “CRISP” exception described on p. 3.

**Agency Response:** The Division of Substance Abuse and Mental Health (DSAMH), along with the Division of Medicaid and Medical Assistance (DMMA) will review and consider both points as we move forward with the implementation of PROMISE. We would like to thank you again for your comments.

### **GACEC**

The Governor’s Advisory Council for Exceptional Citizens (GACEC) has been given the responsibility to provide advocacy and advice on the human service needs of exceptional citizens of all ages in the State of Delaware. The GACEC would like to express support for the comments provided by the Disabilities Law Program (DLP) in reference to the proposed Diamond State Health Plan proposed amendments to coordinate coverage in the *PROMISE (Promoting Optimal Mental Health for Individuals through Supports and Empowerment)* program. PROMISE is the new Home and Community-Based Services (HCBS) behavioral health program. A copy of the DLP letter is attached for your reference. The GACEC endorses the commentary and recommendations provided by the DLP.

**Agency Response:** The Division of Substance Abuse and Mental Health (DSAMH), along with the Division of Medicaid and Medical Assistance (DMMA) will review and consider both points as we move forward with the implementation of PROMISE. We would like to thank you again for your comments.

### **Public Comment #5**

*Please Note: For purposes of confidentiality, the name of the letter writer and the location of the mental health facility are not identified.*

XXXX Mental Health [XMH] was providing stable services for mental health clients such as: individual counseling, Psychiatric Medicine Prescribing, Nurse Evaluations and Group Support for both women and men.

Presently, they are mainstreaming these clients into different programs thus taking away the stability of services for the clients. Many clients were told if they tried the new program they could return to XMH if they were not satisfied. However, when clients wanted to return to their original services provided by XMH they were denied.

Majority of the clients at XMH were very satisfied with the services they offered. In other words, it was working!! So now someone thinks they have a better idea which will save money etc. etc. However, they have no real understanding about the impact this is having on the clients. You are doing a great disservice to mental health patients and their needs.

Please reconsider PROMISE 1115, as it is, not what the mental health patient's need nor want. Go back and find another program to save money which DOES NOT affect individuals who have any form of disability.

Remember you also thought changing Detox to Recovery was a good idea which it has not been. (No reflection on the employees they are doing their best.) Learn to understand the true affect your decisions are making on people with disabilities who really often cannot stand up and rally for their best interests.

**Agency Response:** Thank you for sharing your thoughts and concerns with us regarding PROMISE. We received your letter, and wanted to let you know that we will consider your thoughts and concerns as we move forward with PROMISE. Thank you again.

#### **PROMISE Public Hearings**

- 1. New Castle County Public Hearing- September 23<sup>rd</sup>**
- 2. Kent County Public Hearing- September 25<sup>th</sup>**
- 3. Sussex County Public Hearing- September 24<sup>th</sup>**

*Questions and Comments during public hearings:*

*Responses*

#### **PROMISE- Overall Program Details:**

**Q: Can the term PROMISE be changed?**

**A:** No

**Q: What is the purpose of PROMISE and why is it being implemented?**

**A:** PROMISE has multiple goals, but is focused primarily on the expansion of community based services for individuals meeting the eligibility criteria and the inclusion for all PROMISE recipients of an independent care manager. The latter is responsible for assisting the recipient in developing an individualized recovery plan, monitoring the plan to assure that the recipient is receiving the services authorized, both in terms of quality and quantity, and advocating for the recipient should they not receive the services in the recovery plan. In addition, PROMISE provides a number of services that currently (for DSAMH clients) only occur in residential settings. Services such as assistance with activities of daily living, in-home nursing services for behavioral health nursing needs, are generally provided only in residential settings. While there are exceptions to these (e.g. Assertive Community Treatment teams can provide these), they have not been more widely available in the past. By developing and providing these

services independent of a residential program, an individual may be able to remain in their own home and enjoy a greater degree of independence and community integration.

**Q: Who can clients that need additional information about PROMISE contact?**

**A:** Clients or anyone else who needs information on PROMISE can contact Tom Johnson, Director of Provider Relations at 302-255-9463.

**Q: Will the PROMISE PowerPoint presentation be available on the DSAMH website?**

**A:** Yes.

**PROMISE Start Date and Services:**

**Q: When will PROMISE begin?**

**A:** DSAMH is aiming to launch PROMISE on January 1<sup>st</sup>, pending CMS approval.

**Q: Will each of the 15 services provided by Promise have an individual case manager, and will each service have a presence in all three counties?**

**A:** Care Manager's will be in all three counties. Care Manager's will be responsible for services based on the individual's recovery plan. Recovery plans will be based on the individual needs of the consumer and the PROMISE services are not limited by County.

**Q: Who will be the main facilitator during the person-centered planning process?**

**A:** Care Manager

**Q: So if one person needs three of those services, the Conflict Free Care Manager will be responsible for all three of that person's services?**

**A:** Yes, for the monitoring, advocacy and oversight of these services and their appropriate provision.

**Q: Will providers submit client referrals directly to a PROMISE care manager upon discharge and Eligibility and Enrollment Unit (EEU) approval?**

**A:** Individuals may be referred to either the Care Managers or the Eligibility and Enrollment Unit (EEU); however the EEU will be the primary first point of contact for PROMISE.

**Q: What is the expected caseload for a Care Manager, and how much time will they be able to allocate to a client to ensure they are getting what they need?**

**A:** Caseload sizes are currently being determined. However, we will be assigning Care Managers to types of PROMISE services, so that a care manager will manage a caseload of individuals on an ACT team, for example. We have calculated the amount of time we project for Care Manager activities and will finalize case load size based on these calculations.

**Q: Who is going to determine whether it is the right care for an individual?**

**A:** The Conflict Free Care Manager, in conjunction with the recipient, his/her support system and the information gathered in the assessment of needs drive the decisions about care and appropriate level of services.

**Q: What criterion is used when hiring Conflict Free Care Managers?**

**A:** Lead care manager's must be at least 18 years of age, have at least a Bachelor's degree in education, psychology, social work, or other related social sciences. They may also have a Bachelor's degree in another discipline, but must have at least 12 credits in the aforementioned social sciences, and at least one year working with people with serious and persistent mental illness or substance use disorder. In addition

lead care managers must complete department and division required training, and must have a valid driver's license if the operation of a vehicle is necessary to provide the service.

**Q: What is the role of IMD within PROMISE?**

**A:** They are not directly related. Any individual, who meets the criteria for hospitalization in an IMD, will continue to be served in an IMD. However, as occurs currently, the IMD would continue to refer individuals to the EEU for PROMISE services if they believe the person meets the criteria and can benefit from these services.

**Q: Can you address what will happen with current ACT team clients under PROMISE?**

**A:** They will remain in Act unless we determine that they could be better served in a different level of care or service array.

**Q: Who is covered under PROMISE?**

**A:** Adult residents of Delaware who meet the functional and diagnostic requirement of the program and have a need that is a Promise covered service.

**Q: Who will work with individuals under PROMISE to ensure that their goals are met, especially if they aren't capable of determining that on their own?**

**A:** The conflict free care manager, any identified natural support system (e.g. parents, friends), as well as the service provider. If the person is capable, they will be a primary partner in ensuring they receive what they are authorized.

**Q: How will individuals in need of PROMISE services get them at the system level?**

**A:** Anyone seeking PROMISE services should contact the Eligibility and Enrollment Unit at 302-255-9458.

**Q: Are there specific examples of evidence based practices that will be used in PROMISE?**

**A:** Assertive Community Treatment teams (ACT); Integrated dual diagnosis treatment (IDDT - for individuals with a co-occurring mental illness and a substance use condition), Integrated Employment Support Services (IESS), etc.

**Q: Are consumers who switch from SSDI to Medicare eligible for PROMISE?**

**A:** Yes, if the individual meets the functional and diagnostic criteria for PROMISE, they are eligible for PROMISE services.

**Q: Will prospective clients need to go through the EEU to determine PROMISE eligibility?**

**A:** Yes. The eligibility process will go through the EEU.

**Q: It sounds like there may be a conflict of interest between PROMISE, DPCI, and United Health Care. What are the thoughts of DPCI and United Health Care regarding PROMISE? If you all are not on the same page, who takes the lead?**

**A:** The relationship between PROMISE and the Medicaid managed care organization (MCO) is defined in the latter's contracts and clearly sets the mechanisms and the expectation that there be collaboration and coordination between PROMISE and the MCO.

**Q: Promise is supposed to be individually driven. If the individual goal of a client is to take drugs and drink alcohol, what is done in that situation?**

**A:** Our providers will work with the individual to minimize the risks of this behavior. This is a voluntary program thus it does not force care or changes in behavior.

**Employment/Homelessness:**

**Q: Given that there is an attempt to focus on employment; will the employment piece of PROMISE attempt to address homelessness?**

**A:** PROMISE is not a housing program. However, DSAMH does assist individuals in obtaining housing through other resources and these may be tied in to the services an individual receives under PROMISE.

**Q: Homelessness is a big concern, especially as winter approaches. Will PROMISE care managers be able to help an individual with finding housing?**

**A:** Most likely assigned service providers will assist with housing, however, DSAMH in coordination with DSHA does make housing vouchers available to eligible individuals and this will continue under Promise.

**Q: What is an example of the short-term small group supported employment under PROMISE?**

**A:** Individuals tend to work in a group context with supports as a means of gaining skills that can lead to integrated competitive employment. An example of this is a mobile work crew.

**Q: You mentioned small group and supported employment. Are you talking about enclaves?**

**A:** This modality is specifically used to train someone in a short period of time the skills needed for competitive employment. This service in itself is not a permanent employment service.

**Q: Have Request for Proposal's (RFP's) gone out for new positions being created under PROMISE?**

**A:** Some positions have already been established using existing staff, and some will be created once the RFP's go out.

**Q: Has anyone in Kent County been hired under PROMISE to see patients coming through Dover Behavioral Health?**

**A:** An active RFP has gone out for those comprehensive outpatient treatment services and is in process. The RFP is due on October 15<sup>th</sup>. However, this is not solely for individuals who may be enrolled in the PROMISE program when it becomes operational.

**Q: Is ECHO going to be the main mental health service provider for New Castle County clients?**

**A:** DSAMH issued an RFP for Comprehensive Outpatient Treatment Services and the awarded vendors for this service array will be announced upon completion of the process. These services may or may not be provided under the umbrella of the PROMISE Program depending on the individuals need for this level of service.

**Q: Will PROMISE provide housing vouchers?**

**A:** No, PROMISE will provide supportive services to assist the individual in their homes when appropriate but is not a housing program. However, eligible individuals may receive a housing voucher through the State Rental Assistance Program (SRAP) through DSAMH in coordination with DSHA, as is currently the case.

**Comment #1:** I don't know where you came up with the word PROMISE, but it is kind of offensive to me. My son and I have been through programs for at least 20 years. We are all well-meaning people, but we cannot promise that we can get the services that the people need. My sense of this is that we are enlarging the tent. So people like my son, who should be receiving services that I don't believe he is, will

be affected if we are enlarging the tent. I appreciate what everybody's doing. Sometimes I still feel like I get in meetings where people are hired to take care of the programs, and they need to take care of the programs, but I feel like I am the only one at these meetings who has a son who has been through all of this and is feeling it. It hasn't been happening. I also want to say that it is hard work, and I applaud all of you here who are doing the work. Good things will happen somehow.

**Comment # 2:** If PROMISE will provide more services for people, then it sounds like a really good program. There is going to be more money, so that's a positive.

**Comment #3:** Anytime we can look at the current situation, and attempt to do things in a better way, is a good thing. I feel like there are some many times that changes occur. The idea is always to have focus on the individual, but somehow the individual and the family get lost. I try to give a positive, and the positive is that we are still trying to do it better. So much money gets spent on evaluating if we are doing it better, when anyone can see that people aren't getting vocational training. So we don't have to have a big team of people to say that they need vocational rehabilitation in a better way.

**Comment #4:** Regarding measuring success and quality, it seems like there is so much that you are including. It seems like if you didn't include as much, maybe there would be a better chance for success. All of the items included, will present a lot to do. I would rather see some success in fewer areas.

**Comment #5:** I don't believe the state is meeting the housing needs of individuals who need it most. At my facility, we receive several calls from individuals with disabilities who need housing. If we are talking about community based waivers, it seems as if the implication is that if it is community based, the people have housing and you are providing supports. In NCC, the most frustrating part is that our consumers get letters from DSHA get letters saying that they do not live or work in Kent County or Sussex County. NCC community services only opens the roles twice a year. I wonder how our consumers with disabilities can have better access to housing.

**Comment #6:** Kudos to DSAMH for conducting this presentation. I learned more from this presentation than I have in any other form of communication regarding PROMISE.