

Nevada's Strategic Plan for People with Disabilities

Annual Report

June 2008

Introduction

This is our committee's fifth annual report. We have been honored to act as stewards for Nevada's Strategic Plan for People with Disabilities, and thank Governor Gibbons for the continued opportunity. We are also very appreciative of the support received from the Nevada Legislature. As you will see in this report, many individuals and agencies have contributed substantively to the implementation of our Strategic Plan; it truly has been a community effort.

The Strategic Plan Accountability Committee (SPAC) was created by executive order in 2003 to hold the State accountable for the implementation of the Strategic Plan, in response to the mandates of the US Supreme Court's Olmstead Decision. All States are required to have a plan for compliance with Olmstead and to make consistent progress on that plan.

The SPAC is made up of fifteen members from a diverse background of disability interests. The group meets on an as-needed basis, typically about five times per year. The SPAC is staffed by the Office of Disability Services, and most meetings are attended by representatives from the Division of Health Care Financing and Policy (Nevada Medicaid), Aging Services, Welfare, Vocational Rehabilitation, Child and Family Services, Mental Health and Developmental Services, Early Intervention, Department of Education and others. Minutes of our meetings are available by e-mailing Diane Randall at drandall@dhhs.nv.gov or on the web at http://dhhs.nv.gov/ODS_Meetings.htm#Strategic

2007-08 Activities

Since our last report, we have held five public meetings and accepted testimony on a variety of topics including Autism, Traumatic Brain Injury, Early Intervention Services, Positive Behavior Supports, Medicaid hospital discharge and others. Our recommendations below provide a summary of the conclusions we have drawn from that testimony and our deliberations.

This year, our committee elected a new chairman. Former chair, Jack Mayes, provided excellent leadership for two years; the chairmanship is now very ably filled by Jan Crandy, the parent of a child with a disability. New members to the committee this year include Scott Youngs, of the University of Nevada Center for Excellence in Disability and Paul Gowins, a long-time disability advocate and policy expert.

We have continued to take a critical look at the Strategic Plan. Some of the plan's objectives have become obsolete and others have needed updating to reflect the current environment.

2008-09 Recommendations

The SPAC has deliberated extensively on the following recommendations and has intentionally left several important issues out of this report, because those outlined here are of the utmost importance. We respectfully ask that the departments, the governor and the legislature give every consideration to supporting these measures.

Perhaps the most universal barrier we have encountered is a lack of data on the performance of various programs and the needs of many disability constituencies. We strongly encourage policymakers to consider the value of quality data in directing their decisions and to include a data collection component in all initiatives.

We have broken our recommendations down into three types: recommended resolutions or policies, bills, and budget initiatives.

RECOMMENDED RESOLUTIONS OR POLICIES

#1 When faced with issues or decisions related to disability, the governor and legislature should utilize the insights and expertise available through the State's various boards and councils.

Issue Summary:

Objective 3 of the Strategic Plan suggests that *“boards, commissions and decision-making bodies whose actions substantially impact the lives of children and adults with disabilities include the participation of informed adults with disabilities and their families.”*

Furthermore, Objective 5 says, *“all state agencies providing disability services regularly consult with adults with disabilities and families of children with disabilities.”*

Nevada's governor, legislature and executive branch agencies have made a commitment to engaging the disability community through a variety of boards and commissions. The members of these bodies possess a great deal of knowledge and experience, and are proud to serve policymakers and the State. Thus, it only makes sense that State government leadership look for insights and direction from the advisory bodies they have created.

For example, the Strategic Plan Accountability Committee has a good feel for the State's overall system of services and many of the over-arching issues that Nevada faces. The Governor's Council on Developmental Disabilities has a grasp of issues facing people who became disabled in their younger years. The Independent Living Council can offer advice on strategies and resources for community living. There are other bodies with expertise in vocational, educational, mental health, Traumatic Brain Injury, sensory disabilities, and a variety of other disability issues.

This recommendation does not seek to increase the authority of the State's disability advisory bodies but, rather, to see that they are fully utilized.

Relevant SPAC Objective(s): 3, 5

SPAC Contact: Jan Crandy

Agency Contact: Mary Liveratti

#2 As soon as practical, the Division for Health Care Financing and Policy should submit their proposal for a 1915(j) Medicaid Waiver to the Centers for Medicare and Medicaid Services.

Issue Summary:

Objective 72 of the Strategic Plan envisions that *“Nevada Medicaid will implement a 1915(j) option for self-directed services with individualized budgeting.”*

The 1915(j) option under federal Medicaid law enables service recipients to have greater control and flexibility over the services they receive, at a cost that is equal to or less than traditional approaches. Nevada has completed its 1915(j) application, but has delayed submitting it while waiting for the recent State budget crisis to pass.

We urge that the 1915(j) application be submitted as soon as practical.

Relevant SPAC Objective(s): 72, 17

SPAC Contact: Mary Bryant

Agency Contact: Connie Anderson

RECOMMENDED BILLS

#1 Amend NRS 439A to require reporting by health care facilities to a data repository of individuals at risk of entering a nursing facility, so that community-based alternatives can be explored before a person enters a facility.

Issue Summary:

Nevada's Money Follows the Person (MFP) project, through a grant from the Centers for Medicare and Medicaid Services, worked for three years to identify people in nursing homes who did not want to live long-term in these facilities. In cooperation with Nevada Medicaid's FOCIS program, over 300 individuals were transitioned out of nursing homes back into the community during those three years. One important lesson learned through the process was that, while people are waiting to leave nursing homes, they have often lost the resources to do so. They have lost their housing, furniture and other necessities while in the nursing home, making a transition back into the community very difficult.

Objective 16 in the Strategic Plan calls for the State to “*identify and transfer people in institutional care who can be served in the community, and who do not oppose such transfer, assuring appropriate discharge planning, transitional supports and targeted services coordination in the process.*”

The SPAC and DHHS believe that amending Chapter 439A will address this issue preemptively. Giving consumers the option of community-based living or nursing home placement before they leave acute care, will not only be better for those wanting to live in the community, it will be a policy that is essential to the spirit of Olmstead. The reporting health care facilities should also be responsible for coordinating with the known or pending payer source (Medicaid, counties, private payers...) as well as other sources of assistance such as the Office of Disability Services, the Division for Aging Services and the Centers for Independent Living.

We request that the legislature submit a bill draft request to implement a reporting repository.

Relevant SPAC Objective(s): 13, 16

SPAC Contact: Jon Sasser

Agency Contact: Connie Anderson

RECOMMENDED BUDGET INITIATIVES

#1 Move the Client Assistance Program from the Vocational Rehabilitation Division to an unrelated State agency, or privatize it as a nonprofit agency.

Issue Summary:

The Client Assistance Program (CAP) is federally charged with providing advocacy supports to clients of the Vocational Rehabilitation and Independent Living programs. Unfortunately, both programs and the CAP are part of the same agency. This alignment sometimes puts CAP and division staff on the opposite sides of an issue, and could compromise the CAP’s ability to independently represent their clients.

In the mid 1990’s, a similar State government advocacy agency was privatized and is now known as the Nevada Disability Advocacy and Law Center (NDALC). The CAP could also be privatized as a new agency, could be rolled into NDALC, or could be moved into a State agency with less proximity to the programs for which it has advocacy responsibility.

Relevant SPAC Objective(s): 70, 71

SPAC Contact: Jack Mayes

Agency Contact: Mick Coleman

#2 Return long-term residential services for people with Traumatic Brain Injury to Medicaid's physical disability waiver.

Issue Summary:

These services were funded by the 2007 Nevada legislature, but then became a casualty of the 2008 State budget crisis.

Objective 24 of the Strategic Plan calls for the State to “*identify the service needs of out-of-state residential placements and develop in-state capability to return those residents to Nevada.*” Several Nevadans with Traumatic Brain Injury are unnecessarily forced to live out-of-state in order to receive needed services. This placement is necessary mostly because the State does not pay in-State providers of specialized services the same rate as out-of-state providers. By increasing the rate paid to in-state providers, more Nevadans with TBI will be able to access services locally and remain in Nevada.

The SPAC urges the governor, the Department of Health and Human Services, and the legislature to prioritize this initiative in their 2010-11 budget.

Relevant SPAC Objective(s): 24, 51

SPAC Contact: Jane Imboden

Agency Contact: Connie Anderson

#3 Reinstate the elimination of the unearned income limit for the Medicaid buy-in program (HIWA).

Issue Summary:

Objective 52 of the Strategic Plan challenges the State to “*continually expand Nevada's Medicaid Buy-In Program to equitably provide, by 2008, medical insurance coverage or wraparound to all people with disabilities who, by virtue of becoming employed, have established an income above poverty level, but cannot obtain the health care coverage and services required to terminate reliance on public benefits.*”

The Health Insurance for Work Advancement (HIWA) program enables people with disabilities, who want to go back to work, to buy-in to the Medicaid program to ensure that they will not lose health insurance coverage in the process of getting a job. Unfortunately, the window of eligibility for the program became so small that only 21 people were enrolled. A bill to expand this window of eligibility failed during the 2005 legislative session but then passed in 2007. This promptly had an impact in getting people with disabilities back in the workforce. However, like other programs with impact, HIWA fell victim to the 2008 State budget cuts.

The SPAC urges the governor and the Department of Health and Human Services re-eliminate the unearned income limit as soon as practical and to include this initiative in their 2010-11 budget.

Relevant SPAC Objective(s): 52, 86

SPAC Contact: Jon Sasser

Agency Contact: Connie Anderson

#4 Maintain service levels in Nevada Medicaid.

Issue Summary:

Nevada's Medicaid program ranks 51st nationally in per-capita spending, and near the bottom in enrollment as a percentage of our total population. Our low Medicaid participation rate is the primary reason for Nevada's high uninsured rate.

In 2007, the U.S. Census Bureau released a report showing that Nevada ranked last in federal money returned to the state, per-capita, with the biggest discrepancy in Medicare and Medicaid. The national average in these categories was \$1,891 per resident while Nevada got \$1,001 per resident.

Given these data, Nevada simply cannot afford to reduce Medicaid service levels.

Relevant SPAC Objective(s): 21, 22, 30

SPAC Contact: Jon Sasser

Agency Contact: Connie Anderson

#5 Adequately fund Nevada Early Intervention Services to meet the needs of those applying for services.

Issue Summary:

Objective 20 of the Strategic plan proposes to, "*Assure all children (age 0-3) referred for early intervention services receive a multidisciplinary child evaluation and family needs assessment, and an individualized family service plan (IFSP) and have their plans completed within 45 days to comply with federal law.*"

Nevada Early Intervention Services (NEIS) provides services to children age 0-3 with disabilities under the Individuals with Disabilities Education Act (IDEA). When accepting these federal funds, Nevada assures that all eligible children in the state will receive services in accordance with IDEA which includes developing an Individualized Family Service Plan (IFSP) within 45 days after a family applies. In addition, there is a requirement to initiate the services identified on the IFSP within 30 days of parental consent for services.

Nevada has been under “special conditions” on its federal grant award since 2005, due to noncompliance in its waiting times. Progress on this noncompliance was made in FY2007, but slippage has occurred in FY2008.

NEIS is currently budgeted to serve 1,747 children on any given day. The number of children receiving services on March 31, 2008 was 2,072—325 above capacity.

The recommended caseload for a Developmental Specialist is 18-20 children, with rural specialists having a somewhat lower caseload due to the travel involved. Current caseloads run from 19 children in rural areas, up to 32 children in the southern region. On April 25, 2008, there were 12 Developmental Specialist vacancies at southern NEIS which impacts approximately 240 children and their families.

Statewide, the early intervention caseload continues to grow; there was a 24% increase between the 3rd quarter of FY07 and the 3rd quarter of FY08. Caseload projections for FY 2011 anticipate a growth rate of 51% over current funding levels.

Funding for NEIS must be a priority.

Relevant SPAC Objective(s): 20

SPAC Contact: Karen Taycher

Agency Contact: Janelle Mulvenon

#6 Ensure that Vocational Rehabilitation is able to take advantage of the full federal appropriation available to Nevada.

Issue Summary:

Vocational Rehabilitation has historically experienced difficulties in retention and recruitment of its rehabilitation counselor positions, which in turn have significantly limited the bureau's ability to fully utilize its federal Section 110 funding. In response, the Rehabilitation Division implemented several new recruiting strategies, and has made significant progress toward minimizing vacancies.

The Rehabilitation Services Administration (RSA) allocates Section 110 funding based on disability population demographics. For the current federal year (October 1, 2007 through September 30, 2008) RSA allocated \$XXX million more to Nevada than the State was able to match. At the required match ratio, an increase of approximately \$XXX,000 in State funding would be required to match Nevada's anticipated Section 110 allotment in the next fiscal year. *(June 18, VR is getting numbers together)*

Objective 77 of the Strategic Plan calls for the SPAC to “*Monitor and report to each session of the legislature matched funding returned to the federal government.*”

Vocational Rehabilitation receives a 4 to 1 match on their State funding; it is a tremendous disservice to Nevadans with disabilities to leave this money on the table. The SPAC urges the governor, the Department of Employment, Training and Rehabilitation, and the legislature to prioritize this match funding in their 2010-11 budget.

Relevant SPAC Objective(s): 76, 77

SPAC Contact: Jack Mayes

Agency Contact: Mick Coleman

#7 Continue funding for the Autism programs within Mental Health and Developmental Services and the Office of Disability Services.

Issue Summary:

In August 2008, the legislatively-created Autism Task Force will publish its report of findings and recommendations related to the epidemic of Autism in Nevada. A draft of the report is calling for a renewed commitment to the State's existing Autism services, rather than for the creation of new services.

Currently, the Office of Disability Services and the Division of Mental Health and Developmental Services have separate, but very similar Autism services. These two programs each serve distinct populations, but closely coordinate with one another to offer support to those affected across the Autism spectrum; this addresses the needs of both lower and higher functioning children, ages 18 months to 19 years old.

By expanding its commitment to these programs, Nevada can reduce the impact Autism is having on families and schools as they try desperately to cope with this disability. With early and intense treatment, many children with Autism can grow to become functional and successful adults; without intervention they will need lifelong supports. Providing intervention now is cost effective, whereas lifelong care can cost as much as six million dollars for a low-functioning adult.

Children currently receiving funding through the ODS and MHDS programs must continue to receive services, or be at risk of regression once services are stopped. These programs offer services that have both a social and fiscal impact on Nevada, and the impacts are significant, measurable and life-long.

Relevant SPAC Objective(s): 33, 35, 63

SPAC Contact: Jan Crandy

Agency Contact: Jane Gruner, Todd Butterworth

#8 Prioritize funding for children's mobile crisis services.

Issue Summary:

Objective 23 of the Strategic plan proposes to *“implement a statewide system of outsourced mobile units for outreach, assessment and referral of children and adults with disabilities who are homeless and in crisis.”*

In 2007, 1103 youths entered Clark County emergency rooms for behavioral health problems. This is a 53% increase over 2005 admissions, and over one-third are youths aged 10-14 years. Over 25% of those admitted were uninsured and one-third were on Medicaid. Even more troubling, in the last year, the number of children sent out-of-state to a treatment facility more than doubled from the year prior, due to a lack of effective community based services. UMC Emergency Department staff has identified the need for emergency room diversion as a top priority for this population.

The desired outcome of this recommendation is that youths with serious behavioral health care needs will have access to services proven effective to their needs, without needing to enter the emergency room or hospital to get those services. Early and effective treatment for these behavioral crises will save substantial public dollars and are likely to reduce the need for future critical intervention.

Relevant SPAC Objective(s): 23

SPAC Contact: Jim Osti

Agency Contact: Barbara Jackson

Accomplishments To-Date

An obvious question is: What good has come from Nevada Strategic Plan for People with Disabilities? In addition to being a deliberate and coordinated attempt to comply with the US Supreme Court's Olmstead decision, Nevada's strategic plan has resulted in many improvements in how we support our citizens with disabilities. Here are some of the highlights to-date:

- The 2-1-1 telephone and website system was launched and has provided valuable information to thousands of Nevadans.
- The Office of Disability Services was created, within the Department of Health and Human Services and helps thousands of people to live independently.
- Over 500 Nevadans have been transferred from nursing home placement, back to their homes, during the past five years.
- A budget category was added to the State budget for items related to Olmstead compliance, giving tangible evidence of Nevada's commitment.
- Tobacco settlement funds have been designated to give families a hand-up in caring for loved ones with disabilities, through respite care, independent living services, positive behavioral supports and the disability Rx program.

- Nevada’s helmet law has remained in place—despite attempts to repeal it in 2003, 2005 and 2007—and has protected hundreds of people from Traumatic Brain Injury.
- Rates for Personal Assistance Services funded by three different State agencies were equalized, providing important balance in the marketplace. Furthermore, these programs are now required to uniformly report unmet needs to the governor and legislature.
- A regulatory regime for Personal Assistance Services was developed, adding needed accountability in this growing industry. Additionally, the regulations allow care recipients to choose a self-directed model that enables them to have a high level of control over their care and who delivers that care.
- Services for seniors and people with disabilities have begun a process of integration through the new, federally funded Aging and Disability Resource Centers, and the availability of disability supports through Nevada’s senior centers.
- Comprehensive assessments and training are now provided for users of Paratransit services in Clark and Washoe counties.
- A surveillance registry of Nevadans with Traumatic Brain Injury was developed, to help track the needs of our citizens and to optimize the resources dedicated to their care.
- An online registry of American Sign Language Interpreters, and real-time captioning professionals, is being developed to make these services more accessible and to ensure the public is fully informed about the services they are purchasing.
- A Legislative Committee on Persons with Disabilities met for three interim sessions to examine and advance vital public policies.
- The Department of Health and Human Services developed a caseload reporting system that provides policymakers and the public with quarterly information on a variety of key disability and social service programs.
- Well over 100 families incorporated their own “microboard” as a vehicle to direct their care resources in the most prudent and effective way.

Conclusion

We appreciate the opportunity to serve the State and the disability community in this very worthwhile endeavor. The Olmstead Decision was a landmark case for people with disabilities. Nevada should take pride in its proactive response to the challenges offered by the US Supreme Court, and in the excellent Strategic Plan we are implementing in pursuit of Olmstead’s ideals.

We would especially like to thank: Governor Gibbons, who has supported our continued work; the many members of the Nevada Legislature who have graciously given voice to the disability community; Mike Willden and the many staff of the Department of Health and Human Services who have worked cooperatively as our partners in the Strategic Plan for People with Disabilities; the Office of Disability Services for staffing our committee and working hard to coordinate our many initiatives; and, the many other State and private agencies that have been so supportive of the process.