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June 30, 2014

Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711

RE: Comments on Sunset Advisory Commission Staff Report on the Department of Assistive and Rehabilitative Services

Dear Sunset Advisory Commission:

Thank you for the opportunity to provide public comment on the Sunset Review Staff Report on the Department of Assistive and Rehabilitative Services (DARS). Disability Rights Texas (DRTx) is the federally designated legal protection and advocacy agency for people with disabilities in Texas. Our mission is to advocate, protect and advance the legal, human and service rights of people with disabilities. There are eight programs within DRTx, one of them being the Client Assistance Program (CAP). The CAP program works with people who are receiving or want to receive services from the Division for Rehabilitation Services, Division for Blind Services, or Independent Living Centers. Therefore, CAP and DRTx assists clients who have questions, concerns or issues with the services they receive from DARS. Based on our experience, we have the following information to share on the staff report's findings and recommendations.

Issue 1:

The Separation between DARS' Division for Blind Services and Rehabilitation services causes unnecessary duplication and impedes access to services.

Sunset Staff Recommendation:

1.1 Require DARS to integrate administration, management, and oversight of the divisions for blind services and rehabilitation services to eliminate duplication and better serve consumers.

DRTx Comment:

DRTx is familiar with studies in the past analyzing the differences and successes of serving persons who are legally blind in separate vocational rehabilitation agencies and combined vocational rehabilitation agencies. A combined agency is an agency that serves people who are blind and people with other disabilities, therefore, serving all persons with disabilities in the state from one agency.

The Rehabilitation Research and Training Center on Blindness & Low Vision, College of Education for Mississippi State University prepared a study for the National Council of State Agencies

for the Blind in March 2010 by Brenda Cavanaugh, Ph.D., CRC. This study was conducted to determine the effectiveness of separate agencies serving consumers who are visually impaired or legally blind compared to combined agencies serving persons with other disabilities and persons who are visually impaired and legally blind. Data from the Rehabilitation Services Administration (RSA) was utilized to conduct the study and several questions were raised and answered. Data from fiscal years 2007 and 2008 were analyzed. Of noted significance, separate agencies that served the legally blind provided services to more people who were legally blind, than combined agencies. Specifically in 2007 separate agencies served 55.2% who were legally blind and the combined agency served 43.6%. In 2008, Separate agencies served 57.2% individuals who were legally blind and combined agencies served 43.1%.

While other variables were noted in the report a significant finding we want to bring to your attention is that in 2007 separate agencies assisted 77.5% legally blind consumers into competitive employment, while combined agencies assisted 60.2% legally blind individuals into competitive employment. In 2008 the numbers were even greater, with separate agencies assisting 82.8% legally blind individuals into competitive employment and combined agencies assisting 57.4% legally blind individuals into competitive employment.

Therefore, if the pattern identified in the study (and previous studies) proves true, fewer individuals who are legally blind will be served by combining DRS and DBS and fewer individuals will be obtaining employment.

DRTx looked at the Rehabilitation Services Administration data from the latest year available on their website, and noted the following;

In reviewing the RSA 911 Data for fiscal year 2013, Texas Division for Blind services closed significantly more consumers who are legally blind into employment than any other separate agency (1,232).

The Division for Blind Services closed 1,417 people into competitive employment in 2012. In looking at the RSA data for the combined agencies for 2012, the state with the most closures for people with visual impairments was California with 1,094. The next state with the most closures for persons with visual impairments was Illinois with 918.

In looking at the RSA data for separate or blind agencies for 2012, the state with the next highest number of competitive employment closures was Florida with 740. Therefore, DBS has shown that it has assisted more people into employment with visual impairments as a separate agency than any other separate agency or combined agency.

These data suggest the potential benefit of separate service units for consumers who are blind and visually impaired. Further data analysis would seem warranted before a final determination on the most appropriate service arrangement.

Issue 2:

DARS lacks case oversight to control spending and ensure effective delivery of services.

Sunset Staff Recommendation 2.1:

Require DARS to create clear validated guidelines for case workers to ensure better decision making for successful, cost-effective outcomes.

DRTx Comment:

The recommendations in this section directs DARS to “develop guidelines for how long a case in each category should last and how much a case in each category should cost. The agency may also establish other guidelines to direct case worker and other supervisors as necessary to achieve success”.

While DARS must be a good steward of federal and state resources, arbitrary limits on costs and time would violate the individual mandate to meet unique needs of each individual consumer. The following information from the Rehabilitation Act of 1973, as amended, specifically addresses the intent of the vocational rehabilitation program is to be *individualized to meet a client’s needs and not categorized*. The relevant section of the Rehabilitation Act regulations below is italicized emphasizing this point.

Sec. 361.50 Written policies governing the provision of services for individuals with disabilities.

(a) Policies. The State unit must develop and maintain written policies covering the nature and scope of each of the vocational rehabilitation services specified in Sec. 361.48 and the criteria under which each service is provided. *The policies must ensure that the provision of services is based on the rehabilitation needs of each individual as identified in that individual's IPE and is consistent with the individual's informed choice. The written policies may not establish any arbitrary limits on the nature and scope of vocational rehabilitation services to be provided to the individual to achieve an employment outcome.* The policies must be developed in accordance with the following provisions:

(b) Out-of-State services.

(1) The State unit may establish a preference for in-State services, provided that the preference does not effectively deny an individual a necessary service. If the individual chooses an out-of-State service at a higher cost than an in-State service, if either service would meet the individual's rehabilitation needs, the designated State unit is not responsible for those costs in excess of the cost of the in-State service.

(2) The State unit may not establish policies that effectively prohibit the provision of out-of-State services.

(c) Payment for services.

(1) The State unit must establish and maintain written policies to govern the rates of payment for all purchased vocational rehabilitation services.

(2) The State unit may establish a fee schedule designed to ensure a reasonable cost to the program for each service, if the schedule is—

(i) *Not so low as to effectively deny an individual a necessary service; and*

(ii) *Not absolute and permits exceptions so that individual needs can be addressed.*

(3) *The State unit may not place absolute dollar limits on specific service categories or on the total services provided to an individual.*

(d) Duration of services.

(1) The State unit may establish reasonable time periods for the provision of services provided that the time periods are--

(i) *Not so short as to effectively deny an individual a necessary service; and*

(ii) *Not absolute and permit exceptions so that individual needs can be addressed.*

(2) The State unit may not establish absolute time limits on the provision of specific services or on the provision of services to an individual. The duration of each service needed by an individual must be determined on an individual basis and reflected in that individual's individualized plan for employment.

(e) Authorization of services. The State unit must establish policies related to the timely authorization of services, including any conditions under which verbal authorization can be given.

There are professional rehabilitation studies that can help provide the DARS agency with guidance to develop training and improve knowledge with specific disabilities. Incorporating this information into the best practices concept for DARS counselors may achieve the same goals that are being suggested without establishing monetary restrictions or time restrictions that would be in conflict with the regulations.

Issue 3:

DARS offers many independent living services consumers could easily access through local Centers for Independent Living.

Sunset Staff Recommendation 3.1:

Define DARS' role in the provision of independent living services as supporting and monitoring the network of centers for independent living.

Sunset Staff Recommendation 3.2:

DARS should evaluate independent living services available in communities throughout the state.

DRTx Comment:

Currently, DARS provides services to persons in the Independent Living Program throughout the state in offices already established and maintained. In addition, the structure for training is already established and supported.

The staff report appears to recommend that the centers for independent living (CIL) administer the Independent Living services prior to knowing if the CIL's are structured and have the proper support to take on this role. The State Independent Living Plan reports there are 87 counties the CIL's are not able to serve due to a lack of having enough actual CIL's to cover the state. There are a total of 254 counties in Texas. Therefore, the CILs are struggling to cover two thirds of the state and do not currently cover the entire state.

DRTx noted in the Sunset report there was a concern of the amount of money that was spent for travel in the Independent Living (IL) program by the DARS staff. DRTx would also like to point out that many people who have disabilities and those that are visually impaired who cannot drive, and live in rural areas do not always have access to transportation to get to DARS offices, or CIL's. This is a complaint DRTx heard several times over when conducting our own feedback sessions regarding concerns persons with disabilities have in the state. It would be important to note that regardless of who takes on this program, significant funds for travel will need to be considered in order for IL services to be provided due to the nature of this situation in the State and the lack of transportation otherwise available.

Conclusion

We note and acknowledge that these comments will be considered public information and subject to disclosure under Chapter 552 of the Texas Government Code, commonly known as the Public Information Act.

Thank you again for the opportunity to provide input on the staff findings and recommendations in the Sunset Review Report on DARS. If you have any questions regarding these comments, please let us know.

Sincerely,

Karen Stanfill
DRTx