

# **FAMILY CARE COUNCIL FLORIDA**

**Frank Carroll, Chairperson**

**Sheraton Suites, Orlando Airport**

**Orlando, Florida**

**September 17, 2011**

**Corrected Nov. 19, 2011**

## **MEMBERS PRESENT:**

Pauline Lipps, Treasurer, (SunCoast Region East)  
Patty Houghland, Secretary (Area 1)  
Betty Kay Clements, Past FCCF Chairperson (Area 13)  
Phil Pearson, Vice Chairperson (Area 12)  
Melinda Willaford (Area 4)  
Donna Rauber (Area 7)  
Mary Pringle (Area 8)  
Veronica Pappas (Area 9)  
Jean Sherman (Area 10)  
Manyvone Champavannarath (Area 14)  
Don Taylor (Area 13)  
Ruth Wingate (Area 15)

## **GUESTS**

Virginia Taylor  
Ann Graybeal  
Diane Ciccarelli  
Teri Doolittle  
Stephanie Willaford  
Sylvia Smith  
Darlene Foster  
Amanda Heystek

## **I. CALL TO ORDER**

Past FCCF Chairperson called the meeting to order at 8:30 a.m. and welcomed everyone. The contents of the information packet were reviewed and include the following:

- FCCF Agenda
- FCCF July 16, 2011 Minutes
- 2011 FL Statute 393.502 Family Care Councils
- 1997 FL Statute 393.502 Family Care Councils
- Financial reports for FCCF
- Arc's comments on the Cost Containment Plan
- Information on Respite Pool
- FCCF September 2011 Newsletter
- Letter to Director Hansen from FCCF
- Phil Pearson, Deborah Linton, Dixie Sansom pp presentation to Director Hansen
- 65G-2 Residential Licensing and Renewal workshop announcement
- 59G-13.070 DD Individual Budgeting Waiver Services Handbook Workshop announcement
- Welcome to iBudget Florida packet
- Advocacy 101, Presenting your Medicaid Case manual information
- Information sheet from Arthur Barndt concerning new information on the iBudget website
- Fiscal Year 2011-2012 APD Cost-Containment Plan

- Disability Rights Florida Restraint and Seclusion at School power point presentation
  - Draft of the Transportation Utilization Assessment Tool was shared
- There was general discussion on the various pieces of information in the packet.

## **II. BUSINESS**

**Review of Minutes**— Jean Sherman made a motion to accept the minutes as submitted, Phil Pearson seconded the motion. The minutes were approved by consensus.

**III. Budget Report**—Pauline Lipps, treasurer, reviewed the budget report. There has not been much activity thus far. Some differences were found and chairs were encouraged to review the report carefully. Pauline will check about the postage cost posted to FCCF.

Betty Kay requested to amend the May minutes to capture the details of the equipment purchase that was agreed to by consensus. Phil made the motion to amend the minutes and Pauline seconded the motion. The motion passed.

**IV. APD Director Michael Hansen**—Mr. Hansen has just recently been appointed Director of APD. Mr. Hansen shared his background. He has extensive experience in the legislative body. Mr. Hansen was Governor's Bush's Budget director. Most recently he was staff Director of the Senate Health and Human Services Appropriation committee. He did the budget for Health and Human Services, including APD's for the last 2 sessions. He worked on the language that required APD to stay in budget. Mr. Hansen's charge according to him is to balance APD's checkbook. Mr. Hansen explained, that a lot of the budgetary problems of APD today are a direct result of some practices implemented during the Bush administration, when the funding was increased significantly. It became the practice to look to the Waiver as the first source of funding, and it created significant dependency on Waiver funding.

This year the answer is not asking for more money he said. The first job is to convince the Governor and the legislature that we are doing the best possible job with the resources provided to APD. Mr. Hansen discussed the September report to the legislature. He also said, that when making budget forecasts, one thing is for sure—it is either too high or too low. Each month on the 20<sup>th</sup>, APD must make a report, to the Governor and legislature, as to being over, under, or on budget. On September 4, more initiatives were put in place. One is volunteer reduction of the cost plans, and they are having some success. Also iBudget is being rolled out. As crisis requests are being evaluated, the iBudget is being applied just to evaluate what the iBudget would authorize, and compare it with what is being requested. APD is asking Area office's and WSC's to identify natural supports, that would reverse the trend of using the Waiver, as the first payer of services.

Spending in August is about 7 million above the allocation, so APD must submit additional cost cutting measures. The Governor has told Mr. Hansen that they must

be in budget. Therefore, he is to work with everyone and figure out how to do that. Some situations that may be driving the cost up are children, on the Waiver, hitting their 21<sup>st</sup> birthday, and aging out of EPSDT under the state plan Medicaid. HCBS Waiver has to pick up the cost, especially with nursing services. Also, Behavioral services are very expensive. They are looking at those costs to see if they are making progress. They will do this checking every 6 months. The Area offices are doing the review of the high cost plans. Mr. Hansen wants to empower the Area offices in the decision making process, but the Area office will also have to be responsible for staying within their Area budget. The Area offices will be consolidated, but to what number has not been decided. DCF has 6 regions, AHCA has 11, and APD has 14. Mr. Hansen responded to questions from the group. One concern the group expressed was, what would happen to the number of Family Care Councils, if the Areas are consolidated? Mr. Hansen does not want to make it harder for families to participate, and will work with us to solve the problem. Mr. Hansen will try to arrange to meet with each of the FCCF individuals when he visits offices, or they visit Central office. Stephanie will be able to assist coordination of meetings with Mr. Hansen.

Mr. Hansen does not know if we will be able to end this year in budget, but that is the goal. The final question for Mr. Hansen was, "What are the next cuts that are coming?" He explained that they are looking at several things, such as paying the Medicaid rate for the same service being provided in the Waiver, example is nursing. Presently, the Waiver pays higher than State Plan Medicaid. A second possibility is having the client contribute to their care if they receive more than the basic SSI monthly payment. Nursing homes and ICF's may do this. They are also looking at agency rates for individuals (solo) rates and perhaps allow Agencies a certain percentage over the solo rate. They are looking at the structure of some rates, such as adult day training, but at this time just looking at it. All this will depend on what the numbers show in September.

The issue of the annual 10% reduction exercise, that all agencies must perform, is of concern to the group. Mr. Hansen explained that they are telling the legislature and Governor the iBudget would take care of that issue. Of course the fall out, for some individuals, will have to be carefully evaluated so that health and safety is not compromised.

**V. Debra Dowds and Celeste Putnam FDDC**—The Governors workgroup on the budget issue and cuts believed that they needed data in order to make recommendations to the Governor and Legislature. So a sub group of the workgroup requested and received data, from APD, based on some identifiers. Celeste walked the group through the charts and explained what the charts showed. The data was on cost plans, not actual expenditures. The graphs show where each Area stands in relationship to the state averages in the various situations. One thing that became very clear was across the board cuts are not fair. An analysis was done, by age groups and comparison of QSI percentage breakdowns, in Areas with Higher and Lower costs. The results of the data could not explain the spikes in expenditures in Areas receiving services at an above average cost

**VI. Sylvia Smith, Director of Legislative and Public Affairs, Disability Rights**

**Florida**—Sylvia shared copies of the Restraint and Seclusion statute that shows the new information added this past year. Districts now must write a plan on how to reduce incidences of restraint and seclusion, and write new policies. This needs to be completed by the first of the year. The suggestion is for parents to call their ESE director and ask to be included in this process. The law requires that the parent receives, by mail within 3 school days after an R/S, the completed incident report. In addition, the school must also make reasonable efforts to notify the parent or guardian of an R/S, on the same day it occurs, by telephone or computer email. The incident form has been revised to correct a number of problems, such as whether mechanical devices or prone positions were used. Another serious issue is the release criteria. It should be when the immediate danger/crisis passes. That is not happening. Legislators are continuing to file additional bills regarding this subject. Disability Rights Florida maintains a commitment to improve S/R parameters for students. It was suggested that information to educate the community on the subject be provided in Spanish. Ms. Smith indicated that if Council members can gather a group needing that accommodation, they will be glad to assist with a presentation. Ms. Smith asked that you contact her directly to let her know of your interest in this subject at [sylvias@disabilityrightsflorida.org](mailto:sylvias@disabilityrightsflorida.org).

**VI. Deborah Linton, Executive Director, The Arc of Florida**—Deborah explained the project that The Arc of Florida, Disability Rights Florida and FCCF is working on. A public records request was made, for all the notices of non compliance, for an entire year. It was a massive paperwork process. When the monitors make their monthly visits, if they find a licensure violation, they issue a notice of non compliance. Also, there are classes of violations. A class one violation needs immediate action and an administrative complaint. There are class 2 and 3 violations also. The violations were organized into categories. Some of the top concerns were true medication errors, staff not having knowledge of the needs of the residents, lack of basic facility standards such as a leaking roof for months, none or incomplete background screening, misuse of clients funds, failure to report a missing resident, fire code violations, and improper placement discharge.

The purpose of doing this project is, not to play “I got you”, but what needs to happen to ensure health and safety. A lot of what is looked at are process issues, such as having the quarterly report on time, those things that require recoupment. The provider has to pay some money for process issues, yet losing a resident has no recoupment. The emphasis must be health and safety. There will be a report that will be shared with all shortly.

All were encouraged to look at the licensure rule, and the section on monitoring practices, and make comments.

## **VII. Amanda Heystek ,Disability Rights Florida, Community Team**

**Manager/Senior Attorney** –Disability Rights Florida has filed a Wait list lawsuit to address the DD Waiver Wait list. Amanda shared the following facts:

- Case assigned to Judge Smoak
- August 31<sup>st</sup>, there was a motion by AHCA and APD to dismiss for lack of cause of actions.
- Executive office of the governor had filed a motion to dismiss, stating he is not a proper party. It is still pending and the Judge has not ruled yet.
- August 31<sup>st</sup> filed a motion for class certification. Defendant answer due Sept.19<sup>th</sup> .
- AHCA and APD filed a motion to dismiss three name plaintiffs that are residing in the community. Answer is due on September 27<sup>th</sup>. They claim there is no injury in not receiving DD waiver services.
- Trial date set by Judge Smoak is May 7, 2012
- Members are ordered into mediation by April 2, 2012
- Lawsuit addresses categories 3-7

At mediation you can enter into a settlement agreement that encompasses all sorts of remedies. APD does not have a plan to implement the categories that are in law.

Those who are on the wait list are invited to fill out the DD questionnaire. There was a question and answer period.

**VIII. Legislative Advocacy/Strategy—Phil Pearson** reported on his visit to Senator Thrasher. Phil talked about what the Waiver is, how many are on the Waiver and how many are on the Wait list. Phil also explained that Categories with parents over 70 yrs. old number 2,000. That population would require 70 million dollars for service. Phil encourages everyone to visit their legislator, take some written information to leave with them, and also send a copy of that written information to Phil for the FCCF web site. That way others can go to the web site and get ideas of what to take and what to talk about.

### **Things for members to do:**

- **Look at the FCCF Legislative Platform and be prepared to add to or subtract from it. We need to update the platform and be ready to share our platform (Action Plan) before the November meeting.**
- **Share the link for the questionnaire**  
[http://www.disabilityrightsflorida.org/newsroom/story/class\\_action\\_lawsuit\\_seeks\\_to\\_end\\_waitlist/](http://www.disabilityrightsflorida.org/newsroom/story/class_action_lawsuit_seeks_to_end_waitlist/) **The questionnaire can be filled out electronically and emailed in or copied and mail it in. Share it with all.**
- **Write an article for the newsletter that Phil puts together.**
- **Look at the letters from the DD Council and The Arc of Florida and let Betty Kay know what you agree with or anything in the letters that you don't agree with.**

Meeting adjourned at 3:15

**Respectfully submitted,**  
**Patty Houghland, FCCF Secretary**  
**The next meeting is: November 19, 2011**  
**Sheraton Suites Orlando Airport**  
**7550 Augusta National Drive**  
**Orlando, FL 32822**  
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