



# **New York's Response to Centers for Medicare & Medicaid Services' Request for Additional Information**

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# Table of Contents

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Overview .....	3
<b>I. Managed Care .....</b>	<b>4</b>
<b>A. Questions .....</b>	<b>4</b>
Delivery System.....	4
Services and Supports.....	16
Choice/Access Capacity .....	18
Enrollee Information.....	24
Grievance System .....	27
Managed Care Quality Strategy and External Quality Review .....	27
Fiscal Arrangements.....	29
Public Notice .....	32
State Oversight .....	32
<b>B. Non-Negotiable .....</b>	<b>35</b>
Delivery System.....	35
Choice/Access Capacity .....	35
Managed Care Quality Strategy and External Quality Review .....	36
Program Integrity.....	36
Fiscal Arrangements.....	36
<b>II. System Integration &amp; Rebalancing .....</b>	<b>37</b>
<b>A. Questions .....</b>	<b>37</b>
Community Integration.....	37
Self-Direction .....	41
Coordination with other initiatives.....	42

Infrastructure.....	45
<b>B. Non-negotiable.....</b>	<b>51</b>
Community Integration.....	51
Self-Direction .....	52
<b>III. Quality .....</b>	<b>52</b>
<b>A. Assumptions.....</b>	<b>52</b>
<b>B. Non-negotiable.....</b>	<b>55</b>
<b>C. Additional Questions.....</b>	<b>56</b>
Quality System .....	56
Incident Reporting .....	58
Incident Prevention .....	63
Incident Investigations.....	65
Provider Qualifications and Agreements.....	67
Staff Core Competency Training .....	67
Criminal Background Checks.....	68
Conflict-free Case Management .....	69
Service Planning.....	69
Transparency .....	71
Incentives.....	71
Self-Direction .....	72
Due process.....	74

## Overview

NYS OPWDD has a long history of recognizing the unique interests and support needs of individuals with developmental disabilities. The People First Waiver will enable New York State OPWDD to continue this tradition by providing a comprehensive reform platform that will ensure greater success and quality of life outcomes for people with developmental disabilities while ensuring long-term system sustainability. The People First Waiver, through a managed care system of fully integrated plans that incorporate both long-term habilitative supports and health care is the most effective means for New York State to support people with developmental disabilities going forward. This waiver will transform the care coordination and delivery model and provide New York State the flexibility to develop innovative services and supports that can allow people to experience greater personal growth and satisfaction in the least restrictive settings. The capitated managed model will allow New York to coordinate, deliver and monitor the provision of comprehensive, whole-person care effectively across system silos that have long stood in the way of person-centered service. These important reforms will also allow New York State to expand its new quality oversight paradigm of continuous quality improvement in system operations and individual effectiveness with pay-for-performance initiatives and enhanced data-driven performance analysis. .

The most successful way to introduce these managed care concepts to our developmental disability service system is to work closely with all of our stakeholders on a deliberate transition and evolution toward fully integrated care. New York State has a history of high quality experience in the operation of managed long-term care programs under the auspice of the Department of Health (DOH), New York State's Single State Medicaid Agency. There is a high level of satisfaction among managed care recipients, and we believe that OPWDD can learn a great deal from the experience at DOH, while building in the unique programmatic features needed and desired by people with ID/DD.

While our application proposes some immediate reforms, we also propose that the first year be devoted to comprehensive planning and the initiation of regional pilots so that we can continue to work with our stakeholders to design an effective managed care system uniquely tailored for people with developmental disabilities. As part of the implementation planning, OPWDD and its stakeholders will examine existing regulations for opportunities to streamline administrative operations, service access processes and oversight activities to achieve the waiver's objectives of improved system effectiveness, transparency and efficiency. During the pilot phase, OPWDD will seek to establish initial pilot projects that can successfully make the transition to full regional operation after the initial pilot portion of the 1115 waiver is concluded. For key fiscal requirements, OPWDD will seek to mirror what DOH and the state Division of Financial Services have already done for the Managed Long Term Care Program (MLTCP) under DOH.

Work is underway to prepare for the initiation of these pilots:

1. A request for information (RFI ) is complete and data is being analyzed (251 respondents) which will help support the development of the pilot application based on what is most important to our stakeholders
2. Preparation for a provider outreach/education opportunities is underway
3. Establishment of regional discussion boards for outreach to individuals and parents is operating

We also want to draw upon what our providers do best, and that is care coordination for people with developmental disabilities. Thus, we want DD managed care entities to have experience with high quality care coordination and, more generally, to meet the highest standards of service provision within the ID/DD service system.

## I. Managed Care

### A. Questions

#### Delivery System

1. **Please describe the types of providers than can qualify as DISCOs and will have the opportunity to respond to the RFA (e.g. public providers, private providers).**

*We intend that an entity that qualifies to submit an application to serve as a DISCO will be a public entity or a non-profit (private) entity, which establishes a separate legal entity to operate a DISCO. Both public and private entities need to have experience coordinating care for individuals with ID/DD.*

2. **Please provide the full list of services, which will be included in the proposed demonstration waiver and is inclusive of any state plan services and (c) waiver services.**
  - a. **Make sure to identify what services must be in the capitation immediately, which services the DISCO has the option of including in the capitation within the first phase of the demo, what services must be included in the capitation at a later date (please provide that date), and any service that is not able to be in the capitation for the lifetime of the demo but the DISCOs will be responsible for coordinating the care of that service.**

<b>Mandatory Services included in Capitation Rate For Partially Capitated DISCOs</b>	<b>Mandatory Services included in Capitation Rate For Fully Capitated DISCOs</b>
<ul style="list-style-type: none"> <li>• Family and individual support, integration and community habilitation, Flexible goods and services, Home and Community-based clinical and behavioral supports<sup>1</sup></li> <li>• Adult Day Health Care</li> <li>• Assisted Living Facility</li> <li>• Clinic Social Worker</li> <li>• Day Treatment</li> <li>• Dentistry</li> <li>• DME and Hearing AIDS</li> <li>• Home Care (Nursing, Home Health Aide, PT, OT, SP, Medical Social Services)</li> <li>• ICF/MR</li> <li>• Non Emergency Transportation</li> <li>• Nutrition</li> <li>• OASAS Inpatient</li> <li>• OMH Institutional Program (PC/RTF) &amp; private psychiatric hospitalizations</li> <li>• Optometry/Eyeglasses</li> <li>• OT, PT, SLP (in any venue)</li> <li>• Personal Care</li> <li>• Personal Emergency Response System</li> <li>• Podiatry</li> <li>• Psychotherapy</li> <li>• Respiratory Therapy</li> <li>• Skilled Nursing Facility</li> <li>• Specialty Hospital</li> </ul>	<ul style="list-style-type: none"> <li>• All services required in partially capitated rate with the addition of the following services: <ul style="list-style-type: none"> <li>○ Chronic Renal Dialysis</li> <li>○ Emergency Transportation</li> <li>○ Inpatient Hospital Services (excl private LT psychiatric hospitalizations)</li> <li>○ Laboratories Services</li> <li>○ Outpatient Hospital and Freestanding Clinic Services not identified in partially capitated rate</li> <li>○ Pharmacy</li> <li>○ Physician Services including services provided in an office setting, a clinic, a facility, or in the home.</li> <li>○ Radiology and Radioisotope Services</li> <li>○ Rural Health Clinic Services</li> </ul> </li> </ul>
<b>Excluded Services (remain in FFS)</b>	
School Supported Health	Early Intervention
	OPWDD ICF/DD-DC/SRU

<sup>1</sup>Family & Individual support, integration & community habilitation; flexible goods & services; and Home and Community-based clinical supports are the new, broader services proposed in the People First waiver. Incorporated into these categories are services currently under OPWDD and available under the HCBS and CAH waivers.

3. Provide a detailed timeline/work plan for implementing the DISCOs to CMS, be sure to include:

- a. RFA development, application review, and DISCO selection
- b. Readiness review of selected DISCOs
- c. Member transition from FFS to managed care
- d. Regional/Statewide rollout
- e. Assessment tool testing phase
- f. Movement to fully integrated plans

DISCO Development Timeline			
Key Dates		Pilot Projects	Focused Case Studies
2012	Feb – March	DISCO Application Development  Begin development of interagency MOU identifying each agency's roles and responsibilities in administering the DISCO contract	
	March	DISCO Pilot Application Approved by CMS Begin discussions with Actuary re: DISCO pilot rate development	
	April	<b><i>CMS Waiver Approval</i></b>  Issue DISCO Pilot Application  Establish Implementation/Advisory Board for Implementation Plan Development  Obtain state legislative authority to pilot DISCOs  DISCO Contract Development—finalize partially and fully capitated contract requirements (including evaluation plan)	Begin focused case studies to test the use of a statewide needs assessment tool (Inter RAI), develop new documentation practices, develop standards for care planning, and identify person-centered quality metrics.
	May	DOH/OPWDD DISCO Pilot Application Review  Development of educational materials for potential pilot enrollees	
	June	DISCO Selection for Readiness Review	Evaluation Begins (quarterly reporting)



	July	DISCO Pilot Contract template Approved by CMS  Final DISCO Selection and Notification  Care coordination model guidance posted on OPWDD website  Announcement goes out to first DISCO pilot enrollees about option to select a care coordination plan	
	August	Readiness Review Begins  Testing of Roster and Payment Reconciliation Process  Testing of Encounter Data Submission Process  Finalization of rates  OSC Approval of Pilot DISCO contracts	
	September	Provision of Rosters to DISCOs	
	<b>October 1</b>	<b><i>Pilot Projects Begin Operating</i></b>	
<b>2013</b>	March	Begin Pilot Project Evaluation -First reports due to OPWDD	
	May		Final Evaluation of Focused Case Studies Complete
	September	Second reports due to OPWDD	Begin phasing in assessment tool for DISCO pilots
<b>2014</b>	March	Begin drafting Statewide DISCO RFA/Contract	
	July	OPWDD Issues Analysis of Pilot Projects Outcomes	
	August	CMS approval of Statewide DISCO RFA/contract	
	September	Issue RFA to begin rollout of DISCOs to larger regions of the state  Post contract requirements on web  Solicit bids	

		Bidders Conference	
	October	Development of educational materials for enrollees  Training of Enrollment Broker and other entities who may assist with education/enrollment	
	November	Applications due, Review process and readiness reviews begin  Announcements go out to first DISCO enrollees about option to select a care coordination plan	
	December	Finalization of rates  OSC Approval of DISCO contracts  Final DISCO Selection and Notification  Initial enrollment packets sent  Testing of Roster and Payment Reconciliation Process  Testing of Encounter Data Submission Process	
<b>2015</b>	Jan	Reminder letters sent to enrollees	
	<b>Feb</b>	<b>Launch statewide DISCOs</b>	Begin Statewide use of Assessment Tool
	April	Begin transition to MC for health care services in some regions – Issue RFA	
	<b>Oct</b>	<b>Launch first DISCOs for Integrated Care</b>	
<b>2016</b>	April	Begin expanding MC for health care services to more regions – Issue RFA	
	<b>Oct</b>	<b>Launch additional Integrated Care DISCOs</b>	

**4. Has the State started drafting the RFA?**

**a. Will the RFA be the procurement process for the DISCOs?**

*The state has initiated the development of an application process for pilot DISCOs. Based on the experience of the initial pilot projects, OPWDD will refine the RFA process for establishing permanent, non-pilot DISCOs throughout all regions of the state.*

**b. Please provide a detailed description of the procurement process, including timeframes.**

**c. Will the RFA be the basis for the contracts with the DISCOs?**

**Initial Piloting of Partially and Fully Capitated Plans**

*Our proposal is that we need to make a transition over time to statewide enrollment, providing a window of opportunity for the entities that serve as pilots and their network partners to identify the efficiencies that can be derived from potential options like value-based contracting or shared contracting (e.g. benefit management savings opportunities for larger numbers of employees) and incorporate those lessons learned into the larger statewide contracting).*

*The 2012-13 Executive Budget includes proposed legislation authorizing the NYS Office for People With Developmental Disabilities to enter into contracts without the need for competitive bids or a request for proposal in order to establish pilot programs in accordance with the People First 1115 Waiver Agreement. This legislation will enable OPWDD to more promptly implement pilot projects for testing program changes, under the discretion of the Commissioner, consistent with the standards terms and conditions of the approved waiver agreement. It also allows OPWDD to use the pilot process as a means of tapping the expertise within the provider community for proposing and testing needed system improvements, fulfilling the purpose of the research and demonstration waiver, rather than prescribing through a formal Request For Proposals or Request For Applications process pre-set requirements for achieving efficiencies, cost savings and improved individual outcomes. The pilot DISCO application process will, however, be an open process with the application being posted on the OPWDD Web site for a period of at least 30 days and the criteria for selection/evaluation of applicants also being publically available. The DISCO Pilot Application, currently being developed, will be issued as early as spring 2012, with possible issuance of Certification of Authority as early as August and initial enrollment in fall 2012. The pilot application process will form the basis for the DISCO contract which will fully meet all standards set forth in NYS DOH regulation for managed care organization operations and be subject to CMS pre-approval as part of the waiver application process.*

### **Statewide Roll-out of Partially and Fully Capitated Plans**

*The pilot process will inform the development of an RFA process which will be the procurement process for the statewide rollout of partial and fully capitated DISCOs beginning in summer 2015. The first RFA will likely be issued in fall/winter 2014, with possible issuance of Certification of Authority as early as spring 2015 and initial enrollment in summer 2015.*

#### **5. Once DISCOs are selected, will the State conduct a Readiness Review of potential plans?**

##### **a. If so, how will these reviews evaluate the ability of the DISCOs to manage the benefits and financial risk of providing medical, dental and behavioral health benefits?**

*The protocol used will be based on the Department of Health protocol for the plans under its auspice and will follow existing protocols to assess the DISCOs' ability to manage the supports and services funded by the DISCO payment and to work with the individual and family to coordinate other services as applicable. The ability of the DISCOs to manage financial risk will be a key component of not only the Readiness Review but the application selection process. OPWDD is working with the State Department of Financial Services (DFS) to explore options for risk sharing to give DISCOs time to gain experience with managed care.*

*Based on the discussions with DFS and in collaboration with New York State DOH, OPWDD will develop a readiness review protocol that mirrors the DOH protocol for reviewing financial stability in that it will review the applicant's ability to demonstrate that it:*

- Has sufficient initial capital to comply with the state required escrow and contingent reserve requirements on an ongoing basis.*
- Can fund cumulative operating losses sustained through the time the break-even point is reached and provide additional resources to cover unanticipated losses.*
- Has sufficient estimated minimum start-up capital funding and the source of the initial capital.*
- Certify that it will be able to meet the financial reporting requirements.*

##### **b. When will the reviews be conducted and what elements will be included?**

*A readiness review will be conducted prior to a DISCO beginning enrollment. For the pilot rollout, the readiness reviews will begin in August for the October 1<sup>st</sup> enrollment. The readiness review will evaluate plan materials, policies and procedures. For example, marketing and enrollment/disenrollment materials will be reviewed to ensure they convey all necessary information, including the voluntary nature of the program, in plain and simple language which is easily readable and meets federal and state regulations.*

*The following policies, procedures and documents must be submitted and approved.*

*Network Information*

- *Provider directory (including information on Wheelchair Accessibility and Languages Spoken)*
- *Policies and procedures describing:*
  - *the DISCO's process to evaluate the performance of contracted providers;*
  - *the process for terminating providers.*
- *A Service Authorization policy and procedure (including a description of each benefit and the accompanying service criteria authorization)*

*Communications*

- *Member Handbook*
- *Marketing materials including brochures, advertising, radio/TV scripts, websites*
- *the provider manual describing the quality assurance, utilization review procedures, and general DISCO policies for provider participation*
- *Submit the forms and notices the applicant intends to use to inform members of organization determinations and enrollee complaint appeals, action appeals and grievance rights*
- *Enrollment/Disenrollment policy and procedures and the forms and notices for the applicant*

*Stakeholder engagement*

- *List of board members who are individuals with disabilities or family members of individuals with disabilities*
- *Identification of enrollee councils or other bodies that represent the interest of self advocates and their schedule for presentation to the board or DISCO leadership.*

*Quality & ADA Compliance*

- *the quality assurance manual;*
- *The ADA Compliance Plan*

*Grievance Process*

- *Policy and procedures describing*
  - *Each step in the grievance process, including the appeals process, time frames for response and notification procedures. (Will reflect the requirements of Part 438 Sub Part F, the contract and PHL 4408-a).*
  - *The DISCO staff responsible for grievances and a copy of the log used to track grievances.*

- *The process for fair hearing upon issuance of an adverse determination of an appeal regarding a denial, termination, suspension or reduction of a service.*
- *Provision of a flow chart of the applicant's grievance system procedures*

*Financial Management and Reporting*

- *Ability to monitor the DISCO's financial solvency and overall financial health, including controls ensure appropriate oversight of case and reserves*
- *Policies and procedures for claims payments, provider reimbursement, and reserving*
- *Ability to reconcile capitation payments received*
- *Ability to provide financial data required within OPWDD contract in a timely and accurate manner*

*Eligibility and Enrollment*

- *Ability to receive daily/monthly rosters from OPWDD and reconcile eligible and enrolled members*
- *Capability to provide real-time member enrollment information to contracted providers*

*In addition, an on-site readiness review will be performed prior to the start of enrollment to ensure the plan has appropriately implemented necessary operational components. During the on-site review, the plan's infrastructure is examined, including adequacy of quality and information systems; staffing patterns; qualifications and training; and the roles of the Board of Directors and other essential leaders. It also includes an assessment of plan policies and procedures, including: provider recruitment and credentialing; adequacy of the provider network; practice guidelines; care management processes, and the operation of the marketing plan and member services. During the readiness review, the DISCO must demonstrate that it is prepared to operate according to state standards before the plan is authorized to begin marketing.*

**c. Please provide copies of your readiness review materials to CMS.**

*Copies of the readiness review materials will be provided to CMS once completed.*

- 6. Please describe how the DISCO contracts will outline the care management model including: assessments and care plans; roles and responsibilities of the care coordination team, providers, and the State; communication among the care coordination team, providers, the enrollee and caregivers; and outcome and performance measures used to evaluate the effectiveness and/or impact of the program model.**

**a. Will this be included in the RFA?**

*The chart (below) describes the anticipated care management model based on the work of the care coordination design team.*

Individual				
	Assessment	Care Coordination	Service Delivery	Quality
<i>Individual and Family</i>	<i>Provides information as necessary to complete assessment Participates in assessment process</i>	<ul style="list-style-type: none"> <li><i>Chooses CC plan and preferred providers</i></li> <li><i>Is at the core of developing a person centered plan</i></li> <li><i>Inform the Lead of changes or issues</i></li> </ul>	<i>Receives supports in line with plan</i> <i>Identifies desired changes in plan</i> <i>If opts out of plan, acknowledges and accepts associated risks</i>	<ul style="list-style-type: none"> <li><i>Conveys the quality of services delivered by the care coordination team and direct service providers to the DISCO and others as necessary</i></li> <li><i>Quality is measured based on the provision of supports that result in desired outcomes for the individual</i></li> </ul>
<i>OPWDD/ State</i>	<i>Completed by OPWDD staff</i>	<ul style="list-style-type: none"> <li><i>Develops statewide performance standards for the care coordination entity</i></li> <li><i>Provides guidance/expectations on what needs to be included in the Plan.</i></li> </ul>	<i>Develops guidance on best practice provision of services by direct service providers.</i>	<ul style="list-style-type: none"> <li><i>Performance measures developed in part based on the DISCO meeting the needs of individuals as identified on the assessment. Measures will also be based on the extent to which the objectives are being met as identified in the plan</i></li> <li><i>Perform oversight/surveys to ensure that performance standards are being met by the care coordination entity and the direct service providers.</i></li> <li><i>Initiate fiscal penalties if performance standards are not met*</i></li> </ul>
<i>DISCO</i>	<i>Uses assessment to help inform the Care/Life plan</i>	<ul style="list-style-type: none"> <li><i>Develops the individualized life plan (i.e., care plan) using a person-centered collaborative process</i></li> <li><i>Creates and maintains the care plan.</i></li> <li><i>Conveys the information in the care plan to relevant providers and stakeholders.</i></li> </ul>	<i>Ensures that identified providers, who are part of the network, are delivering services in accordance with the care plan.</i>  <i>Ensures that the network</i>	<ul style="list-style-type: none"> <li><i>Incorporates internal quality reviews of the care coordination team Lead, team members, and care plan.</i></li> <li><i>Has review of service providers that ensure performance measures are being met.</i></li> <li><i>Uses aggregate data to ensure continuous quality improvement activities.</i></li> </ul>

		<ul style="list-style-type: none"> <li>• Has regularly scheduled meetings with all members of the team to review the plan. The review will include evaluation of the supports and services in place and any changes required.</li> <li>• Monitors the individual and the services being provided</li> <li>• Provides information and feedback to ensure that the plan was comprehensive and in alignment with identified interests and needs.</li> </ul>	of providers is sufficient to meet the diverse interests and needs of the enrolled individuals.	<ul style="list-style-type: none"> <li>• Maintains and updates as needed a plan of Quality Improvement.</li> <li>• Facilitates the input of stakeholders, including individuals receiving supports, in the development of the QI plan.</li> </ul>
Direct Service Provider – State operated/ Voluntary operated	Work in conjunction with the individual and family/advocates to be knowledgeable of the individuals identified interests and needs and identify changes for reassessment	<ul style="list-style-type: none"> <li>• Assist the Team Lead with ensuring that there is coordination between the various providers.</li> <li>• Inform the Team Lead of any changes, improvements, or concerns so that plan can be updated if necessary</li> </ul>	Delivers supports and services in line with the interest and needs of the person as defined in the life plan t. Supports the individual receiving services to ensure health and safety and to gain autonomy and independence in meeting personal goals	Effectiveness of plans in place through review of outcomes; achievement of individual life goals

## 7. Please elaborate on the role of the DISCO as the fiscal intermediary.

*When NYS refers to the DISCO as the fiscal intermediary we mean that the DISCO is responsible for receiving monthly capitation revenue for its members, funding all Medicaid covered services through an appropriate claims adjudication system to ensure that only Medicaid covered services are being reimbursed. The DISCO's capitation rate will include costs for the person's individualized budget under the self direction option. It is likely that the DISCO will subcontract with an existing Financial Management Service (FMS) entity to perform the roles necessary for the person to have budget authority and employer authority.*

*The State is currently working with stakeholders to evaluate the strengths and weaknesses of the current self direction program operated under the 1915c waiver to further enhance and streamline. The information gathered from this analysis will assist with the implementation planning process, which will also include public input, for the self direction option.*



**8. As the State tests different pilots, how will the DISCO contracts change to reflect new requirements?**

*OPWDD plans on conducting a thorough and structured evaluation of each of the People First Waiver pilot projects according to an inclusive Pilot Project Evaluation Plan (under development). Design of the Pilot Evaluation Plan will occur in parallel with development of the contract for the pilot projects, and data collection will begin immediately upon the launch of the pilot projects. The evaluation will require periodic reporting by the agencies operating pilot projects, beginning in March 2013 after the pilot projects have been operating for approximately six months. OPWDD will review the pilot project reports and report publicly the results of the pilot projects on July 15, 2014. At this time, we will make any needed changes to the contract and submit the revised contract to CMS for approval. This plan will allow OPWDD to have a relatively stable contract instrument prior to initiating statewide roll-out.*

**9. Please describe the intersection of DISCOs with the current managed care system discussed on slide 18 of the 1/11/12 presentation. Include how the DISCOs will coordinate with both the mainstream MCOs and the MLTC plans.**

**a. Will similar contract language regarding the coordination be included in each model's contract?**

*The 95,000 people with developmental disabilities that we anticipate enrolling in the People First Waiver have tremendous variation in the complexity of their health care needs relative to the general population. The People First Waiver needs to have sufficient flexibility to allow for both access to mainstream managed care plans and to foster the development of specialized managed care options that will better support outcomes for individuals with complex health care needs. In fact, almost 14,000 of the people OPWDD serves have already opted for Medicaid managed care for their health care services. As we look at the design of the People First Waiver, we want to continue to support these existing managed care relationships. Through the DISCO pilots, we will look at mechanisms to collaborate with the current "mainstream" managed care plans for those individuals that want to stay connected to these plans, but still receive their long-term support services through the DISCO.*

*The cross-plan coordination referenced by CMS in this question is precisely why New York State is proposing the creation of a centralized committee, chaired by the State Medicaid Director, to ensure consistency in contract administration across all care management partners and to monitor overall cost-effectiveness. This committee will also approve all substantive contract amendments before they are submitted to CMS and will address these needed cross-plan coordination issues.*

## Services and Supports

### **10. Family Stipends – Please provide more information on this new service.**

#### **a. Would the stipends be budgeted through the DISCO?**

*The need for family stipends will be determined during the person-centered planning process, as informed by the comprehensive needs assessment, the needs and desires expressed by individuals, family members and personal advocates, and the views of the professionals on the individual's care coordination team. The family stipend funds will be managed by DISCOs. Individuals and family members will have full due process rights to appeal service coordination recommendations.*

#### **b. Would there be statewide limits on the stipend amounts? Would the goods and services the stipend would pay for be defined?**

*We are proposing that there will be limits to the stipend amount, and we will provide statewide guidance regarding the use of the stipends. This is an area where we anticipate there is a need for greater oversight, and thus we intend to fully develop guidelines as part of the public implementation planning during year one of the waiver. As interim guidance, we intend to use the protocol in place for Consolidated Supports and Services under the Home and Community Based Services waiver (annual miscellaneous expenses with a prohibition against using funds for room/board expenses and a requirement that expenditures are related to a valued outcome, service or safeguard).*

### **11. Appendix 4, People First Waiver Service Categories states the “Miscellaneous goods and services” as a “new stand-alone service now paid as part of CSS.” Please clarify if this is the same service currently identified as 1915(c) Consolidated Supports and Services. What will be the differences, if any?**

*Individuals in Consolidated Supports and Services may budget ‘miscellaneous expenses’ as part of their individualized budget. Our intent is that under the 1115 waiver, we can be more flexible and allow families more streamlined ability to use funds and not require that access to the stipend is limited to those who opt to manage an individualized service budget. Again, this is an area that we will more fully develop during the implementation planning process.*

### **12. What will be the parameters for “self-hire” of relatives, neighbors, friends, etc? Will the rules be the same as the existing 1915(c) ones?**

*As our starting point, New York State intends to use the same policy concerning payment for services furnished by relatives as CMS approved in the New York State OPWD Comprehensive Waiver which was based on CMS guidance in the 3.5 Technical Guide. New York State will reassess this policy through our experience implementing and evaluating the DISCO pilots. . Our goal is to provide flexibility and support that are in the best interests of each waiver participant while assuring individual choice, outcomes, quality, and individual autonomy. To achieve*

*these goals while enhancing the system's ability to provide person-centered, individualized, and self-directed service options, the DISCO pilot care coordination team will work with each individual in the pilot to ensure that the individual understands their choices and options including the option of selecting the staff that will support them. The care coordination team will help every individual in the pilot to evaluate whether there are appropriate opportunities for the person to exercise employer authority and self-hire a staff person of their choice and to consider whether there are appropriate opportunities for the individual to work with relatives, friends and neighbors . The care coordination team, under the DISCO pilots, will be responsible for coordinating with the person's OPWDD DDSO enrollment broker/advocate to closely monitor, assess, and evaluate these arrangements to ensure they are in the best interest of the person and that there are good outcomes for the person resulting from these arrangements.*

*The following is the current OPWDD policy on relatives as self-hires that we will work with and modify as we formulate and learn from the DISCO pilots as these options are utilized by individuals.*

*OPWDD will allow relatives to be paid as service providers as long as (a) they are at least 18 years of age and not the parents, legal guardians, spouses, or adult children (including sons and daughters-in-law) of the participant, and (b) the service is a function not ordinarily performed by a family member, and (c) the service is necessary and authorized and would otherwise be provided by another qualified provider of waiver services, and (d) the relative does not reside in the same residence as the participant.*

*In extraordinary circumstances, the following are exceptions to this policy:*

- The Commissioner or designee may authorize a parent or legal guardian of an adult child (over the age of 18) to be paid to provide waiver services when it can be clearly documented that the arrangement is in the best interests of the participant.*
- The Commissioner or designee may authorize an otherwise qualified relative who resides in the same residence as the participant to be paid to provide waiver services when it can be clearly demonstrated that the arrangement is pursuant to the participant's choice, is in the best interests of the participant, and does not potentially jeopardize the health, safety, rights and informed choice of the participant.*

*Additional safeguards will be required by the Commissioner or designee including frequent monitoring of this arrangement if either exception is authorized.....'*

### **13. Is there a definition for the new Special DD services for Individuals in Nursing Facilities? Will there be a MLTC tie-in?**

*Specialized DD services for individuals in Nursing Facilities are individualized habilitative supports that are provided in conjunction with their nursing home care plan to address the unique needs of a person with a developmental disability. Specialized DD services may occur at or away from the nursing facility and may include employment or community inclusion services.*

*The degree to which a tie-into MLTC is needed is still to be determined. The intent of the People First waiver is to comprehensively provide the Medicaid services for all New Yorkers who meet the eligibility standards for OPWDD services (established in Mental Hygiene Law). Included*

*within this target population are 1,943 people who live in nursing facilities (see budget neutrality calculation). Although we are proposing to retain nursing facilities as part of the FFS reimbursement system during the pilot phase of the People First waiver, following the pilot phase, the DISCO would be responsible for reimbursing the nursing facility expenses for its members (per question 2 in this document).*

## **Choice/Access Capacity**

### **14. One of the intentions of the demonstration waiver is to ensure that enrollees *initially* have access to their existing providers:**

- a. Please describe how the State will ensure that enrollees have continued access to their providers, including the length of time that they will be allowed to see that provider out-of-network.**

*OPWDD will require DISCOs to allow access to out-of-network providers where necessary to meet an individual's needs. The parameters for this access to out-of-network access will be determined during the first year of implementation planning. OPWDD stakeholders have expressed the importance of out-of-network access, especially during transition, and OPWDD will monitor closely the experience of the pilot projects to gauge the ability of DISCOs to establish robust provider networks to meet the full range of needs, provide choice of providers, and ensure continuity and quality of care and the need for out-of-network services.*

- b. Once the state has fully transitioned to the integrated model, will enrollees continue to have access to their current providers?**

*This is an issue that will be more fully explored and defined during the initial implementation planning process. It is our intent that there will be an allowance for the continuation of current providers at the point in time where we begin the statewide roll out of DISCO services (i.e., any willing provider that is serving people with developmental disabilities that is willing to accept payment from the DISCO. This may be authorized for a time-limited period of 90 days to one year to introduce providers and DISCOs).*

### **15. The State indicated that enrollees will have a choice between at least two DISCOs for care management services within the text of the application, but has also requested a CNOM allowing the State to contract with entities when there is not choice of plan:**

- a. Does the State intend to have a choice of 2 DISCOs in every area of the state for the lifetime of the demonstration?**

*It is our intent to have a choice of two plans for each region of the state. The request for the CNOM would provide the state with the flexibility to allow a single plan to operate in a region while a second plan was still under development. It would also allow a single plan to operate in a region and a possible 'opt out' option should it transpire that multiple plans are not available.*

- b. **The CNOM requested is not something that CMS would typically approve and we would expect the State to follow managed care rules regarding choice of plan along with the rural exception (42 CFR 438.52). Please provide clarification why the State is requesting this CNOM.**

*Specialized Managed care for people with ID/DD is a new service delivery mechanism for ID/DD services in New York State, and our intent is to build the new service delivery system based on the current infrastructure and provider base to ensure choice of plan statewide. The additional flexibility may be needed, particularly in areas in the state where currently there may be access issues due to less robust provider networks. The rural exception in 438.52 cites 412.62(f)(1)(ii), which defines urban areas as metropolitan statistical areas, would preclude a rural exception under 42 CFR 438.52 in several areas where currently OPWDD has provider access issues for ID/DD services. As a result, OPWDD is requesting a waiver of choice of plan while it develops sufficient capacity in these areas.*

**16. Please provide more information on the proposed fiscal intermediary alternative to the DISCOs described on slide 28 of the 1/11/12 presentation.**

*The intent is that self-direction is available to all, and is an integral component within all DISCO service networks. Unless there is a statewide DISCO option, there are areas of the state in which we may encounter difficulty in establishing two robust DISCOs to provide choice in plans. The state is contemplating that in these areas a person could opt for either DISCO services or a self-direction option.*

- a. **For areas that do not have choice of DISCO and the individual does not want to/cannot self direct their services, will there also be a regular FFS option?**

*Ultimately, it is the intent of New York State that all services are coordinated and that FFS would not be an option.*

**17. Will beneficiaries have a choice of direct care providers once enrolled in the DISCO?**

*Yes. Waiver participants who opt to self-direct their services will have the option to have “employer authority” within the DISCO structure. In addition, the individual would also have choice between sub-contractors within the DISCO’s network of diverse and culturally competent providers.*

**18. It is noted that the State requested a CNOM for contracting with an entity, which does not permit all Medicaid members to disenroll without cause during the first 90 days. This is not something that CMS would typically approve. Provide the reasoning for the requested CNOM.**

**a. Will the State allow the members to disenroll at any time for cause?**

*After the initial 90-day period a person could opt to change plans at the first of any month with or without cause. The initial 90-day request is based on our current experience for service coordination and the timeframe needed to engage with the person on a person-centered planning process and to develop a new service plan with the person. The timeframe would allow a person new to the service system to change DISCOs, but only after the initial planning is complete. After the initial 90-day period a person could opt to change plans at the first of any month with or without cause.*

**19. The State indicates that they will use a rating system in order to set clear expectations for the quality performance of DISCOs:**

**a. If functioning at a Level 5, the agency will not be subject to OPWDD traditional regulatory oversight. Please confirm the State still intends to complete all managed care oversight requirements for level 5 DISCOs.**

*As the state transitions to managed care, all managed care oversight requirements will be integrated for all DISCOs (and their networks), including any that may be determined to have a high quality rating.*

*Under the 1115 quality framework, OPWDD intends to continue to perform important certification and licensing activities for all provider agencies, even those that operate under a DISCO, to ensure that they meet OPWDD requirements to serve people with developmental disabilities. If the DISCO entity provides direct services, this portion of the DISCO will also be reviewed under standard OPWDD certification and licensing protocols.*

*The “levels” envisioned by our Quality Design Team were envisioned for the purposes of transparency so that individuals and family members had solid information to make a choice of a provider agency based upon the factors and criteria that are important to them. As with service provision, OPWDD will establish clear expectations for quality measurement, ongoing quality improvement, and public accountability in DISCO performance. DISCO performance may be measured through: care coordination (e.g., availability of care coordinators, caseload management, and the adequacy of the care coordination plan), responsiveness to advocacy, fiscal viability, resource allocation, operations, DISCO governance, corporate and contractual compliance, the effective separation of duties (i.e., provider vs. MCO role), delivery of informed choice, provision of self-direction options, development of natural and community resources, diversity of provider networks that can deliver culturally competent services, and success with individual outcomes.*

*Individual outcome measures will play a prominent role in the 1115 quality structure as we move towards statewide rollout. DISCOs that provide integrated care through their network will be held accountable for health outcome measures such as those adopted by DOH in the Medicaid Managed Care Quality Strategy. DISCOs will also be held accountable for long-term care quality measures such as:*

- Number/percentage of people living in less restrictive settings
- Individual satisfaction with and choice of living arrangement
- Increase in number of people with high-level of assessed behavioral needs served in community settings
- Number/percentage of people served with paid, community employment

**b. What additional oversight activities will be provided at each level below 5?**

*All provider agencies will be subject to review for adherence to the managed care oversight requirements. OPWDD will continue to perform important certification and licensing activities for all provider agencies that deliver services, including those that operate under a DISCO network. These provider agencies will be subject to OPWDD quality survey protocols that incorporate review of health and safety, service provision/service planning, incident management, and other important certification/licensing survey protocols. At each level below 5, OPWDD will conduct more in-depth reviews of agencies to ensure that the oversight resources are targeted towards the agencies most in need of technical assistance and ongoing monitoring.*

**c. Our understanding of your application is that agencies performing at Level 1 or 2 that do not correct their performance status will not be allowed to continue to deliver services. Please describe the plan to transition participants to another DISCO when the agency is no longer allowed to deliver services and how this process complies with 438.62.**

*Provider agencies that do not correct their performance to the state's satisfaction will no longer be able to participate in the DISCO network or provide services under OPWDD's auspices. OPWDD will continue to use the Early Alert Committee to recommend the actions that will be taken with provider agencies that demonstrate continuous poor performance.*

*OPWDD already has processes in place that ensure that there is no loss of services for individuals that must be transitioned to another provider as a result of poor agency performance and that there is continuity of care for these individuals. OPWDD will be adapting our existing policies and requirements for the DISCO framework and will incorporate these requirements into the DISCO contract.*

**d. How will the State ensure choice among DISCOs when one (or more) DISCOs in a service area are functioning at Level 1 or 2 and therefore may not be allowed to deliver services?**

Please see the answer to question 19 above. The Levels referenced are related to service provision provided by the DISCO or by a network provider. Individuals that do not have a choice of at least two DISCOs will be given the opportunity to opt out of managed care through the OPWDD self-directed service option.

**20. Please describe the provider access standards that will be outlined in the contracts (i.e. time/distance standards, provider to member ratios, ADA access standards, and cultural competency) for primary, acute and long-term care services.**

*All New York State contracts for comprehensive fully capitated and partially capitated DISCOs will comply with all federal requirements including ADA access standards and applicable managed care requirements.*

*New York State will adopt similar provider access standards for primary and acute care for the ID/DD population as outlined in the Medicaid Managed Care Contract with adjustments to meet the needs of this special population (e.g., for emergency care, immediately upon presentation at a service delivery site). For New York State, primary care provider-t- member ratios are currently set at 1 to 2,000.*

*As New York State develops its specialized plans for people with developmental disabilities, the State will assess existing plan criteria to determine applicability to the specialized ID/DD plans and develop any new provider access and network adequacy standards and resulting contract language that may be necessary to meet the unique needs and requirements for people with developmental disabilities and the overarching goals and objectives of the People First 1115 Waiver.*

*For long-term supports and services, New York State intends to adopt contract language similar to that outlined in the Managed Long Term Care Model Contract, which requires care management entities to establish standards for access, availability and continuity of services including but not limited to: length of time to respond to requests for referrals, timeliness of receipt of services; timeliness of implementation of care plans, and other quality indicators.*

*DISCOs will be responsible for ensuring twenty-four hour, seven days a week access to medical services and will be responsible to ensure that individuals, family members, advocates, and service delivery providers know what to do to obtain these services after business hours and on weekends.*

*DISCOs will have quality assurance and continuous quality improvement/performance improvement programs which will incorporate provider access standards and will be reviewed by New York State as part of the oversight responsibilities described in these questions.*

**21. Please describe how the State will monitor provider capacity and compliance with access standards on an ongoing basis.**

*New York State uses Quality Assurance Reporting Requirements (QARR) to monitor quality in managed care plans. QARR is based upon the National Committee on Quality Assurance (NCQA) HEDIS measures plus additional measures developed by New York State to monitor the delivery of primary and chronic care services. To help ensure the integrity, reliability, and validity of the QARR data, the State contracts with an External Quality Reporting Organization (EQRO) to audit and validate QARR data and to provide technical assistance to MCOs in collecting and submitting requested information.*



*New York State's quality strategy and oversight/monitoring for Medicaid Managed Care is described in the State's Quality Strategy for the New York State Medicaid Managed Care Program. This document describes the State's process for monitoring provider capacity. On a quarterly basis, MCOs submit updated information on their contracted provider network to the New York State Department of Health (DOH). As part of these quarterly reports, MCOs provide information on the number of Medicaid enrollees associated with each primary care provider. Any material change in network composition must also be reported to NYS DOH as soon as possible, but no later than 30 days after the change. Provider network reports are used by the State to monitor compliance with access standards, including travel time/distance requirements, network capacity, and provider turnover.*

*In addition to incorporating the existing Medicaid Managed Care protocols described above in our monitoring, for New York State's new plans for people with developmental disabilities, the State will evaluate the QARR and the State's Quality Strategy for the New York State Medicaid Managed Care Program to determine the specialized provider network requirements that will be in the plans for people with ID/DD to meet their unique needs and requirements.*

## **22. Please provide any care management caseload ratio requirements imposed on the DISCOs.**

*At this time, New York State does not intend to adopt caseload ratio requirements for DISCOs as New York State intends to use a team approach to comprehensive care coordination which will ensure that each individual enrolled in a DISCO has access to the appropriate professionals on their care coordination team that can best meet their unique needs. The types of professionals that will be part of the care coordination team will be different for each individual depending upon the results of the individual's assessment and expressed interest. Through OPWDD's Division of Quality Improvement survey protocols and on-site visits, and through the use of meaningful quality outcome indicators, New York State will closely monitor the quality of care coordination being delivered to each person and will retain the right to implement caseload ratio requirements for any DISCO that does not demonstrate quality care coordination outcomes.*

*Under comprehensive managed care the DISCO is responsible for comprehensive care coordination. The care coordination team lead will be accountable for strategies that effectively support individuals' specialized service needs and a care plan that leads to enhanced person centered service provision, enhanced individual outcomes and minimizing health and safety risk factors through evidence based practices.*

*In the short term, assessing health and safety risk for each individual will continue through the person centered planning processes already in place (e.g., Individualized Service Planning, Individual Plan of Protective Oversight if the person resides in a certified setting, etc.). As OPWDD rolls out use of a standardized assessment tool (Inter RAI Suite), there will be enhanced ways to monitor health and safety particularly when the People First Exchange is operational through its predictive analytical capability and the health and safety alerts that will go to care coordinators and service providers through this technology.*

*OPWDD is working in partnership with IBM and the State University at Albany to develop the People First Exchange, the ultimate goal of this technology platform is to build care intelligence across systems that will help to ensure that health and safety risk factors are addressed and*

*minimized by all service providers involved with the person for ultimate prevention strategies. The People First Care Intelligence will be a major tool for the lead care coordinator and the clinical team to provide primary and advanced analytics to segment the population served, profile needs, desires, and supports the person is receiving and suggest the best care plan balancing desires of the individual and their supports with identified person centered options and cost efficiency recommendations.*

## **Enrollee Information**

### **23. Please provide your outreach and enrollment plan including how much time the member has to make a choice of plan and what the auto-assignment algorithm includes if the State intends to use auto-assignment.**

*Materials describing the new managed care infrastructure for DD services will be developed in collaboration with full range of OPWDD stakeholders. Materials will be produced in easily understood language and formats that can accommodate special needs. Once they are finalized and approved by CMS, OPWDD will send out a notice to all individuals receiving DD services in the catchment areas for the new DISCOs. The announcement will include dates of mandatory enrollment and an enrollment question phone line/email address. The notice will be provided in appropriate languages for the individuals served. Next, individuals will receive notice that they need to select a DISCO and enroll within a specified timeframe. This notice will explain the contents of the enrollment packet, including DISCO options, as well as the role of the enrollment broker and encourage the individual to contact the enrollment broker. OPWDD will send two reminder letters, one 30 days after the initial enrollment packet is sent, and one 45 days after the mailing of the initial enrollment packet. The 45-day letter will include the name of the DISCO in which the individual will be auto-assigned if his or her response is not received within 60 days of receipt of the initial enrollment packet. OPWDD envisions auto-enrolling individuals based upon a hierarchy of their individual service needs, assigning individuals to DISCOs on a geographically appropriate basis that contract with the individual's current providers and/or to DISCOs whose networks have particular expertise relevant to the individual's needs.*

*OPWDD is actively reviewing existing enrollment broker/advocacy protocols used to support individuals and families in making important service decisions. Based on this review, and considering both unique needs of individuals with developmental disabilities and the current organizational structure of OPWDD, OPWDD envisions the state role to include the following for all individuals seeking supports and services:*

- Front Door Access/Eligibility – consistent with its existing role, the State will work with individuals who are new to the system to determine their eligibility status and if they are not eligible for OPWDD services will direct them to community alternatives for assistance. For those who are eligible they would be assessed as described below.*
- Assessment – the State will have responsibility for completing both the initial and on-going assessments, for each person eligible for supports and services from OPWDD, which will inform the person centered planning process in combination with the person receiving supports and services and their advocate(s).*

- *Enrollment Brokerage – the enrollment broker will work with the individual and care coordination team to ensure the individuals and their family understands the care plan options. Although enrollment brokerage will be the state’s responsibility, the state may choose to subcontract some of the enrollment brokerage functions when insufficient state staffing resources are available to cover required off-hours staffing needs, temporary periods of high-demand or specialized communications for individuals with limited English proficiency or other special communication needs.*

*The independent advocacy role is an important issue worthy of public dialogue and will be an important subject to be addressed by the care coordination public work group to be convened during the first year implementation planning process. Part of the advocacy role will include assisting individuals with navigating the grievances/appeals process through the DISCO when dissatisfied with services.*

**24. Please describe the marketing and outreach efforts that will be employed during implementation of the partially capitated plans, and following full expansion of the integrated model including:**

**a. How the State will ensure prior approval of marketing materials sent out by the plans;**

*OPWDD’s DISCO Marketing Requirements will include procedural requirements related to the DISCO’s provision of information to potential DISCO enrollees, submission of an approved Marketing Plan, and procedures for modifying Marketing Plans that parallel those developed by DOH for its Medicaid Managed Care providers. As with the DOH Model Contract, DISCO contracts will require development of a Marketing Plan that meets these requirements and receives prior approval. To maximize efficiency of managed care oversight administrative functions, OPWDD will coordinate with DOH to provide prior approval of DISCO Marketing Plans, as well as ongoing oversight of electronic interactions with enrollees or potential enrollees, as it does with its managed care providers.*

**b. How the State will include all the necessary information outlined in 438.10; and**

*OPWDD will prepare informational materials for potential DISCO enrollees that will include the information required by S.438.10. This information will be presented on OPWDD’s Web site and in hard copy format available at DDSOs, at DISCOs, and by request at OPWDD’s Central Office. Consistent with OPWDD’s current practices, the information will be presented in multiple languages and using a format that is easily understood and accessible to people with special needs such as vision impairment. OPWDD will notify its stakeholder populations about the availability of this information and how to access it in alternative formats.*

*In addition, OPWDD will prepare a model DISCO Member Handbook and a DISCO Provider Manual based on DOH’s Medicaid Managed Care Model Member Handbook and DOH’s Provider Manual, respectively. The Model DISCO Member Handbook will contain information for all enrollees and required information for mandatory enrollment as prescribed in S.438.10. Similar to DOH’s Managed Care provider manuals, the DISCO Provider Manual will include a managed care service delivery system overview, relevant policy*

*guidance, billing information, service provider network requirements, quality improvement and reporting information, and other relevant operational information. It will also describe informational requirements of DISCOs per S.438.10.*

**c. How the State will determine the prevalent languages spoken by the population being served.**

*OPWDD is already undertaking an agency-wide initiative to comply with Executive Order 26 which requires Executive State agencies that provide direct public services to translate vital documents, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants. The translations shall be in the six most common non-English languages spoken by individuals based on United States census data, (Spanish, Chinese, Russian, Korean, Haitian Creole, and Italian). In addition, OPWDD will translate documents into other languages that are frequently encountered in the service system based on feedback from the provider and advocacy communities. OPWDD has asked its DDSOs to identify additional languages that are spoken within the OPWDD service system. To date, DDSOs have identified Yiddish and Urdu as two additional languages for which translation is needed.*

*In our experience, when language services are not readily available or an LEP individual does not know about the availability of language assistance services, LEP individuals will be less likely to participate in or benefit from an agency's programs and services. As a result, many LEP persons may not seek out agency benefits, programs, and services; may not offer vital assistance in investigations or information that would help determine entitlement or eligibility for benefits; may not file complaints; and may not have access to critical information provided by the agency because of limited access to language services.*

*To remedy this situation, OPWDD will create district outreach teams throughout the state. The Outreach Teams will be responsible for conducting outreach to community organizations, minority provider agencies, and other locations with LEP populations. The Outreach Teams will identify additional languages spoken within the OPWDD service population and provide agency information to LEP populations that have been historically underserved. Each DDSO must identify an Outreach Team and create an outreach plan specifically designed to meet the needs of the district.*

*In addition to document translation and outreach, OPWDD will provide interpretation services between the agency and an individual in his or her primary language, and interpreters will be used as needed throughout needs assessment and person-centered planning. OPWDD staff will be trained statewide in how to access language services, working with interpreters, documenting language needs of LEP individuals, legal obligations and language and cultural competency. Voluntary service providers are currently expected to meet the needs of LEP individuals, and will be expected to continue to do so going forward. DISCOs will be required to demonstrate that they have a culturally diverse network that can meet the needs of the communities in which they operate.*

## Grievance System

**25. Please describe the grievance and appeals system that will be in place at the DISCOs and how this system interacts with incident management system if at all.**

*Grievance and appeal systems of DISCOs will be required to comply with 42 CFR 438, Article 44 of the New York State Public Health Law and applicable New York State regulations including any additional requirements deemed necessary by OPWDD for the specialized population. Article 44 requires a review of DISCO grievance procedures prior to a certificate of authority being issued by New York State.*

*New York State will adopt contract language for grievances and appeals that is similar to the language specified in the New York State Medicaid Managed Care Contract and the Managed Long Term Care (MLTC) contract for the specialized plan contracts for people with developmental disabilities (see attached MLTC grievance system-Appendix K of the MLTC contract).*

*DISCOs will be required to track all grievances received (oral or written grievances), and these grievance tracking logs will be required to be made available to OPWDD and DOH upon request. New York State will perform a review of grievances for multiple purposes, including but not limited to, as part of the State's required quality strategy, as a quality outcome indicator, and to assess responsiveness of the DISCO.*

*People with developmental disabilities will also be able to seek assistance from their independent enrollment broker/advocate (see response to question 47, page 35) to assist them to navigate the grievances/appeals process through the DISCO when the person is dissatisfied with services and/or believes he or she should receive a service that that DISCO has not provided to them.*

*Medicaid Fair Hearing requirements will continue to be applicable as the last step in the grievance process.*

## Managed Care Quality Strategy and External Quality Review

**26. It is unclear how the State intends to meet the quality strategy requirements found in 438.202 and 204. Please describe how the State will meet these requirements.**

*The New York State DOH, as the Single State Medicaid Agency, will continue to have a central role in plan oversight as new plans are developed as part of New York State's Medicaid Redesign.*

*Pursuant to 438.202, the DOH has developed a Quality Strategy for the New York State Medicaid Managed Care Program. This Quality Strategy addresses the requirements outlined in 438.202 and 438.204 and these requirements will be applicable to OPWDD's managed care program.*

*As the single state Medicaid agency NYS DOH will continue to oversee all CMS approved Medicaid waivers as well as approved managed care organizations (MCOs) governed by Article 44 NYS PHL and implementing regulations.*

*New York's DOH and OPWDD are working collaboratively to determine the roles and responsibilities of each division as the State's system of care for individuals with developmental disabilities transitions to the managed care environment. Using this team approach the State will assess its resources across agencies and determine how to structure and delegate responsibilities. A draft memorandum of understanding that will outline the level of authority to be delegated to OPWDD under the managed care framework will be forwarded to CMS.*

*At full implementation, New York's system of care management will rely on five state agencies to provide intensive plan oversight. These agencies will work with plans that are specifically tasked to serve populations for whom the agencies have unique special knowledge and experience. New York believes this approach will allow for specialization and choice which will be in the best interest of Medicaid members.*

*The state agencies that will provide direct care management contract oversight are the following:*

- *Department of Health – Office of Health Insurance Programs (OHIP)*
- *Department of Health - AIDS Institute*
- *Office of Mental Health (OMH)*
- *Office of Alcohol and Substance Abuse Services (OASAS)*
- *Office for People With Developmental Disabilities (OPWDD)*

*These agencies will monitor the performance of care management partners and ensure that they fulfill the terms of their contracts. They will also recommend contract changes on an annual basis and monitor performance measures throughout the year to ensure that plans achieve the results the state expects. Using these specialized agencies will allow New York to have subject-area experts monitor plans with unique missions so that programs/plans can be tailored over time as needed to meet the unique needs of special populations.*

*The New York State DOH will increase the Medicaid agency's oversight by creating a centralized committee, chaired by the State Medicaid Director, to ensure consistency in contract administration across all care management partners and to monitor overall cost-effectiveness. This committee will meet monthly and will serve as an important policy-making body that will recommend changes to plan oversight that will cut across multiple plan types. The committee will also be asked to approve all substantive contract amendments before they are submitted to CMS for their consideration.*

## **27. How will the State monitor and evaluate the DISCO's compliance with Federal and State standards?**

*As described in question 21 and 26 above, New York State will employ a multifaceted approach to monitoring and evaluating the DISCOs' compliance with federal and state standards. As the single state Medicaid agency, DOH will be responsible for establishing consistency across*

*the plans, approving plan provisions, and monitoring and oversight to ensure that fully capitated plans comply with federal and state laws and regulations.*

*OPWDD will continue to monitor and certify provider agencies that deliver services to people with developmental disabilities. Monitoring and evaluation processes are described in the Quality Strategy for Medicaid Managed Care. New York State will evaluate applicability of this strategy to the People First Waiver.*

**28. Please provide your current method for contracting with/implementing an External Quality Review Organization to be able to perform the review one year after the go-live date.**

*New York State currently contracts with an External Quality Review Organization (Island Peer Review Organization (IPRO)) through a competitive procurement. IPRO currently has a five year contract with an approval to extend for one year through 3/31/13 while the state conducts a procurement for five more years. NYS DOH and OPWDD staff have begun discussions related to the current EQRO contract and will evaluate the components that will be needed for the People First Waiver as the system transitions to fully integrated managed care.*

*The EQRO will support NYS in data collection and validation and performance improvement projects for the DISCOs. Tasks will be outlined in the RFP that will be conducted across programs (mainstream managed care, managed long term care, people first, etc), and build off of efficiencies and knowledge gained over the 17 years of using an EQRO.*

*The EQRO will be a component of the People First Waiver long-term quality strategy for managed care that will be provided to CMS in accordance with recent discussions about the “quality buckets”.*

## **Fiscal Arrangements**

**29. Describe how the State intends to meet requirements outlined in 438.6. How would the state accomplish its rate reform goals under capitation?**

*In accordance with 438.6, DISCO pilot agreements and DISCO contracts will meet the requirements for risk contracting , including, but not limited to, the prior review and approval of CMS. The payment rates will be actuarially sound per 438.6(c), developed in accordance with the CMS checklist, using generally accepted actuarial principles and practices using a qualified actuarial firm . The rate development methodology will be appropriate for the populations to be covered and the services to be furnished under the contract, based on actual claims expenditures under a FFS program, adjusted for programmatic changes, trend, the impact of care management, and actuarially determined non-medical load (administration, profit, risk and contingencies) for an economically and efficiently operated DISCO. To assist OPWDD in achieving its rate*

*reform goals, the rate development methodology will provide appropriate financial incentives for DISCOs to provide services to its membership in the least restrictive, most cost-effective environment based on extensive meetings, forums, and feedback from its stakeholder community.*

**30. How will the State determine the appropriate capitation payment to be paid to the DISCOs both before and after the implementation of the statewide assessment tool?**

*The capitation payment methodology will be determined in conjunction with a qualified actuarial firm, and is still in development. For the initial capitation rate methodology, OPWDD intends to use the extensive data it already possesses related to the individuals who will be served within the People First Waiver. The data includes four years of comprehensive Medicaid expenditure data, provider cost reports and extensive needs assessment data collected using the Developmental Disability Profile (DDP-2) tool. The DDP-2 is completed every two-years by all major service providers. While we have an extensive needs data history that provides a thorough description of the skills and challenges of people with developmental disabilities that are related to their service needs, the aggregate data is mostly used to describe, plan, and manage the system of service and generally not as a means to inform rate setting. As a result, in our initial discussions with our actuarial consultant, concerns have been raised about the DDP-2 data's ability to formulate initial capitated payment rates on a stand-alone basis. Our actuarial consultants have recommended that while we are testing and evaluating the use of the InterRAI as a means of independently completing assessments, we use the DDP-2 data as a component of our rate development methodology, credibility adjusting the DDP-2 data to ensure that unexplained variations in the underlying DDP-2 data are not passed through directly to the capitation rates*

*Upon completion of testing and evaluation of the Inter RAI, OPWDD intends to incorporate its assessment results into the rate development methodology as a means of risk adjusting the capitation rates for member complexity.*

**31. Please clarify whether the capitation payments made to DISCOs cover service coordination and the funding of Medicaid covered services even when the DISCO is the provider of service.**

*Yes, in all cases the capitated payment will cover both service coordination and the funding of Medicaid covered services.*

**32. Please elaborate on the following statement: 'The capitation payment will be derived from one or more independently administered needs assessment tool(s) and augmented by necessary adjustments.**

**a. Please describe the connection between the needs assessment, the capitation payments derived, and the level of care assessment.**

*The State will have responsibility for completing consistent assessments, for each person eligible for supports and services from OPWDD, which will inform the person centered planning process in combination with the person receiving supports and services and their advocate(s). The comprehensive and consistent assessment will also inform the acuity level of the person, by defining their predicted resource utilization group which in turn will be used to establish a "case mix" for a DISCO. The case mix will be incorporated*



*into the rate development methodology as a form of risk-adjustment to ensure that capitation paid to the DISCOs will appropriately match the risk assumed by each DISCO. It is the case mix of the people enrolled within a DISCO that will be used as an adjuster to the capitated payment made to the DISCO.*

**b. Will these payments be derived from *current* needs assessment tools or from the needs assessment tool that is to be developed?**

*The use of a new consistent assessment tool developed from the suite of tools available from InterRAI will be implemented over time for people who are entering the OPWDD system of supports, participating in case studies (to test the tool for planning purposes) and as people are enrolled into demonstration pilots. Over time, as a statewide roll out takes place, when the new tool has sufficient data to determine predictive algorithms for support need levels, it will be used to establish the capitated rates as identified in question # 30.*

*Working with a qualified actuarial firm, the initial capitated rates will be established based on costs data and may also be informed by current, available needs data. Need information has been captured using Developmental Disabilities Profiles (DDPs) on the people served within the OPWDD system for years. While the data has not been used uniformly and predicatively in support and service model development we have confidence in the data's capacity for broad determinations regarding levels of need for people with developmental disabilities. See question #30 for a discussion of the State's intent to credibility adjust the current needs assessment tool data, DDP-2, in the rate development model until such time that data from the needs assessment tool to be developed is available.*

*The new assessment tool(s) available in the InterRAI suite of tools will focus well beyond the establishment of need levels. The tools are designed with triggers that identify need areas that prompt appropriate care planning and the development of collaborative action plans (CAPs) for particular individual profiles. As the assessment tool(s) are implemented and fully normed within the NYS population of people supported by OPWDD the above noted transition will be achieved.*

**c. Have these needs assessment tools been actuarially approved to derive a rate within the appropriate rate range?**

*The InterRAI tools within the suite have been used in an actuarially sound manner to establish rates for individuals served in community health supports. The tool that has been developed for use with individuals who are diagnosed as intellectually or developmentally disabled is relatively new. The tool has been used in several states in a testing capacity and is in use in Canada with the ID/DD population. A sufficient representative sample (approximately 1000 people) of individuals in NYS will need to be assessed to establish an actuarially sound algorithm to establish resource utilization groups. Our actuarial consultants includes a nationally recognized expert on risk adjustment and their team has the ability to do regression analyses necessary to validate the risk adjustment coefficients derived from the Inter RAI data.*

## Public Notice

- 33. Please clarify whether OPWDD received comments from the recognized Native American tribes because of the May 2011 meeting. If so, briefly describe the nature and extent of the comments received.**

*The tribes asked about the on-going relationship with local OPWDD district offices following the implementation of the waiver. The Mohawk Tribe serves as a HCBS waiver service provider, and thus interacts quite closely with its local DDSO. In addition, several tribes will be actively engaged with OPWDD either directly as providers or as a result of future consultation. Tribal elders requested opportunities for future input to development of the People First Waiver. OPWDD will provide such opportunities.*

## State Oversight

- 34. Please provide more specifics on State oversight responsibilities outlined in slide 5 of the 1/11/12 presentation.**

- a. What agency will perform which activities? (i.e. RFA and contract development, plan selection, rate setting functions, DISCO compliance, quality management)**

### DOH

*DOH, as the single state Medicaid agency, will increase its role as an oversight entity. A centralized committee will be created, chaired by the State Medicaid Director, to ensure consistency in contract administration across all care management partners and to monitor overall cost-effectiveness through:*

- Monthly meetings.*
- Serving as a policy-making body that will recommend changes to plan oversight, relevant across multiple plan types.*
- Approve all substantive contract amendments before they are submitted to CMS for their consideration.*
- Other DOH roles as an oversight entity:*
- Serve as the centralized rate-setting agency for the new care management for all systems, reviewing and approving the rate methodology utilized by OPWDD.*
- Regulate all Article 44 health plans.*
- Ensure that all new plans that are developed to meet the needs of special populations meet the requirements in Article 44 and Article 49 of the Public Health Law and will comply with all New York State Rules and Regulations.*
- Ensure all care management plans will comply with the Balanced Budget Act and CFR Part 438 as applicable, achieved through an integrated surveillance process with the agencies that ensures compliance with all applicable State and Federal laws and regulations in addition to monitoring contract compliance for various special need populations and plans.*

### OPWDD

*Ultimately, with the unique knowledge and experience developed from years of working with individuals with developmental disabilities and voluntary service providers for individuals with developmental disabilities, OPWDD will:*

- *Develop the care management contract and provide intensive, direct contract oversight over DISCOs and their provider networks to ensure a demand driven, person-centered system of supports and services;*
- *Develop the actuarially sound rate development methodology;*
- *Oversee independent actuarial review by an experienced actuary;*
- *Operate the 1115 waiver; evaluate and monitor service provision;*
- *Ensure DISCOs meet all federal and state laws and regulations, per the contractual agreement;*
- *Oversee all OPWDD eligibility and assessment processes;*
- *Provide and/or arrange for enrollment brokerage and a mechanism for independent advocacy*
- *Oversee the ongoing quality of services including quality improvement strategies, procedures and processes including health and safety measures; and*
- *Develop the RFA and contract development processes for DISCOs (with final approval from NYSDOH & CMS).*

*New York believes this overall approach will allow for specialization and choice and be in the best the interest of individuals with developmental disabilities.*

### RFA/Contract Development

*OPWDD will engage with DOH and will be the author of the DISCO Pilot Application document which will be submitted to CMS for review before being finalized. OPWDD has researched various RFA documents and model contracts used by other states as well as New York State DOH's model contract to inform a preliminary draft version of OPWDD's People First Waiver DISCO Pilot Application document. The DISCO Pilot Application process will be the application process for the DISCOs that will provide the outline for the future contract with each DISCO. OPWDD will continue to communicate with the NYS DOH as the DISCO Pilot Application process document develops to ensure consistency with the statewide initiatives spearheaded by DOH.*

### Plan Selection

*Individuals deciding to enroll with a DISCO must be given a choice of at least two entities, with the implemented exception for rural area residents. The DISCO will comply with the information requirements of §438.10 to ensure that, before enrolling, the recipient receives accurate oral and written information that he or she needs to make an informed decision on whether to enroll. Enrollees will receive marketing information, including the services provided by the DISCO in accordance with §438.104 and § 438.102, and the DISCO will comply with any applicable federal and state laws that pertain to enrollee rights. OPWDD will approve the written marketing plan as submitted by the DISCO before any materials are provided to an individual with developmental disabilities. In*

*the future, the intent is to collect information about the DISCO and have that information, including encounter data, available to the public and individuals with developmental disabilities to aid in choice between DISCOs.*

#### *Rate Setting Functions*

*Rate setting oversights will ultimately be the responsibility of NYS DOH for all managed care contracts, but will work in coordination with OPWDD and other state agencies with specialty expertise for particular populations (e.g., OPWDD, OMH), with each agency responsible for developing its own actuarial rate development methodology. NYS DOH will hold a single actuarial contract and will utilize a standardized rate development review system that will ensure consistency across all plans as well as ensure that all rates meet CMS requirements. This major change will streamline rate setting procedures that were not effectively coordinated in the past. The cooperative involvement of OPWDD leading the rate development process with oversight and input from DOH will ensure that DISCO reimbursement is sufficient to meet the habilitative and specialized medical needs of individuals with ID/DD, meet CMS' requirement for actuarial soundness, and be consistent with NYS managed care rates*

#### *DISCO Compliance*

*The DISCO will be required to show how they meet all provisions as developed in the RFA and in the contract agreement with NYS. These provisions include but are not limited to accessibility and choice, enrollee protections, capacity and network adequacy, care coordination, an approved marketing plan, an approved quality strategy, performance improvement processes, health information systems, health and safety requirements, grievance and appeals procedures, collection and submission of encounter data and reporting requirements. The DISCO will be monitored and evaluated against all applicable measurements as written in the contract agreement and all applicable federal and state laws and regulations. DISCOs out of compliance in any area(s) will be subject to corrective action planning and continual monitoring and evaluation. After a contract agreement is reached, a readiness review will be conducted by OPWDD before enrollment can begin within a DISCO.*

#### *Quality*

*Per §438.202, OPWDD will implement a written strategy for assessing and improving the quality of managed care services offered by DISCOs including, but not limited to, information outlined in the Quality scale located in the Waiver application. Because stakeholder input is always valued by OPWDD, the strategy will be available for public comment before adopting it in final form. Per §438.204, OPWDD will assess the quality of services provided by the DISCO and regularly monitor and evaluate the DISCOs compliance with the established quality standards. To ensure that DISCOs comply with the standards established by OPWDD, OPWDD will conduct periodic reviews to evaluate the effectiveness of the strategy, and update the strategy periodically as needed. Additionally, OPWDD will submit a copy of the initial strategy and a revised copy to CMS when significant changes are made and provide regular reports on the implementation and effectiveness of the strategy. OPWDD is in the process of developing a health information system that supports the operation and review of the quality strategy.*

## **B. Non-Negotiable**

### **Delivery System**

- 35. All specific requirements of the DISCOs, which are not part of State or Federal statutory or regulatory requirements, will require the State to implement those requirements through a contract between the State and the DISCO.**

*New York State confirms that all specific requirements of the DISCO which are not part of the state or federal statutory or regulatory requirements will require the State to implement those requirements through a contract between the State and the DISCO.*

- 36. Please confirm that DISCOs will be required to meet the same licensure/risk requirements as those implemented through the NYS DOH.**

*New York State confirms that DISCOs will be required to meet the same licensure/risk requirements as those implemented through the NYS DOH.*

- 37. Please confirm that the State will submit to CMS for approval all contracts with managed care organizations prior to claiming FFP.**

*New York State confirms that we will submit to CMS for approval all contracts with managed care organizations prior to claiming FFP.*

- 38. Please confirm that the OPWDD and/or NYS DOH will provide the minimum level of oversight and monitoring outlined in federal regulation and in the STCs regardless of level assigned in the rating system.**

*New York State confirms that OPWDD and/or NYS DOH will provide the minimum level of oversight and monitoring outlined in federal regulation and in the STCs regardless of level assigned in the rating system.*

### **Choice/Access Capacity**

- 39. The State must ensure that access requirements outlined in the body of the contract are consistent with the rules found in 438.206.**

*New York State confirms that access requirements will be consistent with the rules found in 438.206.*

## **Managed Care Quality Strategy and External Quality Review**

**40. As PIHPs and then as MCOs, DISCOs will be subject to quality requirements found in section D and E of 42 CFR 438.**

*New York State confirms that DISCOs, as MCOs, will be subject to quality requirements found in Section D and E of 42 CFR 438.*

## **Program Integrity**

**41. Health plans (i.e. DISCOs) must have a system in place in order to ensure that they do not contract with excluded providers.**

*As is the case currently, DISCOs will have in place a system to ensure that they do not contract with excluded providers.*

## **Fiscal Arrangements**

**42. All capitation payments made to the DISCOs must be actuarially sound and compliant with federal requirements in 438.6.**

*All capitation payments made to the DISCOs will be actuarially sound and compliant with federal requirements in 438.6.*

**43. Due to the highlighted payment issues in the State, CMS will require the State to complete an analysis of the actual costs to provide services versus using the current fee-for-service fee schedule to construct the rates.**

*This review is underway.*

## II. System Integration & Rebalancing

### A. Questions

#### Community Integration

**44. Community Settings – New York described a system of residential settings, consisting mostly of 4-8 bed homes, with 14 beds being the regulatory limit to be considered community based. Please describe fully the settings in which individuals will receive supports – include residential settings, but also settings where non-residential services and supports will be delivered.**

*The following are the settings in which individuals participating in the 1115 waiver for people with developmental disabilities may receive services:*

***Residential Settings:***

- *OPWDD certified residential settings (i.e., Individualized Residential Alternatives, Community Residences, Intermediate Care Facilities, Family Care Homes, respite facilities, campus based residences)*
- *Non-certified residential settings (i.e., a person's own home, person's own apartment, shared living arrangement with person's family, friends, or relatives)*
- *Residences/facilities certified/overseen by DOH or OMH (e.g., OMH supportive housing, DOH certified assisted living facility)*

***Settings where Non-residential services/supports could be delivered:***

- *OPWDD certified day facilities (i.e., workshop, day treatment facility, day habilitation facility, article 16 clinic treatment facility)*
- *Facilities/services certified by external agencies (e.g., DOH Article 28 clinic, Adult day program, skilled nursing or assistive living facilities)*
- *Person's own home, apartment, or shared residence (either certified or non-certified)*
- *Every day community settings (e.g., grocery stores, libraries, volunteer opportunity locations, person's workplace, restaurants, malls, buses, and other every day community settings where community habilitation services may be provided)*
- *Doctors offices*

**45. Housing – Please describe the strategy to address housing capacity.**

- a. Describe the supportive housing model that is proposed as a part of the move to less restrictive settings for individuals currently residing in institutional settings.**

*(See text under letter c)*

- b. How will the program address a shortage of housing options, both residential provider capacity and the lack of affordable, accessible independent housing?**

*(See text under letter c)*

- c. How will people's preferences be taken into account in regards to where they live?**

*OPWDD was successful in advancing four initiatives for inclusion in the Medicaid Redesign Team Affordable Housing Workgroup final recommendations. These initiatives, among others, will be used as a springboard to address the need for affordable and accessible housing for people with developmental disabilities:*

*OPWDD is working with community partners to support the development of non-traditional housing options for people with developmental disabilities. These initiatives include transfer of ownership of the former Howard Park unit of the Bernard M. Fineson Developmental Disabilities Services Office (DDSO) to Catholic Charities of Brooklyn and Queens (CCBQ), which has announced construction of senior housing at this site in the Howard Beach section of Queens. Of the 96 apartments to be constructed, 12 will be designated for seniors with developmental disabilities. NYS OPWDD also has a partnership with the Dunn Development Corporation which is located in Brooklyn, New York – one of the five boroughs in New York City. It is a tri-partnership which includes the developer (Martin Dunn), The Center For Family Support Services (one of OPWDD's voluntary service provider agencies) and the Brooklyn DDSO. As described at [www.dunndevelopmentcorporation.com](http://www.dunndevelopmentcorporation.com), the Dunn Development Corporation is a socially conscious, award-winning real estate developer with expertise in affordable and supportive housing for low and middle-income New Yorkers, including those with disabilities and other special needs. In three of its apartment buildings in Brooklyn, the Corporation provides a total of 23 certified and non-certified apartment units to people with intellectual and developmental disabilities. OPWDD's population does not have to enroll in a lottery to obtain any apartment units, but the Dunn Development Corporation provides a "set-aside" of studios and one-bedroom apartments. OPWDD is pursuing opportunities with other developers that received awards from HCR in 2011 and will be building affordable supportive housing.*



*OPWDD has scheduled a statewide forum with HCR and all of its DDSOs. HCR has agreed to provide OPWDD with a list of projects under development that proposes to serve persons with developmental disabilities. HCR will also identify those projects that will be delivering "built-out, move-in ready" units with accommodations for mobility impairments.*

*A second statewide forum has been scheduled with the State Office For the Aging (SOFA) to discuss Housing Options for Seniors. The purpose here is to learn about all of the senior housing available in New York State and develop partnerships to ensure that these residential opportunities are also available to, and utilized by, seniors with developmental disabilities. Discussions are underway to host additional forums on topics such as Assisted Living, Environmentally Engineered Homes and etc.*

*OPWDD also proposes to:*

- *Re-engineer its existing certified housing to create more affordable and accessible housing.*
- *Redevelop some of its existing state land into affordable/supportive housing, particularly in the downstate area.*
- *Assist people with developmental disabilities to remain in the least restrictive environment by seeking ways to provide funds for repairs and renovations.*

*OPWDD, through its HUD-Approved Housing Counseling Program, continues to assist potential homebuyers through the following initiatives:*

- *Saving for their first home through OPWDD's Individual Development Account (IDA) Program*
- *HUD-Approved Pre-post-housing counseling*
- *Foreclosure Prevention*
- *Credit Counseling/Credit Repair*
- *NYHousingsearch.gov a partnership with HCR to assist people with developmental disabilities search for apartments online*
- *Understanding the Mortgage Process*
- *Budgeting/Financial Management*
- *Credit Counseling for Maximum Results*

**46. Employment – Describe the plan to increase competitive, integrated employment for people living in the community.**

**a. What employment supports will be available?**

*Our overall goal is to move away from day services silos to meaningful community activities. As we utilize the People First Waiver to expand opportunities for individuals to live in the community, we also want to expand opportunities for individuals to engage in meaningful communities activities. The ultimate outcomes are to support individuals in achieving their maximum level of*

*independence and development of skills necessary to interact with and be actively engaged in their community. We believe these outcomes are consistent with the goals of Olmstead. Meaningful community activities would include employment, volunteering, vocational training and basic life skills. There would be supports in each of these areas. Those specific to employment would include: discovery, career planning, assistance with benefits, travel training, job readiness training, paid internships, customized job development and job coaching.*

**b. What systems initiatives will New York implement to expand integrated employment while decreasing a reliance on facility-based employment?**

*The systems change that OPWDD is pursuing involves a focus on assessment and person-centered planning. An assessment would be done to identify the supports needed to assist an individual in reaching his or her maximum level of independence and community interaction. That assessment would be used to create a person-centered plan with goals related to employment, volunteering, basic life skills and vocational training. Individuals currently receiving services in traditional day services would be given opportunities to transition to meaningful community activities. In addition, all new individuals coming into OPWDD would have a meaningful community activities assessment and person-centered plan.*

*OPWDD remains committed to the goal of doubling the number of people with developmental disabilities who are employed. This goal was developed as part of our Employment First Policy which is in the process of being revised to reflect our move away from programmatic silos and to make a more deliberate connection between the activities in day services and the goal of employment. Our involvement in the Alliance for Full Participation and the Partnership and Employment Systems Change (PESC) Grant are a part of our efforts to make employment the first and desired outcome for the individuals we support. As part of the PESC grant, New York State will be working with the Institute for Community Inclusion (which supports the State Employment Leadership Network). We have also reached out to Washington State, particularly as it relates to the partnership they have with their vocational rehabilitation agency. In both of these efforts we anticipate lessons that can be weaved into our work in New York State.*

*As part of our effort to double employment, we recognize that systemic change is needed on multiple levels. For new individuals coming into OPWDD we are seeking to increase their job readiness skills, developing stronger partnerships with school districts so that families are aware of OPWDD services (including employment) and can begin the transition process prior to high school graduation; and we are working with our state vocational rehabilitation agency to streamline the process for individuals with developmental disabilities to access both intensive and extended supported employment services. For individuals currently in day habilitation, pre-vocational and sheltered workshops we are working to better align these traditional day services with the goal of competitive employment. Assessment and discovery will be an essential part of this systems change. All new individuals coming into OPWDD will be assessed to identify person-centered employment goals. The purpose of pre-vocation, volunteer and internship opportunities will be to obtain work experience that will assist individuals in obtaining their paid employment goals.*

*In the area of youth graduating from high school, OPWDD is one of several agencies working on the Partnerships in Employment Systems Change Grant issued by Administration of Developmental Disabilities. Over the course of this five year grant, OPWDD will be partnering with the University of Rochester, New York State Developmental Disabilities Planning Council, State Education Department (Vocational Rehabilitation and Special Education) to make employment the first and desired option for youth and young adults. Some of the grant outcomes include: improved employment preparation for high school students; increased numbers of students transitioning from high school to competitive, integrated employment with a concomitant decreased participation in day habilitation programs and sheltered workshops; increased numbers of young adults employed in competitive employment settings; enhanced cross-agency communication and collaboration; and sustainability for the above.*

## **Self-Direction**

### **47. Describe the supports available to individuals and families participating in self-direction.**

#### **a. How will individuals be assisted in navigating the case management framework in the DISCOs?**

*(See text under letter b)*

#### **b. How will they be supported in making the switch from one DISCO to another, should they so choose?**

*New York State intends to design an independent enrollment broker/advocacy service specifically for people with developmental disabilities that will provide independent advocacy including options counseling upon DISCO enrollment and when individuals want to switch to another DISCO and/or are dissatisfied with their DISCO. This service will be available to all individuals, including those who choose to self-direct and will be provided through state staff or through contracted entities chosen competitively through New York State procurement rules. Any contracted entities will meet the criteria outlined in 42 CFR 438.810 (Expenditures for Enrollment Broker Services) and will also need to meet specific criteria that OPWDD establishes such as requiring the individuals employed as independent advocates/enrollment brokers to have experience serving people with DD (e.g. qualified mental retardation professionals) and other qualifications deemed necessary as we further design this service.*

*During the design team stage, NYS looked at the broker functions in several states (Illinois, Wisconsin and Florida), and during implementation planning, NYS will continue this work to establish a protocol for enrollment brokerage which is supplemented by an 'auto-enrollment' program. The auto enrollment program would evaluate current service delivery to ensure continuity of service provision for individuals currently receiving OPWDD services, and would be used if the broker was unable to assist the person to select a plan within a reasonable time period.*

## Coordination with Other Initiatives

- 48. Money Follows the Person** – New York indicated that MFP has been a part of the planning process, but there is no indication of this in the application or other correspondence. It has also been discussed that New York is seeking ways to use savings realized through the closure of institutions to fund housing options for individuals to live in the community, which would help to address the housing capacity issues outlined above. MFP allows states to receive a higher rate of federal match on services for individuals moving from an institution to the community, and these savings generate a rebalancing fund that is intended for use on such initiatives. Because New York already has a successfully functioning MFP program in place, collaboration with this program represents a viable option to support the stated goals of deinstitutionalization. Please describe efforts to coordinate with MFP in transitioning individuals in this population from institutional to community settings. Identify existing barriers to including this population to the MFP program.

*OPWDD and the Department of Health have begun discussions regarding the current MFP Operational Protocol, approved effective May 2008. MFP participants receive community based long term care services through the Nursing Home Transition and Diversion (NHTD) or Traumatic Brain Injury (TBI) Medicaid waivers. These waivers are operated by the Department of Health, and people with ID/DD may opt to enroll in these waivers, but generally do not. Most people with ID/DD who receive community-based services do so through the OPWDD-operated comprehensive waiver. During the People First waiver implementation planning process, the state will pursue the expansion of MFP to include the People First Waiver target population.*

*The use of MFP funds provides for wider systemic benefits that support all people with disabilities including people who will enter the 1115 waiver, and these reforms include housing education to promote the availability of affordable, accessible, and integrated housing; provision of assistive devices on a loan basis through partnership with the State's Technology Related Assistance for Individuals with Disabilities (TRAID) program; and provision of objective information on home and community based services to interested nursing home residents.*

- 49. Medicaid Infrastructure Grant** – Describe how New York will build off the existing efforts of the MIG and its “No Wrong Door” efforts and data capacity building.

*The Medicaid Infrastructure Grant was used to launch the New York Makes Work Pay Initiative. One of the outcomes of the MIG has been the creation of a new cross agency data management system called the New York Employment Services System (NYESS). The new system is the result of a partnership between the Department of Labor, Office of Mental Health, OPWDD and the State Education Department. All entities providing employment supports will have access to the new employment system, which will assist with: making job matches, facilitating service coordination, benefits screening and enrollment and outcomes reporting. Access to job seekers, job opportunities, services and supports will be organized to be responsive to individual business and job seeker needs. The new employment system will replace the various current silos of employment-related information and fragmented approaches to assisting in finding employment.*

*Benefits for Employers Include:*

- *Creation of a central source for accessing qualified applicants for jobs across NYS using a mechanism employers are familiar with and are currently using to list job opportunities.*
- *Pre-matching job applicants with disabilities for skills employers seek for individual job functions.*
- *Reducing general/generic inquiries from job developers seeking employment opportunities for people with disabilities that have often already been filled.*
- *Providing a mechanism to help individuals with disabilities enroll in the Medicaid Buy-In for Working People with Disabilities (MBI-WPD), providing coverage for services possibly not covered by employer's health insurance.*
- *Automatically generating tax credit claiming documentation for employers that hire an individual with a disability through the redesigned system.*
- *Document affirmative hiring policies and procedures that promote employment of individuals with disabilities.*
- *Using Skills Matching & Referral Technology (SMART):*
  - *"Reads" a customer's resume; "understands" work history, unique experiences, and acquired knowledge, skills and abilities*
  - *SMART then matches skills sought by businesses/employers with skills possessed by job seeker*
  - *SMART technology being expanded to provide additional job seeker tools – resume writer*
  - *Future plan is to apply SMART technology to database of volunteer opportunities*

*Benefits for Job Seekers Include:*

- *Creating a single point of access for all individuals with disabilities that provides assistance in finding employment opportunities and providing access/coordinating necessary supports to succeed on the job.*
- *Assessing the skills of individual job seekers and help to develop a resume.*
- *Allowing job seekers to search and immediately find jobs that match the individual job seekers' skills and desires, and notify as new jobs become available.*
- *Coordinating eligibility for financial supports (i.e. MBI-WPD) and other (i.e. educational, vocational, rehabilitation) supports; assist with documentation requirements.*
- *Connecting to the Earned Income Tax Credit claiming resources (est. \$800+M).*

*Benefits for Service Providers Include:*

- *Centralizing all employment service information for individuals, allowing for coordination of multiple supports.*
- *Access to entitlements screening and eligibility criteria, including documentation requirements.*
- *Automatically notifying providers of job openings suitably matched to individuals they are serving.*
- *Ease burden on job developers by identifying job matches for job seekers, allowing job developers to focus on interview preparation, coordinating job supports, etc.*

- *Automatically generating Employment Network claiming documentation to support Ticket To Work claims (estimated to be as much as \$1B annually).*
- *Provides “real-time” tool, replacing quarterly reporting tool (NYISER), thereby eliminating need for manual quarterly data entry through ability to upload/download information from existing provider data systems.*
- *Fulfill certain duplicative reporting requirements through a single system that meets reporting requirements for multiple state agencies.*
- *Allow providers to run reports on their agency’s/employees performance, outcomes, etc.*
- *Built on an existing, integrated system that has already been implemented, tried and tested.*
- *Obtain precise baseline employment data across all disabilities.*
- *Maximize state/public assets and provider resources through coordination of services and promotion of economic growth, inclusive of individuals with disabilities.*
- *Track individual, provider and agency outcomes and progress using reliable sources, including wage record information.*
- *Measure the success of individual employment initiatives and identify “promising practices”.*

**50. *Balancing Incentive Program* and *Community First Choice* – New York has expressed some interest in both of these options as a way to broaden service delivery to this population and further balance their system. Does the state currently have plans to pursue these options, and if not, what are the barriers to doing so?**

*Analysis is underway to evaluate New York’s potential participation in the Balancing Incentive Program and Community First Choice.*

**51. *Health Homes for Enrollees with Chronic Conditions* - We understand you are proposing a HEALTH HOME model that at some point in the future will be implemented with the individuals in the 1115. How does the State envision the 1115 intersecting with a Health Homes SPA for this population?**

*In recent days, the NYS SPA for Health Homes was approved. It is likely that individuals within the 1115 Waiver may soon begin to benefit from care coordination under these programs as they develop. Particularly where we have partially capitated plans, collaborative arrangements between Health Homes and the plans may better support comprehensive care. OPWDD and DOH are collaborating on the development of care management models focused on individuals with intellectual disabilities and other chronic medical and behavioral health conditions. Over 50,000 individuals with development disabilities in NYS meet federal health home criteria. This group of Medicaid members costs over \$6.5 billion and often cannot effectively have their needs met in the current fragmented service delivery system in which development disabilities, medical and behavioral health care may not be well coordinated. Health homes can work as an integrated care management component to the OPWDD waiver to focus care management on these complex and costly members*

## Infrastructure

### **1. Capacity – New York intends to increase capacity to serve over 33,000 additional individuals through this program.**

- a. The application mentions that capacity in community settings has previously been insufficient. Describe the plan for increasing the capacity of community providers throughout the State and provide a timeline for implementing that plan. How will New York incentivize providers to enroll as providers in the managed care delivery system – if there are issues in the existing system that have led to a shortage of providers, how will these issues be addressed in order to ensure a robust provider base?**

*Where NYS has a shortage of providers, there are generally rural areas with low population density. In our opinion, expansion of staffing is most likely achieved with the expansion of self-directed options, furthering shared living arrangements, and expanding the ability for family members to serve as staff. The provision of supports and services for a person with ID/DD is most directly impacted by the relationship between the individual and the support given. The flexibility anticipated through the waiver would maximize the natural relationships in the person's life. Additionally OPWDD has initiated a statewide campaign to showcase the benefits of direct support work and utilize a database to encourage employment matching. The intent is that a managed care delivery system can facilitate self-directed service options more efficiently, and that the capitated payment structure will be specifically designed to incentivize this type of service arrangement as it is more cost-effective and results in better outcomes.*

*The State is currently working to develop an implementation planning strategy that will include public work groups that will be charged with evaluating major People First Waiver design issues. The work groups will be tasked with exploring and making recommendations related to important issues which will include the administrative requirements of families delivering services to family members, which will likely include registration with a "broker" or fiscal intermediary. The State will develop statewide oversight and quality controls specific to the delivery of care by family members.*

- b. Does New York intend to maintain a waiting list for all services under the demonstration, including medical, dental, and behavioral health? Is there a current waiting list for these services? If there is a waiting list, how many individuals are currently on that list? Please explain how the proposed addition of 33,000 individuals will impact those individuals on the list at the time these additional individuals are folded into the waiver.**

*For individuals with developmental disabilities that have Medicaid, there is no waiting list for access to Medicaid entitlement services (medical, dental, and behavioral health care) and the State does not intend to establish a waiting list for Medicaid entitlement services (i.e., healthcare). Therefore, the 33,000 individuals referenced in the above question will not have a direct impact on other individuals seeking enrollment in OPWDD's waiver because these 33,000 individuals are already eligible and receiving Medicaid entitlement healthcare services.*

*New York State's 1915c OPWDD Comprehensive Waiver does not currently have a waiting list for waiver enrollment, although there is an OPWDD waiting list for individuals seeking 24 hour residential settings due in large part to the historical preference of individuals and their family members for 24 hour residential settings. As statewide capacity is enhanced to deliver appropriate clinical and behavioral services to individuals, new community based options are developed with appropriate supports that ensure success for individuals to live in the most appropriate settings in the community, individualized and person-centered options are more widely available, and the state transitions to managed care and use of a valid needs assessment tool, OPWDD expects the residential waiting list to decrease freeing up residential opportunities for new individuals entering the system who have a real need for these settings.*

*For New York State OPWDD long-term care (habilitative services), OPWDD intends to assess its current statewide enrollment prioritization policy should the need to establish an 1115 Waiver Enrollment Waiting List for long term habilitative supports becomes necessary (see below for current policy).*

**Participant Needs Prioritization:**

*OPWDD prioritizes participant needs on a statewide basis as follows:*

***Priority 1:*** Any of the following (i.e., emergencies):

- *Abusive or neglectful situation constituting imminent risk of harm*
- *Imminent danger to self*
- *Imminent danger to others*
- *Homeless or in imminent danger of becoming homeless*

***Priority 2:*** Any of the following (i.e., urgency/emergency prevention):

- *Aging or failing health of caregiver/no alternate caregiver available*
- *Living situation presents a significant risk of neglect or abuse*
- *Medical/physical condition requires care not available in present situation*
- *Presents an increasing risk to self or others*
- *Affected by court or legislative mandate requiring residential placement*

***Priority 3:***

- *Includes all who present a need but there is no danger to health and safety of the individual or his/her caregiver (i.e., not considered urgent). Factors to consider include:*
  - *Compatibility of the individual with available services*
  - *Compatibility with the other individuals in a shared living arrangement*
  - *Relative need for supports for daily living*



**c. Describe how New York will fund the institutional capacity that it intends to reserve.**

*We intend to ultimately retain a limited statewide capacity of approximately 300 campus based residential opportunities that will generally be at full capacity, serving people on a short-term basis and providing intensive services that will allow the person to return to his or her community. The services would be Medicaid funded.*

**2. Case Management – Describe the conflict of interest protections New York will implement in the case of the DISCOs recommending services and providing services.**

**a. New York indicates that the DISCOs will ensure adequate medical, behavioral health and dental provider networks meet individuals' needs by funding supports and services through one entity. Will clients still have the freedom of choice to choose a provider outside the DISCO? If not, what safeguards are in place to ensure that individuals who require an alternate provider will have their needs met?**

*Through the People First Waiver, New York State will create a customized care management structure that respects the unique needs of individuals with developmental disabilities, including the need for protection of personal choice and independent advocacy and incorporation of conflict of interest protections. The following are some of the mechanisms that New York State is working on to ensure appropriate access to care within the DISCOs:*

- *Independent Assessment: New York State intends to conduct the initial assessment (that will inform the acuity level for managed care rate setting purposes and to inform the initial care plan) to identify the type of and level of access to care.*
- *Enrollment brokers/independent advocacy: As described in question 47 above, New York State will design an enrollment broker/independent advocacy function for people with developmental disabilities. Access to trained enrollment brokers/independent advocates will be available for all individuals in the People First Waiver to identify the type of and level of providers to ensure adequate access to care within the chosen DISCO.*
- *Network adequacy: OPWDD will design specialized contract criteria to ensure that there is an adequate network of providers operating under a DISCO and where the DISCO provides a direct service, there must be other providers in the network that also deliver that service whenever possible to provide the widest range of choices possible for individuals.*
- *Individual choice of service provider and self-direction: OPWDD will work with its current provider community to ensure that the redesigned service system offers each person a choice of at least two different regional DISCOs, and that each DISCO offers a continuum of self-directed service options as well as a full contingent of services and support options to address needs*

*across all life domains (primary health, behavioral health, habilitation, etc.). Where choice of at least two DISCOs is not possible due to capacity in rural areas, New York State will offer an opt out of managed care option through self-direction outside of the DISCO. With self-direction inside or outside of the DISCO, individuals will have the option to have “employer authority” (i.e., ability to self-hire) and be able to choose qualified individuals to support them that best meet their needs and interests (see question 12 above for parameters for “self-hires”).*

*As the system is transitioning to the care management model, OPWDD will also take steps to allow individuals and families to maintain their current service provider and ensure minimal disruption in their supports and their lives. Finally, using contract requirements and new performance review practices within a redesigned quality improvement system, OPWDD will promote excellence within individual DISCO operations and carefully track system-wide capacity and performance. The pilot projects conducted during the initial phases of the waiver will support New York State’s efforts to understand and develop the stable and sustainable DISCO infrastructure necessary to deliver personal choice and high quality comprehensive services for years to come. The enhanced quality improvement system will support individual choice by providing DISCO-specific and provider-specific performance information to enable informed decision-making by individuals, families and circles of support.*

**b. DISCOs are expected to build strong relationships and provide education to the provider network to assure successful outcomes for the individual. Describe the suggested model that DISCOs will use to develop provider education.**

*As New York State moves into a care management framework for people with developmental disabilities, we intend to build off of the quality work, expectations, and reforms that were established in 2011 and articulated in the New York State Quality Work Plan (submitted on January 20, 2012) which will carry over to the 1115 People First Waiver. These initiatives related to provider education and qualifications/competencies are described in the following paragraphs. In addition, NYS’ overall quality strategy for managed care programs guides People First waiver programs and examines quantifiable data that reflects health plans’ quality performance, access to covered services and enrollee satisfaction with care. This document, which was prepared by The New York State Department of Health Office of Health Insurance Programs Bureau of Program Quality, Information and Evaluation is available at [http://www.health.ny.gov/health\\_care/managed\\_care/docs/quality\\_strategy.pdf](http://www.health.ny.gov/health_care/managed_care/docs/quality_strategy.pdf). OPWDD also participated in the statewide Medicaid Reform Team’s Managed Long Term Care workgroup on quality. This involvement provides an opportunity for shared learning between state agencies and development of best practices for quality assessment across disability groups .*

*In 2011, NYS OPWDD created the first New York State Developmental Disabilities Talent Development Consortium (NYSTDC), bringing together stakeholders and national experts to recommend a uniform approach to developing a single set of core competencies and consistent training that every employee of the developmental disabilities service system must have. The consortium includes a 24-member workgroup, which ensures a collaborative approach by involving self-advocates, family members, OPWDD staff, and nonprofit providers, as well as a 27-member steering committee that consists of representatives from the direct care field, academia, and national experts in the field of developmental disabilities.*

*OPWDD's Quality Work Plan, outlines the work that has been completed to date by the Talent Development Consortium and additional training reforms undertaken by OPWDD to promote consistent training and standards for direct support professionals for state operated and voluntary provider service provision. The work completed to date includes:*

- *The development and implementation of statewide training to reinforce principles of respect, dignity, and professional ethics*
- *Promulgation of regulations that require that all employees, volunteers and family care providers in OPWDD's system receive annual training on promoting positive relationships, and incident and abuse reporting and prevention.*
- *The development of the Positive Relationships Offer More Opportunities for Everyone (PROMOTE) curriculum designed to emphasized the importance of developing positive relationships and proactive measures to prevent challenging behavior.*
- *The development of core competencies for which direct support professionals must be deemed qualified. Core competencies include, among others:*
  - *Supporting the individual's unique capacities, personality, and potential*
  - *Building and maintaining meaningful relationships*
  - *Supporting the individual's vocational, educational, and career goal attainment*
  - *Crisis prevention, intervention, and resolution skills*
  - *Recognizing and reporting abuse immediately*
  - *Cultural awareness and sensitivity*
  - *Ethics*

*OPWDD will continue to work with the Consortium to develop competencies and consistent training standards for direct support supervisors (targeted for December 2012). Competencies will also be developed for care coordinators under the 1115 waiver and other professional staff.*

*DISCOs and network providers that deliver services for people with developmental disabilities will need to exhibit the required competencies as the Consortium/OPWDD continues to build this framework. In addition, to continue to promote consistent training standards, OPWDD's workforce and talent development division will continue to develop and/or approve of curricula that must be used for training required by OPWDD.*

*Staff competencies and training requirements will continue to be reviewed through OPWDD's Division of Quality Improvement as part of the certification/recertification surveys. Workforce performance is one of the six quality domains that the OPWDD Stakeholder Quality Design Team identified for quality ratings in the quality matrix for service providing agencies under the 1115 Waiver and therefore will continue to be a quality indicator that OPWDD will use to evaluate provider and DISCO performance.*

3. **Needs Assessment – New York has indicated that the InterRAI tool will be used to conduct needs assessment and inform service planning. Describe how the state will validate the appropriateness of this tool.**

*As a first step in the implementation of the InterRAI assessment tool(s) OPWDD will be utilizing the tool within a case study project. The case studies are an interim step to begin to test the concepts in the waiver. The studies will be initiated in agencies that have demonstrated high quality practices in the provision of supports and services. The assessment tool will be utilized for the purpose of person centered care planning. Feedback will be obtained from assessors to help us ensure that the tool is most beneficial for care planning purposes. InterRAI will work with us based on the feedback to adjust the tool if needed to ensure that it has the desired effect on improving care planning and identifying triggers for high risk needs and collaborative action plans to define effective support plans.*

- a. **The State proposes to waive the requirement to complete a LOC annually for people with developmental disabilities who have a lifelong need for services. How will the State make the determination that the person has a lifelong need for services and will not need an annual LOC?**

*Section 1.03 of the NYS Mental Hygiene Law (MHL) provides the legal basis for developmental disability eligibility determinations to qualify for services from OPWDD and this definition will continue under the People First Waiver. Part of the MHL definition is that the condition has continued or can be expected to continue indefinitely. Therefore, adults who have gone through the OPWDD eligibility determination process to determine the qualifying diagnosis and adaptive deficits consistent with MHL eligibility standards and are deemed eligible for OPWDD services are confirmed to have a lifelong condition through this process.*

*For youths who may have changing levels of capabilities throughout their developmental stages, re-review processes are already in place. Under the People First Waiver, OPWDD will institute a uniform assessment tool and protocol as well as a comprehensive person-centered planning process for each individual. Together, these processes will gather a complete picture of each person's needs and abilities, as well as their desires and objectives. These processes will ensure that a clear picture of the individual's level of service need is obtained, using the same tool and method for each person across the state. Developmental disabilities are life-long disabilities affecting a person's abilities to function independently. With the new needs assessment tool and protocol in place for all individuals, an annual Level of Care determination will be an administrative cost without value added.*

## B. Non-negotiable

### Community Integration

- 4. Housing - New York will require that each DISCO has a position a HUD-certified housing coordinator. Please describe how this position will function, and how the state will ensure that each DISCO maintains this position and effectively uses this resource.**

OPWDD currently maintains a network of housing counselors and will require each DISCO to have a HUD-certified housing coordinator that will work together to ensure that there is routine communication and information sharing regarding best practices and local/regional opportunities for housing opportunities to successfully remain in the community.

New York State recognizes that safe, affordable, decent and accessible housing with supports plays a significant role in the health and well-being of special populations. It considerably eliminates stressors and related adverse health outcomes and, it provides an ideal platform for delivering a wide variety of health and social services to improve not only the health, but also education, employment and life outcomes.

OPWDD intends to integrate outcomes that relate to housing into the DISCO quality framework.

- 5. Employment – New York has defined a metric that employment will double in ten years. A similar metric is necessary to capture the associated decrease in employment in non-integrated settings (sheltered workshops, etc.).**

*OPWDD has approximately 8,000 individuals in sheltered workshops . Our goal over the next 10 years is to significantly reduce the number of new people coming into workshops, ensure that workshop enrollment is time limited and reduce the total number of people enrolled in workshops, after adjusting for population growth, by 25%. We also have a goal of transitioning 40% of the individuals receiving pre-vocational services into employment and transitioning 10% of the people receiving day habilitation services into employment (all after adjusting for population growth).*

- 6. A method is necessary to capture an assessment of consumer experience in the new program. Describe how this will be assessed, and describe how the results will be used to inform changes to the program.**

*A focus on quality outcomes for individuals receiving supports and services is an integral part of the waiver design and will be used to inform the need for changes within models of support. We anticipate measuring individual satisfaction through a survey/interview process for both new and ongoing supports and services. In the design of the case studies individual feedback will be solicited from individuals who are supported in a different manner through the change in funding and planning processes. As we implement demonstration pilots for DISCOs a*

*process for the measurement of satisfaction will be required within the DISCO contract and will be completed through OPWDD's oversight role.*

## **Self-Direction**

- 7. Create a metric/set of metrics that will demonstrate the effectiveness of the planned approach to self-direction.**

*OPWDD confirms that it will create metrics that demonstrate the effectiveness of the planned approach to self direction.*

## **III. Quality**

### **A. Assumptions**

*OPWDD affirms these assumptions and provides additional information for selected assumptions below.*

- 8. State will transition the FFS 1915(c) Waiver into the 1115. Over a period of two years, the State will pilot the managed care service delivery model in LTSS. The managed care 1115 will be fully functional in Year Three.**

*To clarify: New York State will transition the FFS 1915 c waiver, its existing state plan services, and other Medicaid services used by people with ID/DD into the 1115 waiver. In the first two years of the 1115 waiver authority, New York State will operate pilot projects that will demonstrate effective models for managing care for individuals with developmental disabilities. In year three, based on the experience of the pilots, the state will begin a statewide roll-out of regional managed care plans (DISCOs). Establishment of DISCOs throughout all regions of the state and expansion of DISCO services to include comprehensive care will continue through years four and five and will progress based on regional provider readiness and capacity.*

- 9. At the point of full transition in Year Three the state will have in place:**

- a. Completion of Action Plan**

*OPWDD will have all actions in the Quality Work Plan (submitted on January 20, 2012) completed at the point of full transition/statewide roll out of managed care for people with developmental disabilities (this statement encompasses b-l except for the following caveats):*

- *Cii and Cvi: New York State will review existing roles and responsibilities of DOH in Medicaid Managed Care and Managed Long Term Care to determine which responsibilities will remain with DOH and what is appropriate to delegate to OPWDD for the People First Waiver in the managed care framework.*
- *Cvi: New York State will review existing health care indicators used in Medicaid Managed Care and Managed Long Term Care to determine applicability of these measures to the OPWDD population and to supplement with additional health care measures that are tailored to people with developmental disabilities.*
- *E: New York State is moving to comprehensive care coordination under a managed care model. Care coordination will be provided through the DISCO or through the DISCO's network. Enrollment brokerage/independent advocacy will be provided through OPWDD state staff or through an OPWDD contractor, both of which is independent.*
- *G: New York State Department of Health will complete the Medicaid enrollment of DISCOs (if applicable) based upon the recommendations of OPWDD. Certificates of Authority to operate as a managed care entity under Article 44 will be issued by either DOH or delegated to OPWDD as appropriate.*

**b. Provider qualifications and competencies**

- *Strengthen qualifications/criteria and expectations for new OPWDD staff in State operated programs/facilities*
- *Ensure consistent training for direct support professionals, supervisors, executive directors and service coordinators in State and voluntary operated programs and facilities.*
- *Strengthen qualifications and criteria for new voluntary provider applicants*

**c. System Improvements/Administrative authority**

- *Strengthen DOH administrative oversight through a new MOU with OPWDD.*
- *DOH sets plan requirements, rate setting, quality indicators, core oversight for all Managed Care Plans (DISCOs)*
- *OPWDD is responsible for licensure/certification/recertification surveys, evidence based approach to measuring outcomes and continuous quality improvement.*
- *DISCOs (MCO's) responsible for oversight of individual outcome measures for enhance quality of life outcomes and health care indicators*
- *Enhance OPWDD oversight and accountability of State and voluntary provider agencies that deliver services under OPWDD's auspices.*
- *Adopt measures to ensure plans provide quality healthcare outcomes for individuals*
- *Adopt measures to evaluate plans' provisions of quality habilitative outcomes for individuals*

**d. Incident management and investigations (centralized, statewide and arms length)**

- *Improve reporting and investigation of individual mortalities for State and voluntary operated programs/facilities*
- *Improve the reporting of and strengthen the investigation of incidents and allegations of abuse for State and voluntary operated programs/facilities*
- *Develop and implement a centralized incident management system for State operated and voluntary programs/facilities.*

**e. Case Management (independent?)**

**f. DISCOs**

**g. Provider Agreements**

**h. Service Plans**

- *Improve communication and feedback between incidents and allegations of abuse and the service coordinator to ensure appropriate monitoring and service plan updates (State and voluntary operated programs/facilities)*
- *Strengthen service coordinator plan review and monitoring process for State and voluntary operated service coordination programs.*
- *Clarify roles/responsibilities and competencies for service coordinators and supervisors going into the 1115.*
- *Strengthen service plan development, implementation and monitoring by incorporating nationally recognized assessment tool(s) and enhancing monitoring functions.*

**i. Health and Welfare**

- *Increase statewide health and safety communications and alerts to raise awareness in State and voluntary operated programs/facilities*
- *Enhance fire safety prevention in State and voluntary operated programs/facilities*

**j. Quality Improvement Strategy**

- *Reformulate a comprehensive and integrated process for Continuous Quality Improvement both short-term to meet assurances and long-term going into the 1115.*
- *Enhance systems wide data aggregation and analysis function for system improvement.*



**k. Information Technology**

- *Formulate high level IT infrastructure plan for care management*

**l. Self Direction**

- *All individuals will have the option of self direction and an individual service budget*

**B. Non-negotiable**

**10. Policies related to dealing with substantiated abuse, neglect and exploitation would apply statewide across the entire delivery system (public and private). Specifically, strengthen disciplinary processes for holding OPWDD staff accountable for misconduct and violations in State operated facilities including firing staff who are found guilty of committing a crime of serious abuse, neglect and exploitation.**

*New York State confirms that policies related to dealing with substantiated abuse, neglect and exploitation would apply statewide across the entire ID/DD delivery system, both public and private. OPWDD confirms that it will continue to focus on strengthening disciplinary processes for holding OPWDD staff accountable for misconduct and violations in State operated facilities including ensuring that staff who are found guilty of committing a crime of serious abuse, neglect and exploitation are removed from contact with individuals served.*

**11. Criminal Background checks will be implemented statewide with all staff.**

*New York State confirms that the New York State laws and regulations pertaining to requiring Criminal Background Checks (CBC) (Criminal History Record Check Law: Mental Hygiene Law Sections 16.33 and 31.35, and Executive Law section 845-b, as established by Chapter 643 of the Laws of 2003 and amended by Chapter 575 of the Laws of 2004, effective April 1, 2005 and Chapter 673 of the Laws of 2006, effective March 12, 2007) will continue to apply and be implemented statewide for all applicable staff of DISCOs, network providers, and self-hired staff of individuals. This law grandfathered in pre-existing staff working for OPWDD or nonprofit providers unless they changed employers. .*

**12. Provider agreements will clearly detail expectations for DISCOs and public and private providers, and be instituted by the SMA.**

*The requirements and processes for Medicaid enrollment/Medicaid agreements will continue under the New York State Department of Health as the Single State Medicaid Agency (SMA). Currently, New York State OPWDD conducts reviews of all new providers to ensure that they are qualified to provide waiver services prior to the delivery of waiver services and subsequent billing to Medicaid for waiver services. Once*

*OPWDD approves of the provider to deliver particular waiver services, the recommendation is made to DOH to enroll the provider in Medicaid and DOH issues the Medicaid enrollment agreement.*

*New York State will develop a similar process between OPWDD and NYS DOH to review DISCO applicants, conduct readiness reviews, on-site readiness reviews, grant certificates of authority to operate a DISCO, and enroll the DISCO as a Medicaid Provider.*

*Expectations for DISCOs and public/private providers will be clearly articulated through contracts with the DISCOs, and the DISCO's contracts with network providers. New York State regulations and guidance, and other applicable mechanisms will also establish these expectations.*

**13. The State must assure an oversight process for service plans and the delivery of services that meet the needs of participants.**

*New York State confirms that it will continue to assure an oversight process for service plans and the delivery of services that meet the needs of participants. In the short-term, New York State will accomplish this for the ID/DD population by continuing to measure the waiver assurances and sub-assurances under service plans in the HCBS Quality Framework through OPWDD's Division of Quality Improvement survey process and protocols. The oversight processes for service plans and delivery of services that meet the needs of participants will continue to be a primary focus as New York State moves to comprehensive care coordination through the People First Waiver.*

## **C. Additional Questions**

### **Quality System**

**14. How does the State envision the quality system operating in the 1115 – i.e., the implementation of the QI strategy?**

- a. **What is the level of administrative assignment to delegated entities related to quality functions - what is delegated to whom? Please frame quality functions, delegations, and the SMA expectations at each level – SMA (DOH), OPWDD, DISCOs, providers? How will DOH review quality functions to assure that quality is implemented consistently statewide at each level?**

*New York State will review the Quality Strategy already in place for Medicaid Managed Care and Managed Long Term Care and develop the quality functions for the new specialized plans that will maximize efficiency and state resources while ensuring a quality oversight structure that makes the best use of the expertise of the program agency and the Medicaid agency to ensure high quality service provision for people with developmental disabilities.*

*The NYS DOH as the State Medicaid Agency establishes consistent contracting language statewide across all plans and consistent health care performance measures. See question 26 above for further information on the intended structure.*

**b. How will the State oversee those delegated quality functions?**

*The State will have an MOU between the SMA and OPWDD that will specify the functions delegated and how they will be overseen.*

**c. How will the State assure consistent statewide quality standards are enforced across the DISCOs? Across all State Service Delivery – private and public?**

*See question 26 above.*

**d. If the DISCOs have responsibility for aggregating and tracking incidents, who is responsible for taking action in response to substantiated allegations?**

*OPWDD Incident Management Regulations will continue to apply to DISCOs and OPWDD service providers in the network. DISCOs will have additional responsibility over their provider network to ensure that service providers are complying with the Incident Management regulations. DISCOs and service providers will be held to performance indicators in the realm of health and safety which will include incident management.*

**e. Risk Assessment and Mitigation: How does the State plan to address the risk mitigation process? Are there specific tools proposed to assess risk?**

*Assessing health and safety risk for each individual will continue through the person centered planning processes already in place (e.g., Individualized Service Planning, Individual Plan of Protective Oversight if the person resides in a certified setting, etc.). As OPWDD rolls out use of a standardized assessment tool (Inter RAI Suite), there will be enhanced ways to monitor health and safety particularly when the People First Exchange is operational through its predictive analytical capability and the health and safety alerts that will go to care coordinators and service providers through this technology (see question 25d under Quality-Self Direction for more information).*

- f. Providers - How will quality requirements be communicated to providers - through DISCOs or directly from the state? Will quality requirements be reflected in provider agreements? How will the State Medicaid Agency incorporate provider requirements into the provider agreements?**

*The State will continue to communicate quality expectations across all providers as OPWDD will continue its certification and licensing activity and its role in the provider agreement process. Quality requirements will be reflected in DISCO contracts between the state and the DISCO and between the DISCO and the network providers.*

- g. How will the State integrate primary, acute and behavioral health care with LTSS in the 1115? What measures will be used to assess the adequacy and coordination of the holistic set of services?**

*The capitation rate development methodology will integrate expected expenditures for an efficiently and effectively operated DISCO for primary, acute, behavioral health and LTSS, utilizing financial incentives within the rate development methodology to serve members in the least restrictive, most cost-effective environment consistent with their individual service plans. To measure the effectiveness of the rate development methodology in encouraging service integration, New York State will use consistent health care measures across all its plans as described in the Quality Strategy for Medicaid Managed Care (based upon HEDIS), adapted for the particular needs and risks of each capitated population via specific measures applicable to people with developmental disabilities for long term care as well as physical and behavioral health care indicators that are specific to people with developmental disabilities.*

- h. Please provide more detail regarding the two – three tiered approach to health and safety reforms the State discussed on the quality call with CMS on 1/18/12, i.e., state reviews versus state oversees.**

*See question 26 above.*

## **Incident Reporting**

- 15. Describe the flow of a reported incident through its closure from start to finish.**

- a. To whom is data first reported, where does it go, when are investigations initiated and completed?**

*OPWDD Regulations in Part 624 requires that all serious reportable incidents and allegations of abuse be reported to the provider immediately, but no later than 24 hours after discovery of the event. This is the same for all agencies, state and voluntary.*

*The provider is required to ensure actions are taken immediately to protect involved individuals, appropriate notifications are made, and an immediate investigation is begun.*

*All providers, state and voluntary, are required to immediately (defined as within 24 hours or before the end of the following business day) enter the serious reportable incident/allegation of abuse into the Incident Report and Management Application (IRMA) database. IRMA is New York State's web based, electronic database used to track and monitor all serious reportable incidents and allegations of abuse state-wide.*

*OPWDD has Regional Compliance Officers who review incidents entered into IRMA daily. Their function is to initially ensure that adequate immediate protections and notifications to law enforcement have been implemented as necessary. There is currently no NY State requirement that establishes a time frame for when incident investigations must be completed. OPWDD intends to promulgate a regulatory amendment this year requiring that investigations be completed within 30 days unless an extension is granted by OPWDD for specific circumstances*

**b. How are disciplinary actions imposed across the system when allegations of abuse, neglect and exploitation are substantiated (where are they the same and different for state versus private employees)?**

*OPWDD Regulations in Part 633.9 identifies specific actions a provider can take, based on its evaluation of a situation, to protect individuals from harm when an allegation of abuse is reported. These disciplinary actions include:*

- "Removal, reassignment, relocation or suspension of the alleged abuser, consistent with appropriate collective bargaining agreements and applicable provisions of the Civil Service Law or other applicable laws or regulations.*
- Increasing the degree of supervision of the alleged abuser.*
- Provision of counseling to the alleged abuser.*
- Provision of increased training to the alleged abuser and staff pertinent to the prevention and remediation of abuse.*
- Increasing supervision and providing additional support to restore a secure environment to the affected staff and persons in the facility.*
- Removal or relocation of the person, consistent with his or her developmental needs (or any court order applicable to the person) when it is determined that there is a risk to such individual if he or she continues to remain in the program.*
- Provision of counseling to the individual and to other persons in the facility."*

*Because the regulation does not specify what actions must be taken for suspected or confirmed instances of abuse, neglect or mistreatment, including exploitation, OPWDD issued a memo to all providers of services authorized by OPWDD that lists specific requirements for suspected or confirmed allegations. The memo was issued on June 9, 2011 and applies to all providers of services, state and voluntary. It states that "If a staff person is suspected of abuse, neglect or mistreatment which poses a serious and immediate threat to an individual's health and safety, the staff person may not continue to work in direct contact with individuals with developmental disabilities until the investigation is completed. If an allegation of sexual abuse, or an allegation of physical abuse that involves contact which was not necessary for the person's safety, is substantiated, seeking termination of the employee is the*

*expected protective action.” The memo further requires that “In cases when a provider’s assessment determines that a substantiated allegation is not one that posed a risk to an individual’s health or safety and a corrective action other than termination is implemented, the provider must monitor that the identified corrective actions are being implemented and that those actions are likely to prevent the abuse from re-occurring.” Both the regional incident coordinators through review of IRMA and the OPWDD Division of Quality Improvement Bureau of Program Certification surveyors, during on-site visits, review that the required disciplinary action has been taken by provider agencies.*

**c. Please detail how the incident reporting process differs in the public and private sector agencies. How will the State address these differences and move to a consistent statewide approach in the 1115?**

*The requirements for reporting, investigating and review of serious reportable incidents and allegations of abuse are the same for voluntary and state providers of services, with the exception of the current use of separate state investigators for the investigation of significant serious reportable incidents and significant allegations of abuse, neglect or mistreatment that occur at state-operated facilities. As noted above, moving forward, OPWDD intends to strengthen requirements through regulatory amendments and specific guidance to the field. Specific actions are detailed in the Quality Work Plan submitted to CMS on January 20, 2012. Included in the work plan is also a description of OPWDD’s intent to define events that would require State investigators to provide additional oversight or investigate significant allegations of abuse, neglect and mistreatment at voluntary agencies and the procedures for doing so.*

**d. What is the process for reporting incidents that are considered a crime?**

*OPWDD Regulations in Part 624 requires that any events when a crime is suspected to have occurred must be reported to law enforcement officials immediately. This is the same for state and voluntary providers. On August 18, 2011, OPWDD issued guidance to the field that identified those events that minimally needed to be reported to law enforcement officials. Events listed include:*

- Any intentional hitting, slapping, pinching, kicking, hurling, strangling or shoving of an individual receiving services by a staff member, intern, contractor, consultant or volunteer of a DDSO or provider entity, except for those instances in which the action was taken to prevent injury to the individual receiving services or any other person, whether or not such action causes injury, may be a crime and must be reported to law enforcement.*
- Any intentional hitting, slapping, pinching, kicking, hurling, strangling or shoving of an individual receiving services by another individual receiving services, where the individual who performs the abusive action intends to cause physical injury to the other individual and causes such physical injury, may be a crime and must be reported to law enforcement. Physical injury is defined as impairment of physical condition or substantial pain.*

- *Any unauthorized or unnecessary use of restrictive personal intervention techniques, including the use of more physical force than is necessary for the safety of the individual receiving services, by a staff member, intern, contractor, consultant or volunteer, where the staff member, intern, contractor, consultant or volunteer knowingly acts in a manner likely to cause injury to the physical or mental welfare of the person receiving services, may be a crime and must be reported to law enforcement.*
- *Any unauthorized or inappropriate use of restraint where the staff member, intern, contractor, consultant or volunteer knowingly acts in a manner likely to cause injury to the physical or mental welfare of the person receiving services may be a crime and must be reported to law enforcement. This includes the use of mechanical restraining devices or medication to control a person's behavior without the necessary permissions (see paragraph 624.4(c)(5)).*
- *Any sexual abuse, as defined by 14 NYCRR Part 624.4(c)(2), between a person receiving services and an employee, intern, consultant, contractor or volunteer of an agency may be a crime and must be reported to law enforcement. An exception is made when "a person with a developmental disability who was a service recipient becomes an employee of a service provider organization and already has a relationship with another service recipient of the same or another service provider organization."*
- *Any sexual contact between two persons receiving services in which one person receiving services uses force or coercion may be a crime and must be reported to law enforcement.*
- *Any sexual contact between two persons receiving services, in which at least one person has not been determined to be capable of consenting to sexual contact may be a crime and must be reported to law enforcement. A sexual consent determination is completed to determine whether an individual is legally capable of consenting to sexual contact. If a sexual consent determination has not been completed for an individual, or if an individual's condition has changed such that there is any question as to the individual's ability to consent, clinical staff should be immediately consulted to complete a sexual consent determination. If a sexual consent determination cannot be completed within 24 hours, the agency must report to law enforcement as soon as it is evident that the sexual consent determination cannot be completed within that timeframe. If force or coercion is not involved, and both individuals have been determined to be capable of consenting to sexual contact no report would be made to law enforcement. In addition, if force or coercion is not involved, and both individuals have been determined to be incapable of consenting to sexual contact, no report would be made to law enforcement. If one person is determined to be capable of consenting to sexual contact, and one person is determined to be incapable of consenting to sexual contact, a crime may have occurred and must be reported to law enforcement.*

- *Any sexual contact between a person receiving services and a person not receiving services who is not an employee, intern, consultant, contractor or volunteer of an agency, where the person receiving services has not been determined to be capable of consenting to sexual contact may be a crime and must be reported to law enforcement. A sexual consent determination is completed to determine whether an individual is legally capable of consenting to sexual contact. If a sexual consent determination has not been completed for an individual, or if an individual's condition has changed such that there is any question as to the individual's ability to consent, clinical staff should be immediately consulted to complete a sexual consent determination. If a sexual consent determination cannot be completed within 24 hours, the agency must report to law enforcement as soon as it is evident that the sexual consent determination cannot be completed within that timeframe. If force or coercion is not involved, and the individual receiving services has been determined to be capable of consenting to sexual contact no report would be made to law enforcement. If the person receiving services is determined to be incapable of consenting to sexual contact, a crime may have occurred and must be reported to law enforcement. However, an exception is made if force or coercion is not involved, and both individuals have been determined to be incapable of consenting to sexual contact. No report would be made to law enforcement in that situation.*
- *Engaging in a pattern of conduct (more than an isolated incident of misconduct) which may include the use of verbal threats, screaming, taunting or shouting at a person receiving services by a staff member, intern, contractor, consultant or volunteer, with the intent of causing ridicule, humiliation, scorn, contempt, pain or dehumanization to an individual or individuals receiving services which causes emotional pain to such individual(s) may be a crime and must be reported to law enforcement.*
- *Any situation in which a staff member, intern, contractor, consultant or volunteer knowingly acts, or fails to act, in a manner likely to be injurious to the physical or mental welfare of an individual unable to care for himself or herself may be a crime and must be reported to law enforcement.*
- *Any instance in which an individual dies in a manner in which the cause of death is unknown, or in which the individual is not under the care of a physician and the death is not due to natural causes must be reported to law enforcement.*
- *Theft and property crimes against individuals receiving services.*

*Currently each provider of service is required to establish a relationship with local law enforcement officials for the reporting of possible crimes against individuals with developmental disabilities. OPWDD has established procedures with state law enforcement officials for reporting crimes at state-operated sites. OPWDD is continuing to dialogue with state law enforcement officials to establish a procedure for all providers of services to use to report suspected crimes and to encourage local law enforcement officials to investigate those crimes.*



## Incident Prevention

**16. Please describe how the measures addressing prevention will be incorporated statewide. What measures will be used to track the effectiveness of these interventions?**

*OPWDD is implementing many measures to address prevention of incidents and allegations state-wide. These are all listed and described in the Quality Work Plan submitted to CMS on January 20, 2012. All applicable items listed in the work plan will be carried over into the 1115 waiver. Specific outcome measures will be developed to track the effectiveness of the reform initiatives. Initiatives include but are not limited to:*

- *For all serious reportable incidents, allegations of abuse and deaths, mandate the use of IRMA by all state and voluntary operated programs/facilities for real time data entry.*
- *Develop processes to review statewide incident, abuse and mortality data collection and analysis and recommend system improvements as appropriate. System improvements may include regulatory amendments, Alerts to the field, procedural changes, etc.*
- *Establish centralized Incident Management Unit to improve oversight, analysis, and follow-up on reports of serious reportable incidents and allegations of abuse in state and voluntary operated programs/facilities.*
- *Add required fields to IRMA to increase data integrity for the reporting of incidents, allegations and mortalities.*
- *Review service coordination guidance to ensure appropriate triggers for necessary service plan changes to ensure that needs and safeguards are identified when a person is affected by an incident.*
- *Revise the review process for incident management used by the OPWDD Bureau of Program Certification to track individual incidents/allegations for individual and systemic remediation.*
- *Issue an administrative memorandum standardizing fire safety practices at state and voluntary homes.*
- *Develop data collection, review and analysis process for restrictive physical interventions that do not rise to the incident level in order to establish baseline information on when restrictive interventions are utilized to better direct training efforts and prevent abuse from occurring.*

- *Develop data collection, review and analysis process for fires in certified programs to determine preventable causes and analysis of the adequacy of actions of staff when the fire occurred to determine the need for additional training or guidance.*

*The effectiveness of measures to address prevention of incidents, abuse and preventable deaths include the following:*

- *Semi-annual analysis of data regarding the causes of incidents, allegations and mortalities in IRMA to determine if causes previously identified and addressed are decreasing in numbers and identify if there are other trends or patterns that would require remediation.*
- *Semi-annual analysis of data in IRMA to determine whether the numbers of serious reportable incidents, allegations of abuse and preventable deaths are decreasing.*
- *Semi-annual analysis of data regarding fires in certified programs to determine whether issues previously identified and addressed are decreasing in numbers and identify if there are other trends or patterns that would require remediation.*
- *Semi-annual analysis of data regarding restrictive interventions to determine if training and guidance provided to the field have decreased the need for physical interventions.*
- *OPWDD Division of Quality Improvement Bureau of Program Certification (BPC) survey protocols will collect and aggregate data during on-site visits to validate that information entered into IRMA and other databases is accurate.*
- *BPC survey process will collect and aggregate data during on-site visits to verify that individual remediations have been implemented, including changes to individuals' plans of services and that individual remediations have been effective at protecting individuals from the re-occurrence of abuse.*
- *BPC survey process will collect and aggregate data during on-site visits to verify that systemic remediations identified by OPWDD have been implemented and that they have been effective at preventing re-occurrence of events they were intended to prevent.*

## Incident Investigations

**17. Dual investigative system – Please describe the investigative process. Will this process be the same in the 1115? How do you see the investigative agency and statewide IT system operating; detail how it will operate? Who does what? How will the DOH assure an arms-length investigative body? If not arms length how will it operate?**

*The investigation of incidents in New York State is undergoing a transformation. Previously, each provider agency was expected to conduct its own investigations and reviews of incidents and allegations of abuse. While there is a regulatory requirement that investigations begin immediately when a serious reportable incident or allegation of abuse is discovered, there is currently no requirement for when an investigation must be completed. Under the revised system, and moving forward into the 1115 Waiver, OPWDD has taken/intends to take the following actions: (Please note, all actions are listed and described in the Quality Work Plan submitted to CMS on January 20, 2012). All items listed in the work plan will be carried over into the 1115 waiver. Specific outcome measures will be developed to track the effectiveness of the reform initiatives.*

- On August 2, 2011, OPWDD notified all provider agencies, state and voluntary, of a proposed regulation anticipated to be effective in November 2011. The regulatory amendment to 14NYCRR Part 624 prohibits investigations by immediate supervisors and parties in the chain of command of directly involved staff and preclude immediate supervisors from reviewing investigations as a member of the oversight committee. The proposed amendments will reduce conflicts of interest in the investigation of serious reportable incidents and allegations of abuse.*
- OPWDD has established the Office of Investigations and Internal Affairs (OIIA) and is currently in the process of hiring investigators to enhance the quality and independence of investigations.*
- Initially, OIIA investigators will conduct investigations of allegations of physical and sexual abuse in all state operated programs, making investigations independent from operations.*
- All state investigators working for OIIA are being trained and certified by a nationally recognized consultant identified by OPWDD.*
- In addition, by June 2012, OPWDD will establish consistent investigator training and competencies for all state and voluntary agencies.*

- *By March 2012, OPWDD will submit regulations to the Governor's office for approval that establish appropriate timeframes for the completion of investigations by state and voluntary agencies and require all state and voluntaries to enter investigative reports into IRMA.*
- *OIIA has developed a required format, content and guidance for investigations across the system (state and voluntary) to improve quality of investigative reports. OPWDD is in the process of training agency investigators in the new requirements.*
- *Working with IT, OPWDD has created an OIIA investigations database and will connect the Investigations Database to the IRMA Database for fully integrated data collection and management*
- *By July 2012, OPWDD intends to establish criteria for when the OPWDD OIIA will assume responsibility for the investigation of critical incidents, deaths and allegations of abuse in lieu of the state and voluntary provider agencies.*
- *Also by July 2012, OPWDD will develop criteria for when and how OPWDD certified investigators will closely monitor the investigations of the state and voluntary agencies.*
- *OPWDD has established two (2) checks of the effectiveness of the above actions to improve the quality of investigations:*
  - *Semi annual reports will be generated using IRMA regarding the timely completion of investigations and corrective actions identified by investigations.*
  - *The OPWDD Bureau of Program Certification, as part of its state-wide monitoring process will review a sample of investigations at each state and voluntary agency to determine whether investigations were thorough, were completed in accordance with time frames identified by OPWDD and resulted in corrective actions likely to prevent the re-occurrence of the incident/allegation.*

## **Provider Qualifications and Agreements**

- 18. How will provider agreements be incorporated in the Managed Care environment – providers? DISCOs? Which entity will verify credentialing? How will the State assure these terms are uniform across the State, assuring qualifications of both private and public sector employees? Please be sure to include the qualifications criteria and salary parameters for Agency Executives in the 1115 plan. What is the vetting process for providers to become certified by OPWDD and Medicaid to provide services and then develop the provider agreement? Has the State considered a cooperative process to ensure that the provider agreement incorporates both Medicaid and OPWDD requirements?**

*The requirements and processes for Medicaid enrollment/Medicaid agreements will continue under the New York State Department of Health as the Single State Medicaid Agency (SMA). Currently, New York State OPWDD conducts reviews of all new providers to ensure that they are qualified to provide waiver services prior to the delivery of waiver services and subsequent billing to Medicaid for waiver services. Once OPWDD approves of the provider to deliver particular waiver services, the recommendation is made to DOH to enroll the provider in Medicaid and DOH issues the Medicaid enrollment agreement.*

*New York State will develop a similar process between OPWDD and NYS DOH to review DISCO applicants, conduct readiness reviews, on-site readiness reviews, grant certificates of authority to operate a DISCO, and enroll the DISCO as a Medicaid Provider.*

*Expectations and qualifications for DISCOs and public/private providers will be clearly articulated through contracts with the DISCOs, and the DISCO's contracts with network providers. New York State regulations and guidance, and other applicable mechanisms will also establish these expectations.*

## **Staff Core Competency Training**

- 19. How does the State envision providing statewide training on the core competencies? What curriculum will be used? How will you assure statewide standardization?**

*The NYS Talent Development Consortium will be working with OPWDD to develop the statewide training curricula on core competencies to assure statewide standardization. A review of staff competencies as articulated by the NYS Talent Development Consortium will be a component of the Division of Quality Improvement's survey process and this will help to ensure statewide standardization.*

## Criminal Background Checks

**20. In the six-month progress report the State assured they will do both a state and federal background check – clarify that you will continue to do this. How will you ensure a standardized process for checking criminal backgrounds in the 1115, whereas currently voluntary providers and the State operated providers have separate processes. Where will background checks be housed – at DISCOs or state? How will they be used? Has the State reconsidered applying for the national criminal background check program for consistency in process moving into the 1115? How will the State ensure that background checks are performed for staff who were “grandfathered” and began working before the State’s process for criminal background checks was established?**

*Yes, the state will continue to do background checks.*

*At this time, the state and voluntary providers use the same process. When the criminal background check process was being rolled out statewide, it included voluntaries. OPWDD staff trained and equipped voluntaries with information on conducting fingerprinting.*

*The Criminal Background Check Unit (CBC) at OPWDD receives all fingerprints and forwards them onto the NY State Division of Criminal Justice Services (DCJS). The DCJS sends the prints onto the FBI. Once the results are received, they are sent back to the CBC where OPWDD makes a determination in consultation with counsel in accordance with correction law.*

*Background checks will continue to be housed at the state.*

*Criminal Background checks will continue to be used to screen applicants and make a determination regarding suitability for employment in accordance with correction law. This is a front end practice to ensure the safety of the individuals served. Employees of both OPWDD and nonprofit providers who have gone through a criminal background check are also on “search and retain” status while they remain employed for their respective providers which is monitored on a continual basis by the state.*

*Since April 1, 2005, OPWDD has required background checks for all new OPWDD hires. For voluntaries, since April 1, 2005, the state has required that all new volunteers and staff who will have regular and substantial unsupervised, unrestricted physical contact with individuals with developmental disabilities must have a criminal background check.*

*The regulation to authorize background checks did not go into effect until April 1, 2005 and there is no provision in the law to perform background checks on staff who were working before that date unless such staff seek employment from another OPWDD provider.*

## Conflict-free Case Management

**21. What does “independent” mean? How will case management function in the 1115 – will it be State CM and provider case management or DISCO case management or both? Who is the SMA delegating to do ultimate oversight of Case Managers to ensure effectiveness and that there is no conflict of interest?**

*Comprehensive care coordination will be provided to every individual in the People First 1115 Waiver through a DISCO or through a not-for-profit provider in the DISCO’s network or through New York State staff or a contractor of New York State.*

*As outlined in question 2 above, New York State intends to implement safeguards against conflicts of interest and self-referrals by DISCOs. These safeguards include:*

- *The initial assessment that informs the managed care rate and the person’s service plan will be conducted by New York State staff or a contracted entity that is independent from the DISCO;*
- *New York State will design an enrollment broker/independent advocacy function that will be independent of the DISCO to help individuals make choices about which DISCO to enroll with and to help individuals navigate through the new system. These brokers will also be available to individuals once enrolled to assist with changing DISCOs or when there is a dispute with the DISCO that cannot be worked out through the grievance process.*
- *New York State will design special contract criteria to ensure there is an adequate network of providers to meet the unique needs of people with developmental disabilities and that individuals have choice of providers.*
- *Self-directed service options—every individual enrolled in the People First Waiver will have the option to self-direct their services with budget authority and employer authority.*

## Service Planning

**22. Is the format for service plans standardized across all providers? If so, how does the State assure that the same core elements are implemented across all DISCOs moving into the 1115? What is the method for assuring that the same amount, duration and scope determination is made across all services?**

**a. How will the State use the various assessment tools (SIS, inter RAI) to determine equitability in aligning need with budget allocations?**

*Using contract standards for all providers participating in the 1115 waiver, we will require standardization in the care planning process. Critical elements will include a requirement that the plan be developed in cooperation with the person receiving services and their advocates (if desired) and that it be person-centered. Additionally, the plans must incorporate health and safety/safeguard plans that are consistent with the assessed needs as determined through a consistent assessment process using a consistent assessment tool. Supplemental tools to more fully inform a plan may also be used, as needed, upon the determination of a provider or the DISCO. As identified, the interRAI is the tool that will be utilized to identify an individual's needs. In the development of a plan based on individual participation and objective assessment processes, desired outcomes will be identified. The measure of the achievement of these outcomes, or appropriate response in line with changing needs or un-achieved outcomes, will be the measure of success for the individual and lead to a determination on the effectiveness of the plan.*

*Through the use of a consistent assessment process and the development of plans in line with those needs, in a more flexible capitated funding environment, more equity in balancing resources will be achieved. As noted above, the service plan must be evaluated in light of meeting both the health and safety outcomes and life interest outcomes for the individual receiving supports – this will be measured by the state in quality oversight. It will also be expected that DISCOs and providers have systems in place to evaluate outcomes through their integral practices.*

**b. Who is responsible for monitoring the service plan to assure the individual is receiving services as described in the service plan?**

*The DISCO will have day-to-day responsibility for monitoring the service plans. The format for service plans under comprehensive care coordination will be standardized across all providers. The State will assure that the same core elements are implemented across all DISCOs through use of the standardized service plan and through contract language and training sessions. Use of a standardized assessment (the State will use the Inter RAI) conducted initially by an entity independent of the DISCO (e.g., New York State staff or a State contractor) will help to ensure consistency and equity in the assessment process. New York State OPWDD will also look to create processes that will review for inter-rater reliability in the assessments. Retrospectively, the EQRO will audit the service plans to assure individuals actual service utilization is consistent with the service plans.*



## Transparency

- 23. What quality data will be publically reported? Has the State considered accreditation elements? How are the agency performance ratings established? CMS suggests the State adopt and reporting on the Adult Health Quality Measures for purposes of assessing clinical quality across the Medicaid program.**

*New York State expects to continue to use the New York State Quality Assurance Reporting Requirements (QARR) to monitor health related quality indicators in the specialized managed care plans for people with developmental disabilities. QARR also includes information collected using a national satisfaction survey methodology call Consumer Assessment of Healthcare Providers and Systems (CAHPS). QARR is currently used for all New York State managed care plans and is based on the National Committee on Quality Assurance (NCQA) HEDIS measures plus additional measures developed by the State to monitor the delivery of primary and chronic care services. QARR focuses on health outcome and process measures and includes clinical data relating to preventative care, acute and chronic illnesses, mental health and substance abuse. QARR performance is published on the New York State Department of Health (DOH) managed care website. The 2011 report is available at: [http://www.health.ny.gov/health\\_care/managed\\_care/qarrfull/qarr\\_2011/docs/qarr2011.pdf](http://www.health.ny.gov/health_care/managed_care/qarrfull/qarr_2011/docs/qarr2011.pdf). New York is currently evaluating the Adult Health Quality Measure set recently released by CMS. In 2013, minimally all Adult Health Quality measures that are included in QARR will be reported for all populations in managed care*

*In addition to QARR, New York State will develop long-term care service delivery and quality measures that are appropriate for the services and supports that people with developmental disabilities will receive through the DISCO network. New York State is in the process of developing a provider report card that is based on quality measures that are of importance to our stakeholders in selecting provider agencies to receive services from and is based upon the work and recommendations of the 1115 stakeholder Quality Design Team.*

## Incentives

- 24. Has the State considered incentives for public reporting/meaningful use? If so, what reporting would be incentivized?**

*New York State OPWDD is in the process of developing a provider report card that will include quality and service delivery factors that are important to our stakeholders and to OPWDD as the regulatory oversight entity. The information in this provider report card will be assessed for applicability to care management under the 1115 DISCO structure and if applicable will be adopted in the overall 1115 Quality Infrastructure. New York State will consider incentives for public reporting as we move to statewide roll out of the DISCO framework.*

## Self-Direction

### **25. How is quality structured in the self-directed service delivery model? Will the same reporting system used in agency delivered services be enforced across self-directed service delivery model?**

*In the People First Waiver, there will be two self-directed service delivery models and therefore, every individual enrolled in the People First Waiver will have the option to self-direct their services:*

- *Self-Direction within a DISCO : Individuals enrolled in a DISCO that opt to self-direct their services, the DISCO will serve as the individual's Financial Management Service (FMS) to perform the roles necessary for the person to have budget authority and employer authority. These individuals will also have access to an independent support broker (which may also be the person's enrollment broker/independent advocate) (see question 25 for more information on enrollment brokers/independent advocates) to help the person choose, hire and train their staff if they choose to exercise this option, make choices about an individual budget if the person chooses to exercise this option, and help the person make informed choices and navigate their options. It is likely that the DISCO will subcontract with an existing Financial Management Service (FMS) entity to perform the roles necessary for individuals to self direct and have budget authority and employer authority.*
- *The State is currently working with stakeholders to evaluate the strengths and weaknesses of the current self direction program operated under the 1915c waiver to further enhance and streamline. The information gathered from this analysis will assist with the implementation planning process, which will also include public input, for the self direction option.*
- *Opt out of Managed Care Through Self-Direction: Individuals who do not have a choice of at least two DISCOs (i.e., remote rural areas of NYS may not have capacity to support multiple DISCOs) may choose between a DISCO and OPWDD's Self-Direction model. Under this model, the state will contract with a Financial Management Service (FMS) to provide necessary services to enable the person to choose both budget authority and employer authority.*

#### **a. What is the scope of the role of the FMS?**

*For both options 1 and 2 above, the FMS will perform the necessary accounting and personnel related work to ensure that the person has the ability to choose and be successful with budget authority and employer authority.*

**b. How will the FMS be monitored?**

*For both options 1 and 2 above, OPWDD will adopt and/or amend its current fiscal and quality protocols for monitoring the FMS. There will be quality indicators developed and reported to reflect the quality of the FMS service. New York State will have ultimate oversight of the quality of service provision including self-directed services.*

**c. What kind of reporting process is in place? Is it different from that of agency services?**

*During the implementation planning year OPWDD will determine a specific reporting process for self direction under the People First Waiver and this will be incorporated in the quality strategy for the 1115 waiver.*

**d. IBM Modeling – Please describe how this process will work at the individual level as an indicator of needs, in the allocation of resources, in the State’s determination of health and welfare related to an individual’s needs being met?**

*SUNY Research Foundation and IBM have applied for the CMS Health Care Innovation Challenge grant to provide a transformative solution environment, services, and workforce enablement to accelerate and deliver a person centered collaborative environment connecting OPWDD, DISCOs, providers, persons with I/DD, families, and community supports envisioned through the waiver for care planning and service delivery in New York State. This system will offer (i) Data driven alerts and rules to encourage consideration and adoption of more person-centered, community supported and lower cost options (ii) Effective inclusion of a greater range of data in care planning and an ability to monitor by individual and across providers how that data is being utilized to drive change. (iii) Support for the development and utilization of electronic assessment and care planning protocols. (iv) A complementary workforce transformation equipping staff to most effectively use data to approach care planning and management in new, innovative and cost conscious ways*

*Upon statewide roll out, every person enrolled in the People First Waiver will have comprehensive care coordination whether they are working with a DISCO, self-directing services within a DISCO or the person has the option to choose self-directed services as an opt out of a DISCO due to lack of DISCO choices. Every individual enrolled in the People First Waiver will have an independent assessment conducted by New York State or a contractor of the State that is independent of the DISCO. New York State is working towards using the Inter RAI Assessment Suite as the universal assessment tool for Medicaid. The results of the assessment will be fed into the People First Information Exchange described above which will also link to the person’s medical records, individual service plans and clinical plans, etc. The assessment and linkages to other data sets will inform the person’s comprehensive care plan and will inform resource allocation through acuity measures for capitated payments and for determining the person’s individualized budget if the person chooses to self-direct with budget authority.*

*The ultimate goal of the People First Exchange is to build care intelligence across systems that lead to enhanced person centered service provision and enhanced individual outcomes for individuals including preventative health and safety. The People First Care Intelligence will provide primary and advanced analytics to segment the population served, profile needs, desires, and supports the person is receiving and suggest the best care plan balancing desires of the individual and their supports with identified person centered options and cost efficiency recommendations.*

*Health and Safety Alerts will be built into the Care Intelligence Software. System detection of life events or data from encounters triggers action alerts which go to agency and provider staff members to proactively reassess health and safety measures that need to be taken and impacts to the individual's care plan.*

*For further information, please see the grant application abstract from the CMS Health Care Innovation Challenge from the SUNY Research Foundation.*

**e. How will the individual budget be monitored?**

*As described above, the individual's support broker (i.e., enrollment broker/independent advocate) will work with the individual on a regular basis to make informed choices about their budget and to help the person monitor the budget expenditures. These individualized budgets will also be part of the People First Information Exchange described in "d" above and as a result, the care coordinator as well as other identified individuals associated with the person can be given access to the information in real time to assist the individual.*

## **Due process**

**26. Please describe the due processes that will be in place under the 1115 in the event that an individual disagrees with a LOC, LON assessment, service plan elements, etc.**

*See response to question 25, page 23.*