

County of Financial Responsibility (COFR) Dispute Resolution Committee - Case 2005-3

Committee:	Mark Kielhorn	Department of Community Health
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The Committee met via conference call on April 21, 2005 concerning a dispute between two adjoining county CMHSPs. CMHSP representatives from the two counties participated to explain the case and the rationale for each CMHSP's position.

Issue: An individual with a developmental disability was living independently in County A with services from County A's CMHSP. The individual's sister petitioned for and was awarded guardianship. She then moved the individual into an AFC home in County B, a dependent setting, on May 23, 2004 without the involvement of County A. The individual then had a crisis which resulted in contact with County B for services and, on June 10, 2004, with in-patient treatment. On June 4, 2004, County B contacted County A, notifying them of the situation and looking for a contract with County A as COFR. This request was turned down by County A.

County B believes that County A is the COFR in this situation. County B cites the portion of the COFR Contract Amendment which states that "When a consumer relocates to a dependent setting in County B from an independent setting in County A, County A will be the COFR" when "the consumer requests services from County B within 120 days."

County A contests this conclusion, asserting that an exception to the technical language should be made because County A has had no control over the situation. County A had no part in the individual's move to County B and has not participated in the individual's person centered plan to know what the individual's desires have been and will be in the future. They also stated that they turned down the opportunity to contract with County B for services because the proposed rates were much higher than their own rates for the same services.

In the discussion, it was noted that the initial contact in County B took place before the effective date of the contract amendment on October 1, 2004.

Resolution: The Committee determined that the COFR Amendment is very clear as regards this situation. The individual moved from living independently in County A to living in a dependent situation in County B. The individual then sought treatment from County B within the 120 days specified in the COFR Amendment. Therefore, County A is the COFR for this individual. In this type of situation, the guardian is treated as the consumer. The Committee also referenced that the CMHSPs and PIHPs, through the Board Association, have agreed that this COFR Amendment process would apply to situations where the individual is funded by either General Fund or Medicaid.

The Committee determined that County A's responsibility as COFR began on the June 2004 date when service by County B commenced, and continues through the current date. However, the Committee can only require application of this resolution for services rendered on or after the October 1, 2004 effective date of the COFR Amendment.

The two CMHSPs have agreed that, effective May 1, 2005, County A will be responsible for planning, arranging and paying for services for this individual. County A will provide its own services, contract with County B, or contract with some other provider to ensure that this individual receives the necessary services.

As regards rates, the COFR Amendment states that “The County which is financially responsible shall pay the usual and customary cost established by the serving county” It was determined that the appropriate “usual and customary” rates would be the Medicaid allowable rates for the particular services. County B stated that, while the initially quoted rates met these criteria, these rates were subsequently reduced substantially in the year-end resolution process. County B agreed to use the revised allowable rates, thus reducing the billed amounts to County A.

Contract: County A advised that the COFR Amendment be changed to permit the Resolution Committee to make exceptions to the technical details when the situation being arbitrated was not contemplated when the Amendment was drafted.

Other: The individual’s care and person centered plan are of pre-eminent importance. The purpose of the COFR Amendment is to assure that disputes over payment do not stand in the way of providing necessary services. In this situation, this end was achieved; services were provided to the individual immediately, as needed. The dispute, however, took nearly a year to resolve. Thus, the dollars involved mounted up and County A, because of the dispute, was not involved in the individual’s service plan. It points out that it is to everybody’s benefit that these problems be quickly identified and resolved.

Counties who are submitting a dispute for resolution should consider the following:

- Prompt submission of the dispute for resolution, so as to reduce the potential financial and service-related implication of the decision.
- Prompt follow-through on the documents required by the Committee. The required time lines are precisely described in the Amendment.
- Complete submission of information with the initial request and response so the Committee can be well-versed in the issues at the resolution hearing.
- Having detailed information about relevant circumstances impacting the individual available to answer questions at the resolution hearing. This includes the service and residence history of the individual, the details of the dispute, the care that has been given, and the current service situation. In all cases so far, potentially relevant information was not available to answer Committee member questions at the hearing.