Implicit Bias in Access to Fee for Service Day Programs Based on Individual’s Ability to Attend

One Size Does Not Fit All

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Before the rollout of the current system, concerns were raised about the viability of day programs which disproportionately serve individuals who due to medical or psychiatric issues, have high absenteeism rates. Because providers would only be paid when people are present and the rate included neither an absence nor nursing factor, these day programs ran the risk of being under resourced. The system creator’s solution was over-enrollment (particularly in the area of day habilitation) as acceptable practice to help negate the impact of absent, unbillable units/day. After all, although attendance may vary significantly day-to-day, there is some level of predictability when analyzed in the aggregate. Over-enrollment would be insurance against, as they say in the airlines, “a no-show.”

What happens on the day in which more individuals show up to a day program than there are slots available? The options used in other industries are not possible for day programs like offering a refund if they willingly volunteer to return to their group home, licensed residence or family home; offering a day program slot at another day program; and if they refuse these options, letting them sit in the lobby all day.

Unlike an airline or hotel, you cannot “bump” or “walk” an individual with developmental disabilities from their day program because there are not enough alternatives in the event of over-enrollment. The solution was troubling. The fact that it was included in a FAQ, approved by a previous administration’s governmental agency which publicly funds and oversees services for people with developmental disabilities and conceived by consultants who were paid to provide a rate study and set rates to address the needs of these individuals is a source of dismay.
The other solution provided was minimum attendance requirements for enrollees. In the situation described, high absenteeism is not due to sleeping late or an incomplete homework assignment, it is disability related and could be due to chronic health or psychiatric conditions, fatigue or other side effects from medication or simply waiting for weeks to get a wheelchair repaired - the disability is the reason preventing regular attendance. Clearly, this segment of our population requires more flexibility in scheduling in order to participate to the full extent that they are able in day programs. Like those with disabilities in the workforce, they too should be afforded, to coin a phrase, a “reasonable accommodation.” Expelling someone for taking the time to manage their medical, physical or psychiatric issues contradicts everything that the Division of Developmentally Disabilities rightly stands for.

In the meantime, providers have “solved” the operational issues of 15-25% absenteeism through:

- Fundraising
- Transferring retained earnings originally intended by the state for agencies to proactively address capital expenditures, to day program operations.
- Discharging individuals with chronic absenteeism
- Considering program closure

Regrettably, the current fee for service market system does not pay enough to cover the cost of providing services to those with chronic absenteeism. It is and will continue to fail this group of individuals who, if discharged from a program or if there are not enough available day program slots, will have few if any community options and may eventually have to be admitted to a nursing home, senior facility or long-term psychiatric hospital.

Possible Solutions:

- Establish criteria and day program rate for high absenteeism; or
- Provide service to those who are chronically absent on a non-refundable basis. Individuals could be given more flexibility in scheduling, in return; and
- Fund nursing services. We have had 7 years to “evaluate the options for how those services can most appropriately be provided.”

We must work together to create a reasonable accommodation to enable individuals to continue to live in or return to the community.

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2 According to the NJ Ombudsman for Individuals with Developmental Disabilities and their Families, 2019 Annual Report, “there are an estimated 600-700 people who are medically fragile/complex in nursing homes, many of whom are under the age of 60 years old.” Additionally, it is ABCD’s understanding that over 100 people dually diagnosed with DD and MH reside in long-term state psychiatric hospitals.