PROVIDER OF LAST RESORT
NEGOTIATED RULEMAKING

October 25-27, 2006, MEETING SUMMARY

This summary has not been approved by the Committee and is not to be construed to represent the official position of the Committee or any member on what transpired during the Committee meeting – Summaries are prepared by the facilitators at the request of the Committee for its own use.

<u>October 25 9:30a.m. – 6:00p.m.</u>

Opening of Meeting

- Greetings of Committee Members
- Discussion and Approval of Agenda
  - Agenda item entitled "when community center is the POLR" needs to be revised to "when local authority is POLR"
  - Need to add an item re: Report in Requested Information (added below)
- Report on constituent comments/concerns
  - Discussion on suggested revisions to ground rules: Committee agreed to revise the ground rules as follows:
    - Section III Agreement, Final Product/Proposed Rule changed to more accurately reflect the DSHS process that the draft of a consensus rule would be presented to the DSHS Council and to HHSC with the recommendation that it be published in the Texas Register as drafted.
    - Section III Agreement, Support of Agreement changed to delete the specific type of action that the members agree not to take
    - Section VI Communications changed to remove agreement not to speak to the press and add language to frame representations to the press.
    - Revised ground rules to be posted on DSHS website
- Report on Requested Information
  - DSHS presentation on Data Warehouse scheduled for 2:30p.m. this afternoon
  - DSHS presentation on Provider Inventory Workbook to follow Data Warehouse
  - Discussion on whether to post certain documents on the website
    - Committee decided that certain documents could be posted on the website with the designation of "background information." Specifically, the Committee would like the 2002 MH Task Force Report, the HB 2377 Legislative Report, the Perryman Report; and the LBJ independent study on North Star to be posted.

Topics for Negotiation – To be centered on Consumers

- Committee decided to open substantive discussion by reiterating its desire to be open and honest in discussions and that a good starting point would be to go around the table and express represented interests and constituencies – members did so

- Start discussion exploring what a provider network that meets "consumer" needs would look like by addressing definition of "consumer"
  - The Committee was comfortable with defining "Consumer" as including Olmsted population and Priority Population, with special considerations for adult and child categories
- The discussion then went to the meaning of "consumer choice"
  - Includes an individual's ability to choose between more than one competent provider; with the understanding that if there is only one other provider in the area, then the authority could continue to provide services so as to provide consumers with a "choice"
- The facilitator raised the notion of having a "Parking Lot" list of issues: this list would be used to capture issues that the Committee felt were important to record but which may not be helpful or relevant to the current discussion. By having issues placed on the Parking Lot, members can stay focused on the current discussion, yet see that certain issues are being recorded for later, as the Committee deems appropriate.

- At 2:30p.m. - presentation by DSHS on information available from Date Warehouse: categories of data, how it can be shown (graphs or tables), and for what years.
- This was followed by another presentation by DSHS on Provider Inventory Workbook; showing among other things where providers are in different areas of the State.

- Committee discussion then resumed concerning, from a consumer's perspective, what "an available and appropriate provider base" would look like – no specific recommendations at this time –
- Then, towards the end of the day, the Committee decided to take a broader look at the context of provider of last resort (POLR) and outline some of the issues to be addressed the following day, including: when would the authority continue to provide services, how authorities would solicit (make every reasonable attempt), and how referrals would be managed to give consumers choice.

October 26 9:00a.m. – 5:00p.m.

- The day started with the Committee's expressed need to be clear on the terminology when using the word "provider" – does it mean an entity or an individual providing services? The understanding was reached to use the term "comprehensive services" when providers are able to offer the array of services, and "discrete services" when individuals are providing specific services.
- Then, the Committee went into a general discussion of what it means to maintain a safety net and how the local authority is to maintain a sufficient infrastructure – no specific recommendation.

- At 10:45a.m., at the request of the Committee, Perry Young from DSHS made a presentation concerning the funding stream from the State to the local authority. He addressed the history of the State Plan, Medicaid rehab funding, and case management funding.

- After lunch, the Committee tackled some of the issues outlined concerning POLR, starting with what should happen to allow consumers to transition to other providers of their choice should 2 or more providers be available in the area: some recommendations include education of consumers, collaboration between authorities and providers to have "Provider Fairs" , and having a transparent referral process, including asking consumers at re-authorization whether they would like to explore other providers.

- In answer to how authorities would demonstrate that they have "made every reasonable attempt to solicit", the Committee discussed the following:
    - requiring each local authority to file a report/plan with DSHS by the 1st quarter of FY 2008 with several categories of information, including:
        - what the authority had actively done to solicit providers in its area;
        - an analysis of what it would take to bring another provider to the area and any justification for why it would not be possible at this time; and
        - need to address child and adult services separately
    - drafting an RFP template in this rule to control in POLR context
    - the local community (including consumers) would fill in the specifics in the RFP; the timing of when to send out the RFP would be a local decision
    - DSHS would review the RFP process for reasonableness and efficiency
    - Draft and final RFPs would be posted on the web and be mailed out to consumer groups and family organizations
- The day ended with the Committee requesting copies of existing RFP templates as a starting point for tomorrow's discussion of elements to include in the RFP

October 27 9:00a.m. – 12:00 noon

The day started with the Committee reviewing a copy of TAC §412.58 Competitive Procurement Methods for Community services – a template of an existing RFP

- The Committee spent most of the morning discussing and proposing elements that should be included in an RFP for comprehensive services that a local authority would send out
- During that discussion, the Committee raised the issue of case management: targeted case management and in the context of RDM – currently, targeted case management is part of RDM Packages 1 and 2 (for adult services) and can only be provided (under state contract) by the community mental health centers. The Committee then discussed how comprehensive packages 1 and 2 could be part of an RFP – whether it would be feasible to accept another provider for the provision of Packages 1 and 2 but still have an employee of the community center provide case management. Also, the Committee placed on the Parking Lot the issue of whether the Committee wants to recommend that the State Plan be changed to remove the limitation on the provision of case management

Wrap Up

- Action Items/Topics for Next Meeting: the Committee selected the issues to be addressed at the next meeting – the draft Agenda will be circulated Friday afternoon and posted as soon as possible
- Requests for information/data for next meeting: the Committee requested DSHS to give a presentation on the funding of local authorities

- Items to be posted on website:
  - The Committee decided to have meeting summaries available on the website with the ongoing caveat that these summaries are not official documents, ect.
  - Under the heading of "Background Information," the following documents should be posted:
    - 2002 Mental Health Task Force Report
    - Perryman Report (Value Options)
    - LBJ Report – study on North Star
    - HB 2377 Legislative Report
  - Revised ground rules
  - Draft Agenda for next meeting