



GEORGIA STATE SENATE SENATE RESEARCH OFFICE

204 Coverdell Legislative Office Building | 404.656.0015
18 Capitol Square SW
Atlanta, GA 30334

ELIZABETH HOLCOMB
DIRECTOR

THE FINAL REPORT OF THE SENATE STUDY COMMITTEE ON THE EXCESSIVE AND DUPLICATIVE REGULATORY OVERSIGHT OF COMMUNITY BASED INTELLECTUAL AND DEVELOPMENTAL DISABILITY SERVICES

COMMITTEE MEMBERS

Senator Mike Dugan, Chair
District 30

Senator Greg Kirk
District 13

Senator Larry Walker
District 20

Lynnette Bragg
Industry Expert

Charles Harper
Industry Expert

Tena Blakey, Ex Officio Member
Industry Expert

Prepared by the Senate Research Office
2018

TABLE OF CONTENTS

COMMITTEE FOCUS, CREATION, AND DUTIES	1
BACKGROUND.....	2
COMMITTEE TESTIMONY AND FINDINGS	3
Meeting 1: September 13, 2018.....	3
Meeting 2: October 2, 2018	4
Meeting 3: November 13, 2018	5
COMMITTEE RECOMMENDATIONS	7
SIGNATURE PAGE.....	8
EXHIBITS	9

COMMITTEE FOCUS, CREATION, AND DUTIES

The Senate Study Committee on the Excessive and Duplicative Regulatory Oversight of Community Based Intellectual and Developmental Disability Services (Committee) was created pursuant to the adoption of Senate Resolution 506 during the 2018 Legislative Session. The Committee was charged with the undertaking to study the oversight, regulations, and the problems that arise with multiple levels of oversight within the industry.

The following individuals were appointed by the President of the Senate to serve as members of the Committee:

- Senator Mike Dugan of the 30th, Chair;
- Senator Greg Kirk of the 13th;
- Senator Larry Walker III of the 20th;
- Ms. Lynnette Bragg, Industry Expert;
- Mr. Charles Harper, Industry Expert; and
- Ms. Tena Blakey, Ex-Officio, Industry Expert.

The following legislative staff members were assigned to this Committee: Jared Evans of the Senate Budget and Evaluation Office; Laurin Vonada of the Senate Research Office; Annie Wimbush of the Senate Press Office; and Abigail Horvath, Legislative Assistant to Senator Dugan.

The Committee held three meetings in total; one at the University of West Georgia in Carrollton, Georgia on September 13, 2018, one at Rees Park Economic Development Center in Americus, Georgia on October 2, 2018, and one at the Coverdell Legislative Office Building in Atlanta, Georgia on November 13, 2018.

The Committee heard official testimony from the following:

Richard Haliburton, Director of Carroll County Training Center and Service Providers Association for Developmental Disabilities (SPADD) Board Member; Lisa Sassaman, Executive Director of Griffin Area Resources; Kyle Eason, Director of Douglas County Resource Alliance; Curt Harrison, Director of Hi-Hope Service Center in Gwinnett County; Jodi Wren, Carroll County Arc Board Member and Service Provider; Celeta Cavender, Family Member, Region 6 Department of Behavioral Health and Developmental Disability (DBHDD) Advisory Board Member, Carroll County Arc Board Member.

Brian Dowd, Medicaid Assistant Chief of Policy and Provider Services, Department of Community Health (DCH); Melanie Simon, Chief of Healthcare Facility Regulation, DCH; Elizabeth Brooks, Director of Program Integrity, DCH; Ron Wakefield, Director of the Division of Developmental Disabilities, Department of Behavioral Health and Developmental Disabilities (DBHDD); Melissa Sperbeck, Director of the Division of Performance Management and Quality Improvement, DBHDD; and Amy Hughes, Compliance Officer for Easterseals of Southern Georgia.

BACKGROUND

Medicaid is an assistance program that helps people who cannot pay for their medical care pay for some or all of their medical bills. Medicaid is available for persons that are 65 or older, blind or disabled, pregnant, or with minor children. Medicaid offers several types of Medicaid waivers that provide care for these persons Under 42 C.F.R. § 441.301¹, these persons can apply for a Home and Community Based Services (HCBS) Medicaid waiver that waives the entitlement to treatment within an institution and allows for these specified persons to receive care within the comfort of their own home. Georgia offers six different HCBS waiver programs. These programs include the following:

- New Options Waiver Program (NOW);
- Comprehensive Supports Waiver Program (COMP);
- Independent Care Waiver Program (ICWP);
- Community Care Services Program (CCSP);
- Services Options Using Resources in a Community Enrollment (SOURCE); and
- The Georgia Pediatric Program (GAPP).

Of these waiver programs, NOW and COMP waivers are specific to individuals with intellectual developmental disabilities and offer them home and community based services through service providers. According to DBHDD, there are more than 12,000 persons who are served through the NOW/COMP programs in Georgia. DCH states that the NOW waiver program offers services and support to individuals, with less intensive needs, to enable them to remain living in their own family home and participate independently in the community. Further, the COMP waiver program, which serves individuals with more intensive needs, primarily provides residential care for individuals with intellectual or developmental disabilities.

Service providers are entities authorized to receive payment through Medicaid for services provided to Medicaid members. These services are provided in a range of settings: non-institutional home health care, nursing homes, hospitals, pharmacies, physician offices, and in non-emergency transportation. For the purposes of intellectual and developmental disabilities (IDD) services, waiver programs focus payments to service providers which assist disabled children, adults, and elderly who would otherwise struggle to live a fulfilling life due to mental or physical impairment. A requirement of the waiver approval and continuation by CMS is demonstration that waiver assurances are met under 42 C.F.R. § 441.302 which includes providers meet approved licensure and/or certification standards and/or adhere to state standards.

State agencies play regulatory and programmatic roles in IDD services. The DCH is the single state agency for administering Georgia's Medicaid program and provides regulatory oversight for four of the state's medical assistance programs. In addition to DCH, the DBHD shares in administering waiver programs specific to DBHDD's service population, namely the NOW and COMP waivers.

¹ Authority for these waivers comes from the Social Security Act, and these are often called 1915(c) waivers.

COMMITTEE TESTIMONY AND FINDINGS

Meeting 1: September 13, 2018

The Committee's first meeting was held at the University of West Georgia in Carrollton, Georgia, and included a generalized overview of the oversight and regulations on individuals with developmental disabilities in Georgia. The meeting mainly included discussion from the perspective of a service provider. The following individuals provided testimony:

- **Mr. Richard Haliburton**, Executive Director, Carroll County Training Center;
- **Ms. Lisa Sassaman**, Executive Director, Griffin Area Resources;
- **Mr. Kyle Eason**, Director of Douglas County Resource Alliance;
- **Mr. Curt Harrison**, Director of Hi-Hope Service Center in Gwinnett County;
- **Ms. Jodi Wren**, Carroll County Training Center Direct Service Staff Member; and
- **Ms. Celeta Cavender**, Family Member, DBHDD Advisory Board Member.

Mr. Haliburton led the Committee's first meeting by presenting a handout which outlines the multiple layers of oversight that provide a clearer picture of the dilemma (*see Exhibit A*). Mr. Haliburton testified that he believes that there is an opportunity to consolidate the duplicative oversight and reallocate the fund appropriately. There are a total of six reviewing entities that review service providers and facilities. Mr. Haliburton testified that at least five of the entities look at staff credentials, job performance, and the job listing. Also, Mr. Haliburton testified that each of the entities review the Individual Service Plans, and each entity reviews the Health and Safety procedures, fire, weather, and bomb drills. Mr. Haliburton testified that even if five of the six entities believe you are in compliance, if the sixth does not, then one may be required to become compliant with the last entity.

Ms. Sassaman testified that as Executive Director of a small, non-profit services provider, which currently serves 85 persons through waiver services in Griffin, Georgia, she has been involved in a compliance issue based on a lacking signature. Ms. Sassaman shared with the Committee that during a 2015 audit, she received a call from the Georgia Medical Care Foundation (GMCF). GMCF found that they were not in compliance because of a missing signature and sought waiver payment recoupment. After a settlement, the provider was required to pay a fraction of the original request.

Mr. Eason testified that he manages five group homes and day programs, and has had five investigations into these facilities. Within a six month time frame, Mr. Eason had three agencies reviewing the same documents. He claims that these certification reviews disrupt operations and during a recent review there was no communication between the agency personnel and the employees of the group homes. Mr. Eason believes that if there had been communication there would have been no need for further investigation.

Mr. Harrison shared with the committee that he has had experience with the certification process in two other states, Alabama and South Carolina. Mr. Harrison testified that the Georgia Policy Manual is very extensive and consists of hundreds of pages. In comparison, the Alabama Certification Manual has two standards with less than 100 total pages. Mr. Eason stated that in Alabama and South Carolina, if a service provider receives National Accreditation, they are exempt from other types of reviews. Mr. Eason believes that in Georgia, it is not the quantity of documentation, but the specificity of the documentation that makes providing services in Georgia difficult. Because of the prescriptive standards it is hard to hire and retain support staff.

Ms. Wren testified on the impact that the certification process has on service delivery. Ms. Wren has been working for thirteen years at a service center and has experience with CARF and GMCF. Ms. Wren shared that she has two employees, who spend four hours a day, reviewing documentation on a daily basis to determine whether they are meeting standards. Ms. Wren thinks that the time spent reviewing documents could be spent providing services and opening up spaces for more individuals.

Ms. Cavender shared with the Committee her personal journey of taking care of and helping her brother with Down syndrome receive services, including time at the day center and respite home. He was on the waiting list for 16 years and received services three months prior to his passing. Ms. Cavender believes that oversight is needed, but the contradictions are the issue.

Meeting 2: October 2, 2018

The Committee's second meeting was held at the Rees Economic Development Park in Americus, Georgia, and included a discussion of regulations and oversight predominately from a state agency lens. The following individuals provided testimony:

- **Mr. Brian Dowd**, Medicaid Assistant Chief of Policy and Provider Services at DCH;
- **Ms. Melanie Simon**, Chief of Healthcare Facility Regulation at DCH;
- **Ms. Elizabeth Brooks**, Director of Program Integrity at DCH;
- **Mr. Ron Wakefield**, Director of Division of Developmental Disabilities at DBHDD;
- **Ms. Melissa Sperbeck**, Director of Division of Performance and Management and Quality Improvement at DBHDD; and
- **Ms. Amy Hughes**, Compliance Officer for Easter Seals of Southern Georgia.

Mr. Dowd shared with the Committee background information about Medicaid and the role DCH plays in providing waivers. Mr. Dowd testified to the approximate numbers of persons on each type of waiver in Georgia. The following shows the breakdown of waivers provided in Georgia:

- Elderly and Disabled Waiver – 25,000 persons
 - Community Care Services Program (CCSP)
 - Service Options Utilizing Resources in a Community Environment (SOURCE)
- Comprehensive Supports Waiver (COMP) and New Options Waiver (NOW) – 12,500 persons
- Independent Care Waiver Program (ICWP) – 1,400 persons

Mr. Dowd shared that DCH's role in the waiver process is to negotiate and get the waiver approved. Waivers can be changed or amended as long as members are safe and within the duration, scope, and amount defined by the waiver. DCH uses Healthcare Facilities Regulation Division (HFRD) for NOW and COMP community living arrangements and for private homecare. Mr. Dowd testified that the way to reduce regulations is to look where there are duplications in the provider enrollment process and question why it is there and does it need to be there. Further, Mr. Dowd shared that DCH has reached out to SPADD for duplications and will look at removing regulations.

Ms. Simon testified that the Healthcare Facility Regulation (HFR) is the regulatory division of DCH that licenses and certifies service providers. Facilities that want to provide services to individuals in Georgia must first receive a license from HFR. Ms. Simon shared the survey

and enforcement process for community living arrangements, private home care providers, and personal care homes, which is consistent across all 50 states, as follows:

- Announced initial survey;
- Unannounced periodic survey;
- Complaint investigation as received;
- Quality assurance;
- Statement of deficiencies;
- Plan of corrections;
- Revisit survey; and
- Enforcement action – reprimand, suspend, or revoke license.

Ms. Brooks testified that the Program Integrity Division of DCH requires a post-payment review process to ensure Medicaid dollars are being spent appropriately. Ms. Brooks shared that there are 16 staff members and there is a random determination of the audits completed.

Mr. Wakefield testified that DBHDD is the operating agency for intellectual and developmental disability waivers. Further, he shared that a waiver's design must provide for continuously and effectively assurance of the health and welfare of waiver participants. A waiver is contingent on the Center of Medicaid Services (CMS) determining that the state has done what they said they would and that the waiver has been in effect.

Ms. Sperbeck shared with the committee the different levels of review from DBHDD. She shared that there is some interagency collaboration while reviews are occurring, and the Committee encouraged the continuation of this collaboration.

Ms. Hughes testified to the number of pages in each waiver policy manual. Further, she shared that Easter Seals had an investigation into their procedures because of a lack of a signature. The original recoupment amount was \$117,000, but they were able to settle for less than \$96,000.

Meeting 3: November 13, 2018

The Committee's third meeting was held at the Coverdell Legislative Office Building in Atlanta, Georgia. Chairman Dugan reminded the audience that at the beginning of this process he challenged all interested parties to sit down together and come up with reasonable solutions that could be taken to the full legislature. The Committee heard proposed recommendations from interested parties including:

- **Ron Wakefield**
- **Diane Walish**
- **Bobby Holcombe**

Mr. Wakefield shared with the Committee that DBHDD, DCH, and HFRD sat down to work through duplicative regulations and presented solutions to the Committee. Mr. Wakefield shared that these government agencies met with providers as well, but want to continue these discussions because they felt they did not have enough time to cover everything.

Mr. Wakefield shared the following five ways that the agencies are going to reduce oversight across the waiver process:

1. Currently, HFRD and DBHDD conduct initial site visits in order to license and enroll. Effective January 1, 2019, DBHDD will no longer conduct site visits to enroll licensed homes.

2. Application Process

- a. Community Living Arrangement (CLA) will no longer have to provide letter of verification from DBHDD, a disaster preparedness plan, or written directions from Atlanta in their policy manual. Further, fingerprints will only be required for the owner, not the entire staff for the application. However, staff fingerprints will be evaluated during onsite review.
- b. Private Home Care facilities are no longer required to send copies of policies during the application process. In lieu of submitting these items, a one-page affidavit is required.

3. Letter of Intent (LOI) and New Provider Application

- a. A copy of the LOI no longer has to be filed with the Secretary of State. Currently, a fully executed contract to verify a minimum of one year of same/similar service during the most recent 12 months is required. This has been edited to be within the most recent 3 years.
 - b. An organizational chart and the accreditation certificate are no longer required for the New Provider Application.
4. Existing Provider Application has been revised to remove seven required documents. Further, an employment attestation and resume will be requested if the DD Director or DD Provider is new.
5. Currently, providers who have IDD revenue greater than \$250,000 are required to achieve and maintain accreditation. Effective January 1, 2019 HFRD will offer an opportunity for Accrediting Organizations (AO) to apply for "deemed status." Deemed status allows an AO that has received deemed status to be exempt from re-licensure reviews unless there has been a complaint or known deficiency.

Diane Walish shared the SPADD recommendations (*See Exhibit B*) with the Committee. The recommendations are as follows:

1. Targeted Certification Review
 - DBHDD should remove the "Targeted Certification Review" for providers that are Nationally Accredited and service Individuals with "Medical or Behavioral Support Needs."
2. DCH Administration of NOW/COMP
 - The administration and oversight of NOW and COMP waivers should be moved to the DCH.
3. National Accreditation
 - Recognition of National Accreditation as the premier "Quality Improvement" survey and judge of organization performance.
4. Paperwork Reduction
 - Waivers should be required to operate consistent with the Federal Paperwork Reduction Act of 1980.

Bobby Holcombe, the Executive Director of ARC shared his recommendations to the Committee (*see Exhibit C*). They are as follows:

1. DCH Administration of NOW/COMP
 - a. The administration and oversight of the NOW and COMP waivers should be moved from DBHDD to DCH.
 - b. DCH already administers and oversees the four other Medicaid disability waivers in Georgia.
2. Eliminate Nationally Accredited and State Targeted Certification Requirement

COMMITTEE RECOMMENDATIONS


Based on the testimony and findings previously provided, the Committee makes the following recommendations:

1. Remove the “Targeted Certification Review” for providers that are Nationally Accredited and serve Individuals with “Medical or Behavioral Support Needs.”
2. Move the oversight of NOW/COMP HCBS Medicaid waivers from the Department of Behavioral Health and Developmental Disabilities (DBHDD) to the Department of Community Health.
3. Recognize and accept National Accreditation as the premier “Quality Improvement” survey and judge of organizational performance.
4. Create standardized definitions that all providers and oversight agencies can refer to and utilize.
5. Implement a similar system to Florida’s for provider enrollment to include fingerprinting acceptance across human service providers and a simplified system for the addition of new sites.
6. Eliminate Qlarant (Del Marva) reviews as this examines person-centered documentation that is already being reviewed by other agencies on a smaller scale. Additional components could be added to other reviewing agencies.
7. Require support coordination agencies and DBHDD to do mandatory liability reporting to the Office of Healthcare Facility Regulations and the local teams established by the HB 635, to coordinate investigations of abuse, neglect, and fraud.

SIGNATURE PAGE

Respectfully Submitted,

**THE FINAL REPORT OF THE SENATE STUDY COMMITTEE ON THE EXCESSIVE
AND DUPLICATIVE REGULATORY OVERSIGHT OF COMMUNITY BASED
INTELLECTUAL AND DEVELOPMENTAL DISABILITY SERVICES**



Senator Mike Dugan, Chair
District 30

EXHIBITS

MULTIPLE LEVELS OF OVERSIGHT

Developmental Disabilities (DD) services in Georgia are regulated/reviewed/monitored/audited/assessed/licensed/certified and/or accredited, etc, by the entities listed below.

1. **National Accreditation**: Each provider with a budget over \$250,000.00 per year is required to be accredited. CARF, for example, accredits every three years and performs in depth reviews including all aspects of the Individual Service Plan based on a nationally normed and internationally normed set of standards.
2. **Certification Review**: A review of a Provider conducted by DBHDD Office of Provider Certification and Services integrity to determine compliance with DBHDD Community Service Standards, DBHDD policies, Medicaid waiver policies, and documentation of the Individual Service Plan. . Required if provider services individuals with assessment level 5, 6, or 7 (99% of providers) Includes comprehensive review of Individual Service Plan and documentation of services provided. Providers must maintain a current Certificate of Compliance in order to provide services.
3. **Qlarant (formerly Del Marva Corp.)**: Contracted with DBHD to evaluate on approximately a two year cycle; Re: quality of service planned/provided in the Individual Service Plan.
4. **Georgia Medical Care Foundation**: Contracted with DCH to evaluate the authorized service described in the Individual Service Plan to determine the quality and quantity of the ISP as required for GMCF interpretation of Medicaid requirements. Also a two year cycle. (Medicaid Audit)
5. **Support Coordination Agencies**: Contracted with DBHDD to monitor the services described in the Individual Service Plan. Support Coordination Agencies conduct a quarterly and sometimes monthly "monitoring" of the ISP and the services provided broken down into fifteen major components including consumer satisfaction to specific documentation of Service Provided, Health and Safety, Person Centered Assessment, etc., etc., etc.
6. **Health Care Facility Regulation** (DCH): Certain Medicaid Waivered services provided by developmental disabilities providers must be licensed by HCFR and reviewed onsite annually, utilizing a separate set of expectations and standards, including a comprehensive review of the Individualized Service Plan.

The above identified reviewing entities represent six comprehensive regulatory reviews of each provider of essentially the same policies.

Exhibit A

SPADD respectfully submits the following recommendations to the Senate Study Committee On Excessive and Duplicative Regulatory Oversight of Community Based I/DD Services.

SPADD is prepared to answer any questions or assist in any way necessary to support the work of this important committee and the preparation of its final report.



Targeted Certification Review

DBHDD should revise current Policy Manual to eliminate "Targeted Certification Review" for providers who are Nationally Accredited and serve Individuals with "Medical or Behavioral Support Needs" (the majority of providers). DBHDD policy should revert to Policy on Compliance and Accreditation in place prior to 2015 providing exemptions for accredited providers. Targeted Certification should be reserved for evidence-based suspicion of noncompliance.

Example: DCH allows for exemptions from ongoing licensure visits for Private Home Care providers who are Nationally Accredited. This approach would be in keeping with neighboring states as public testimony demonstrated at Senate Study Committee hearings.

SPADD recommends that the cost savings realized by implementing this recommendation be used to fund the IDD waiting (planning) list.



DCH Administration of NOW/COMP

Reassign/move the administration and oversight over NOW and COMP HCBS Medicaid Waivers to the Department of Community Health. All other Georgia HCBS Medicaid Waiver programs are administered and overseen by DCH already. This action would eliminate at least one provider manual and several hundred of duplicative (and often conflicting) regulations. It would also insure consistency of expectations with one Department involved.

SPADD recommends that any cost savings realized by implementing this recommendation be used to fund the IDD waiting (planning) list.



National Accreditation

Recognize and accept National Accreditation as the premier "Quality Improvement" survey and judge of organizational performance. Accreditation by definition "Assesses and Guides providers to achieve high quality outcomes." Eliminate multimillion dollar Quality Improvement Contracts and sub-contracts to entities currently duplicating QI efforts required by National Accreditation.

SPADD recommends that any cost savings realized by implementing this recommendation be used to fund the IDD waiting (planning) list.



Paperwork Reduction

DBHDD and DCH HCBS NOW and COMP Waivers should be required to operate in a fashion consistent the elements of the Federal Paperwork Reduction Act of 1980, which includes establishment procedural requirements on the Department that wishes to implement a reporting or record-keeping requirement on the public (providers). Further, that no policy, requirement or procedure will be implemented which requires provider action, that has not been studied to determine average cost of implementation.

Exhibit B

ASSOCIATION FOR REMARKABLE CITIZENS

2018-2019 BOARD OF DIRECTORS

Ed Bailey
Kim Carroll
Linda Haney
Eddie Hartsfield
Roy Long
Pam Morgan
Bob Reeves
Jane Sauls
Anita Wright

Jimmy Drew
Arc President

Jodie Wren
Co-President

Celeta Cavendar
Secretary

Elaine Holcombe
Treasurer

Bobby Holcombe
Executive Director

Jodie Wren
Program Director

October 9, 2018

Honorable Senator Dugan and Committee Members,

First we want to thank you for all the hard work you and your committee members have put in to the Senate Study Committee on Multiple and Duplicative oversight in Developmental Disabilities.

Many of our members attended the first meeting in Carrollton in September. Hopefully we will have a large delegation for the final meeting next week in Atlanta.

We are keenly interested in the cost savings that could be realized from reducing some of the duplicity and applying the savings to reduce Georgia's waiting list.

As a member of the supporting community and as families with Developmentally Disabled members, we respectfully submit the following recommendations.

1. The NOW and COMP Medicaid Waiver is currently administered and overseen in Georgia by two completely separate state Departments. It is our understanding that two separate service provider manuals with thousands and thousands of policies instruct providers in how to implement the NOW and COMP Waiver. It is also our understanding that these two separate departments review/ require accreditation, provide for State Certification or contract with organizations to provide oversight of essentially the same requirements.

We believe the oversight and administration of the NOW and COMP waivers for person with developmental disabilities (Currently overseen by two State Departments) should be moved from the Department of Behavioral Health and Developmental Disabilities to The Department of Community Health thereby eliminating at least one layer of government bureaucracy.

The Department of Community Health already administers and oversees the four other Medicaid disability waivers; SOURCE, ICWP, CCSP and GAP.

2. Eliminate the current requirement of DBHDD that providers be both Nationally Accredited and have State Targeted Certification.

According to testimony at the September Study Committee meeting, Several of Our neighboring states recognize National Accreditation as the only required Certification for doing business.

Again we sincerely appreciate the study committee's work toward making Ga's system of care more efficient and effective.

Sincerely,

Jimmy Drew, ARC President

Bobby Holcombe, ARC Carroll Executive Director

ARC Carroll ♦ Post Office Box 762 ♦ Carrollton, Georgia 30112

Exhibit C