

NYPWA Commissioners' Meeting Summary

Presiding: Eileen Tiberio, NYPWA President

June 9, 2022

Key Themes

- Meeting with Commissioner Daniel Tietz, OTDA on the following issues: Rental Assistance; State/Local Safety Net Shares; Housing/Homelessness
- Discussed Bills that Passed this Session (see summary at end of this document.)
- OPWDD & OMH meetings on Kids & Adults with Complex Needs/Cross-Systems (written recommendations to OPWDD sent to all LDSS Commissioners and recommendations to OMH will be sent to LDSS Commissioners later in June.)
- Medicaid – 30-month look back for community-based LTC delayed until 2024

Meeting with OTDA Commissioner Daniel W. Tietz (In-person)

Eileen Tiberio facilitated a meeting of 19 local DSS commissioners with Daniel Tietz, OTDA Commissioner. He was joined by Executive Deputy Commissioner Barbara Guinn and Deputy Commissioner Ken Crannell. We welcomed OTDA and identified issues of mutual interest.

NYPWA-OTDA “Common Ground”

- * Rental Allowance/Standard of Need Benefits - acknowledge that amounts are inadequate.
- * Safety Net Assistance State/Local Shares – acknowledge that counties cannot afford to cover 71% of an increase in rental allowance. It would require more State funding.
- * Safety Net Administration – acknowledge that the state once paid 50% and now pays 0%, so the state is not funding additional staff positions to work with safety net population.
- * It's Worth Taking a Fresh Look at OTDA Training Content for Eligibility Workers.

NYPWA Positions and Discussion (note – OTDA comments are not official proposals)

The NYPWA proposed a return to 50/50 State/Local Safety Net shares to coincide with an increase in rental allowance.

The OTDA Commissioner suggested delaying the increase in state shares until two years after increasing rent and holding counties to an MOE for SNA; asked that counties engage in a letter writing campaign to garner support for increasing rental allowance. In addition, OTDA asked for “proposals” from local commissioners on any recommendations and for “real life examples” of how an increase in rental assistance would support stable housing.

Counties are unable to promote an increase without the State making the commitment upfront to pay 50% of the cost. Counties cannot support an increase at 71% local cost for two years with the suggestion that the State will use that as an MOE and then up the state share to 50%. This would set local spending at a higher level prior to increasing State share. An MOE also would mean that if the SNA population decreases in the future, only the State would save money.

Counties have experienced withdraws in state support for SNA, SNA administration, SNAP administration and other programs, so they are not in a position to promote increased spending without the state support upfront. In addition, while the MA cap is still in place, the large amount of local tax dollars spent on Medicaid take away from local dollars spent in other areas.

The Child Poverty Reduction Advisory Council will hold its first meeting this summer. The initial focus is expected to be on tax credits to lift families out of poverty. An increase in the rental allowance might have potential to be weaved into the poverty reduction agenda.

OTDA is taking a critical review of the Welfare Reform laws passed in NYS in 1997 and is interested in removing rules that they believe do not serve their purposes.

Local commissioners indicated that there are enough “sticks”, but perhaps, OTDA could consider adding “carrots”, such as, more incentives for people to pursue employment.

Commissioners discussed the housing stock and challenges in their counties. An increase in the rental allowance would not solve all the problems. A shelter can put an unwelcome public spotlight on the homeless population and rural areas can benefit from a scattered site approach with regional supports and services. Finding homes for people released from prison, sex offenders, those discharged from mental health units and dropped off in the DSS lobby from hospitals – can be very challenging. People using motels and shelters during code blue often refuse treatment and services and find somewhere to stay in warm weather and then return during code blue season.

The expectations for eligibility workers have increased but OTDA training has not expanded. It would help if OTDA training addressed dealing with difficult populations, homelessness, and mental illness. Examiners need to understand more than codes.

Kids and Adults with Complex Needs

Our local commissioners’ workgroup had a Webex call with OPWDD Commissioner Neifeld on May 4 and with OMH Commissioner Sullivan on June 1. Commissioner Neifeld offered to discuss what services are already available if that is needed. The dialogue was meaningful, but the urgency on a local level, with children in hospital emergency departments and adults with mental illness in shelters, is not felt the same way at a state level and local challenges keep increasing. Eileen Tiberio continues to collect data from districts on current cases.

Caseworker Training

- In-person training is valued; but counties are having difficulty recruiting staff that are willing to be out of town so long due to their other responsibilities.
- Some counties are in crisis with many caseworker vacancies.
- Regional training provided more convenience for workers.
- Negative portrayal of caseworkers in the media, following a child fatality, misrepresents the role of the caseworker and makes it harder to recruit and retain staff.

Medicaid Update

According to the State Health Department, the proposed 30-month look back for community based long term care services is still pending approval from CMS. There will be no trainings scheduled until the federal government gives approval to move forward with this proposal; it is still under review. Also, if the waiver is approved, implementation will most likely be delayed into 2024 at the earliest because of provisions in the FFCRA and Cares Act.

Summer Conference Commissioner Meetings, July 17-20, 2022, Saratoga Hilton Hotel

We are featuring an exciting array of workshops with 2/3 sessions presented by local districts. We are currently seeking moderators for children's services, TA, and child support topics.

LDSS commissioners meetings will be held with OTDA Commissioner Tietz and OCFS Commissioner Poole on Monday, July 18.

On Wednesday, July 20, We will meet with Amir Bassiri, Interim State Medicaid Director, NYSDOH.

Commissioners on the Move

- Randy Hall announced that this is his last meeting as Interim Commissioner. Mike McMahon (formerly Montgomery County DSS Commissioner) will be serving as Rensselaer County DSS Commissioner.
- Ellen Wayne announced that this is her last meeting as Wayne County DSS Commissioner. Lisa Graf is stepping into the role as of 6/24/22. Ellen has been spirited away by Catholic Charities to work in Florida. She has a "hammock AND a beverage with a little umbrella" ready for any commissioners who wants to visit. She adds "Thanks, all. You have been both an inspiration and a pleasure to work with!"

The Legislative Summary follows after this page.

First Look at 2022 Legislation

Prepared by Mark Maves, Counsel to NYPWA

June 9, 2022

(A.2549/S.9106) Home Services as Part of Employability Assessments

EFFECTIVE DATE: If signed, this act shall take effect immediately.

Amends the Social Services Law sections related to employability assessments to include making assessment for home services part of that assessment, as well as including participation in home services counting as certain work activities.

This bill sets the assumption that evidence-based home visiting services are available to any family on TA who requests these services. Are these services available in your county? If not, what would need to happen to make them available? What are the implications of having home visiting services count as work activities? Do you view it as a position action to prevent out of home placement or as an action that will keep families on the TA caseload longer or both?

(A.2375-C/S.6385-B) Qualifications for Court Ordered Forensic Evaluators

EFFECTIVE DATE: 180 days after it shall become law; provided, however, that effective immediately: the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act by the chief administrator of the courts, with the approval of the administrative board of the courts, on its effective date are authorized to be made and completed on or before such effective date.

Amends the Domestic Relations Law and Executive Law to require child custody forensic evaluators that are appointed by the court to evaluate and investigate parties in a proceeding involving child custody and visitation to: (1) be a psychologist, social worker or psychiatrist, and (2) undergo biennial domestic violence-related training, also established by this bill, in order qualify for such appointment.

Will this affect the use of forensic evaluators by LDSS's? Although the requirements pertain to court-appointed evaluators, I can see objections to the use of evaluators in other contexts where the evaluator does not meet the qualifications under this law.

Also, does this already exist, and if not, would this training be developed and the evaluators trained within the 180-day timeframe?

(A.81/S.5628) Foster Youth Criminal History Checks

EFFECTIVE DATE: If signed, this act shall take effect immediately.

Provides that a foster youth who has obtained age 18 shall not be required to receive a criminal history record check unless the youth's foster or adoptive parent or guardian is being certified to care for an additional foster youth who is under age 18.

The amendment also requires that when a foster parent is applying for a renewal of certification or approval as a foster parent, that anyone over the age of 18 living in the home where a now foster youth under the age of 18 is entering must be notified of the requirements for the criminal background check of no later than 30 days before the approval of such placement.

Does the timing language above make sense? Who makes the notification that will be required by the amendment?

(A.9080-A/S.8046-A) A Study of the Number of Children in Foster Care with a Developmental Disability.

EFFECTIVE DATE: If signed, this act shall take effect immediately.

This bill requires that OCFS, in consultation with OPWDD, conduct a study of the number of children in foster care who have a developmental disability. The study is to include, but not be limited to, assessing the demographics of the children in foster care with a developmental disability, including, but not limited to, their county of residence, age, race and gender identity, and determining whether the placement of such individuals in foster care was voluntary or court ordered; evaluating the current guidelines and regulations used to oversee the placement and treatment of children with a developmental disability; and analyzing the extent to which such age-appropriate children are prepared for a transition from foster care to an independent living situation.

Issues for LDSS: The bill also gives OCFS and OPWDD authority to require from any other agency any information that they might find useful in completing this study.

Note: The bill does not include any specific requirement that the study include information about cases where a DD child would not have entered foster care but for the lack of available resources that would have appropriately served the child without foster care placement.

(A.9664/S.8677) Child Advocacy Center Access to Info Contained in the SCR

EFFECTIVE DATE: If signed, this act shall take effect immediately.

This bill expands the definition of provider in SSL §424-a to include certain child advocacy centers for the purposes of access to information contained in the Statewide Central Register (SCR) of child abuse and maltreatment, for the purpose of vetting personnel who have regular and substantial contact with children.

(A.4908/S.8320) Task Force to Identify Evidence-Based & Evidence-Informed Solutions to Reduce Exposure to ACEs

EFFECTIVE DATE: If signed, this act shall take effect immediately.

Establishes a task force to identify evidence-based and evidence-informed solutions to reduce children's exposure to adverse childhood experiences (ACEs). A report is due within two years of the effective date. All State and political subdivision agencies are required to comply with the task force.

(A.7347/S.6389) Rights of Non-Marital Parents in Adoption, Surrender, and Termination of Parental Rights Proceedings in Family Court & Surrogate's Court

EFFECTIVE DATE: If signed, this act shall take effect immediately.

This bill amends DRL 111 and SSL 384-b to provide full parental rights to fathers of children in foster care who have been adjudicated or are in the process of being adjudicated a parent, have executed an unrevoked acknowledgement of parentage, or have filed an unrevoked notice of intent to claim parentage. In effect, TPRs, as opposed to notice, will be required in cases involving the above parents.

This legislation broadens the definition of "consent" fathers in cases of "public" adoptions, so that fathers who have been legally adjudicated to be the parent of the child or have timely executed a formal acknowledgment of parentage have full parental rights. This law does not affect "private" adoptions in any way. Rather, it applies only to adoptions that occur after a child has been involuntarily separated from their family by the state, and the state seeks to take the step of severing the parent-child relationship for an unmarried father. LDSS will now be required to terminate such an unmarried father's parental rights in appropriate cases on the grounds of abandonment, permanent neglect, mental illness, intellectual disability, and severe and repeated abuse, just as it would in the case of a mother or married father who failed to meet those obligations.

The effect on LDSS will that they will be more likely to have to file TPR's in these cases.

(A.6266-A/S.2586-A) Child Support – LDSS to Take No Action When an Applicant/Recipient Establishes 'Good Cause' to Refuse to Cooperate

EFFECTIVE DATE: If signed, this act shall take effect immediately.

Directs social services districts to take no action to establish paternity or a child support order when the applicant or recipient has established good cause to refuse to cooperate.

The justification for this legislation is that it will protect children in that most of these cases involve kinship care, where the kin have applied for AFDC for the child(ren) who been left with them, and the local district's pursuit of child support will cause the parent to then take the child back from the kin, placing the child(ren) in danger.

It is not clear that this legislation only applies to the above situations or how stringent the investigation of the "good cause" reasons is.

([A.2263/S.813](#)) Raises the Maximum Age a Homeless Youth Who Entered a Transitional Independent Living Program Can Continue to Receive Shelter Services from 21 to 24

EFFECTIVE DATE: If signed, this act shall take effect immediately.

Relates to the maximum age at which a homeless youth who entered a transitional independent living program can continue to receive shelter services; raises the age from 21 to 24.

([A.9090-A/S.8231-A](#)) OCFS to Submit Annual Report on Juvenile Recidivism & Cost of Juvenile Incarceration

EFFECTIVE DATE: If signed, this act shall take effect immediately.

Adds a new section 501-i to the Executive Law requiring an annual report from OCFS to the Legislature about the juvenile, youthful and adolescent offender recidivism rate, the sentences imposed, the annual costs of incarceration and pre-trial detention, and the age and race of incarcerated youth, socioeconomic status, and the duration of time that youth are held pre-trial. The report is also required to be posted to the OCFS website no later than February 1st of each year.

UNIFORM FAMILY COURT RULES

The Office of Court Administration (OCA) has submitted for public comment [proposed rules](#) which would add a new section 205.19 to the Uniform Family Court Rules. The public comment deadline is set for **August 3, 2022**—[click here](#) to visit OCA’s “Request for Public Comment” webpage.

Basically, the proposed rules would:

1. Expand indigent representation to include pre-petition representation:

(2) Counsel shall be provided to persons who have not obtained counsel prior to initiation of a proceeding which may result in detention, in removal of children from their

care or where there is an unavoidable delay in the eligibility determination, subject to judicial approval once the court proceeding has begun. For timely access to counsel, a person seeking counsel prior to the filing of a petition shall be provided with the contact information of the entity which has the primary responsibility in the jurisdiction for providing representation.

This section of the regulation seems to require representation during any CPS investigation, which would expand the law set forth in [FCA 262](#).

2. Create standards for eligibility, which under current law are created by each county as required by [County Law Art. 18-b](#) (sections 722 through 722-f). These new proposed standards include a presumption of eligibility, as well as a mechanism to appeal a denial of eligibility, but apparently no method of reviewing to confirm eligibility, unless the assigned attorney requests such review.

There would seem to be several consequences that this regulation, if enacted, may have, including the financial costs involved in funding this increased right to representation as well as the lack of oversight of the eligibility process. Additionally, the involvement of attorneys in CPS investigations—both those who would be representing the parents and those representing CPS—will delay the swift investigation of CPS referrals.