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**Conflict of Interest  
Frequently Asked Questions  
January 2019**

**Why am I hearing so much about “Conflict of Interest?” What is it? How will it affect me?**

- On January 16, 2014, the Centers for Medicare and Medicaid Services (CMS) issued its final ruling, stating that agencies cannot provide both direct service and case management to the same individuals.
- This impacts a number of the Department of Health and Human Services’ (DHHS) home and community-based services (HCBS), including the 1915 (c) HCBS waivers, the Developmental Disability Waiver, Acquired Brain Disorder Waiver, and Children’s In-Home Support Waiver.
- Services provided in New Hampshire are paid for with a 50% match in federal dollars – if New Hampshire does not comply with the federal ruling, New Hampshire will lose critical funding for the provision of essential home and community-based services.

Many individuals will not need to make any changes to their case management services as they currently meet the requirements. Some individuals will need to make new choices, but this will be done through a detailed, comprehensive, person centered approach that will best meet an individual’s needs.

**When does this take place?**

- New Hampshire has worked with CMS to make these changes in a way that does not cause major disruptions to our service system. As a result of this work, New Hampshire must be fully compliant by August 31, 2021. Currently, approximately 50% of New Hampshire’s home and community-based services are already conflict-free. We will be using this time as an opportunity to strengthen our system moving forward to ensure its compliance with Federal regulations.

**What are agencies being directed to do?**

- Area Agencies, together with the Bureau of Developmental Services (BDS), have begun work on their plans to comply with the ruling.
- BDS is working closely with each area agency to understand the circumstances in each part of the state, in order to minimize disruption to those served.
- Each Area Agency will decide how it will come into compliance.
- BDS will monitor compliance through quality metrics, which will include tracking opportunities for autonomy and choice for individuals, families, and caregivers.

**Will the Area Agencies go away?**

- No. The Area Agency system plays an essential role in both service delivery and case management, and this will continue.
- Area Agencies will still be responsible for providing a comprehensive, community-based system for individuals served, which will include intake and eligibility, quality monitoring, contracting, service coordination, wait list management, and family support, in accordance with RSA 171-A.

**Will there be a rural exemption?**

- With guidance from CMS, we are in the process of determining if exemptions can be made for New Hampshire towns that are designated as rural by the DHHS Division of Public Health Services (DPHS.) However, area agencies that serve individuals and families in rural areas will be required to demonstrate that they are in compliance with the federal ruling.

**What should I do if there are no providers in my area?**

- There will be providers. Area Agencies are responsible for ensuring the availability of providers, in accordance with RSA 171-A.
- In areas of the state with a limited number of service providers, agencies may work together to increase their availability to those served, either for direct service or case management.
- As part of our work toward compliance, BDS has developed a provider selection work group that is also working on building system capacity.

**What role will case managers have throughout the process?**

- As part of this process, DHHS will amend some of the regulations involving service provision within the developmental and acquired brain disorder services.
- DHHS, with stakeholder input, will outline requirements for the role of the case manager, as well as training required.
- BDS is creating a case management orientation that all case managers will be required to attend by August 31, 2021, regardless of who employs them.
- All changes will be guided by principles of person-centeredness, with a focus on opportunities for individual and family choice and control.

- Your case manager will assist you throughout this process. You will be informed in a clear and comprehensive way before any changes take place.

### **This seems simple - why are we waiting until 2021?**

- Our goal is to use the time allotted by CMS to make improvements to the current system that allow for more choice, a more engaging partnership with area agencies and service providers, and increased accessibility to services, in a way that minimizes disruption to individuals and families.
- The date set by CMS will provide us with an opportunity to identify areas of the state where services may be impacted and develop a plan to increase service capacity.
- Individuals and families are not required to wait until the compliance date to make changes to their services or case management.

### **Where can I learn more about this?**

- For more information, please visit <https://www.dhhs.nh.gov/dcbcs/bds/hcbs-waiver.htm>
- If you have specific questions or concerns, please contact Kaarla Weston at BDS at 271-5036 or [kaarla.weston@dhhs.nh.gov](mailto:kaarla.weston@dhhs.nh.gov).