



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

March 21, 2006

Dear Colleague:

Attached are the Department's responses to the written questions received via mail and at the Request for Application Bidders Conferences that were held in Albany on March 16, 2006. The questions, as well as the responses, are also available on the Department's website at <http://www.health.state.ny.us> (Click Long Term Care Tab).

Again, thank you for your interest in this important initiative. If you have any questions, please contact Bruce Rosen at 518-486-3154.

Sincerely,

A handwritten signature in black ink, appearing to read 'Betty Rice', written over a horizontal line.

Betty Rice, Director  
Division of Consumer & Local District Relations

## **QUESTIONS and ANSWERS**

### **New York State Department of Health (DOH) Nursing Home Transition and Diversion Waiver Request for Applications (RFA) (RFA # 050509221050)**

#### **A. Regional Resource Development Centers (RRDC)**

1. QUESTION:

The RFA specifies that the waiver program hopes to serve 5,000 individuals statewide within three years: 1,000 in year one, 1,500 more in year two, and another 2,500 in year three. How will these volumes be distributed over each RRDC Service Provision Area, and each Quality Management Specialist Service Area?

ANSWER:

Each regional RRDC will be given a target number of participants based on a variety of factors including historical. As necessary, DOH and the RRDCs will work collaboratively to reallocate waiver opportunities from one region to another to assure that, statewide, individuals seeking Nursing Home Transition and Diversion (NHTD) waiver services can be accommodated within the overall requested waiver slots.

2. QUESTION:

How did DOH derive the number of participants (1000) expected to be served by the NHTD waiver in the first year?

ANSWER:

The expected phase-in of 1000 in the first year represents a flexible best estimate.

3. QUESTION:

The term of the contract is specified as 39 months, but Attachment 3a only calls for an Initial One Year Budget? Should budgets for additional years of the contract be submitted? If no, how does the Department anticipate that the funding for subsequent contract years be decided upon?

ANSWER:

No, please submit budgets for only the initial annual period plus start-up costs. The estimated funding level available for the initial 12 month period of the contract can be found on page 8 of the RFA.

In distributing funds for RRDC activities, the Department may consider the size of the waiver eligible population residing in the contracted region adjusted for geographic characteristics, labor market, and other regional considerations. The initial 12 month allocations will reflect negotiated contractual spending requirements including one-time startup and resource development costs. Funding is based on available appropriations; for funding allocations in future contract periods, consideration will be given to regional growth in the numbers of waiver participants.

4. QUESTION:

The application asks that the contractor identify by name and title an individual who will have authority to take action on issues and concerns communicated by the Department. Would it be permissible to have the Regional Resource Development Specialist report directly to the Board of Directors and be the individual who provides "executive direction"?

ANSWER:

The RRDC liaison with DOH must be an individual with administrative authority to take corrective action regarding contractual performance issues raised by the Department.

5. QUESTION:

As another approach, would a paid officer or employee or a volunteer Board member meet the expectations of the Department [for a liaison], or is the Department requiring that the contact be a paid staff person?

ANSWER:

See response to question #4 above.

6. QUESTION:

What is the Department's definition of "affiliation" for the purposes of identifying whether your organization is a Pool A or Pool B applicant?

ANSWER:

Affiliate for purposes of this RFA means a corporation or other legally formed entity (e.g., limited liability company or partnership) that is related to the applicant by shareholders or other means of control, including corporate membership directly or indirectly through one or more intermediaries. Control includes "controlling", "controlled by" and "under common control with" and means the possession, directly or indirectly, or the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, or voting rights, by contract (except a commercial contract for goods or non-management services) or otherwise. If an applicant has a Board member who is a Board member, shareholder or holds any financial interest in a corporation which is a provider of State Plan services, that applicant shall be deemed to be a pool "B" applicant.

Control shall be presumed if any of the following circumstances are present:

- A provider of State Plan services is a corporate member, directly or through one or more intermediaries, of the applicant or the applicant is a corporate member of a not-for-profit corporation that is a provider of State Plan services; or
- A provider of State Plan services, directly or indirectly through one or more intermediaries owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation secured by the applicant if that interest equals five percent of the value of the property or assets of the applicant; or
- An applicant has a direct, indirect or a combination of direct or indirect ownership interest equal to five percent or more in an entity that is a provider of State Plan services. The determination of ownership or control percentages shall be in accordance with 18 NYCRR § 502.3.

7. QUESTION:

If an applicant agency subcontracted for payroll or other administrative services from another organization but maintained fully separate staff and boards, would that count as an affiliation?

ANSWER:

The existence of an administrative service agreement between the contractor and another organization would not constitute an affiliate relationship unless one of the circumstances identified in the definition of affiliate is otherwise present.

8. QUESTION:

Could the RRDC be considered independent (and classed as a Pool A application) if it were "housed" at a non-profit which provides administrative support, much like the CAP program is currently housed by Independent Living Centers?

ANSWER:

See the definition of affiliate above (Question #6) to determine whether the applicant is "affiliated" with a provider of State Plan services and therefore a pool "B" applicant.

9. QUESTION:

Are letters of support permitted? If so, would such letters be viewed as favorably enhancing an application?

ANSWER:

Letters of Support are not required. However, if a letter of support from an individual or agency provides a direct and written link of proof to the bidder's ability to build pertinent effective relationships with that individual or agency, the letter's content would be considered in the evaluation of the proposal.

10. QUESTION:

Are there any page limits either for each section or for the application as a whole?

ANSWER: No.

11. QUESTION:

If the applicant for the NHTD RRDC currently has the contract for the TBI RRDC, is it permissible to share the Lead RRDS between the two RRDCs (charging half the salary/time to each of the projects) with the Lead RRDS having the responsibility for coordinating and supervising both RRDCs?

ANSWER:

Yes, it is permissible to share a Lead RRDS between two RRDC contracts—charging the salary and other related costs to each of the projects in proportion to the work performed. The entity that is the provider of services through the RRDC contract supervises the work of the RRDS and is ultimately responsible for the time allocated to each contract.

12. QUESTION:  
Will there be an upper age limit for this waiver program, as there is for the TBI program (age 64)?
- ANSWER:  
There is no upper age limit.
13. QUESTION:  
Are there any limitations as to the type of disabilities which might be covered (i.e. would we perhaps not consider dementia, or other types of disabilities which might be more progressive in nature)?
- ANSWER:  
Participants with progressive and degenerative disabilities, including dementia, may be served through the waiver as long as all other NHTD waiver eligibility requirements are met.
14. QUESTION:  
Will part of the mission of this RFP [sic] be to repatriate Medicaid recipients currently receiving services in out of state facilities?
- ANSWER:  
Yes; services provided under the NHTD waiver program are available to all residents of NYS who are Medicaid eligible and also meet all other NHTD waiver eligibility requirements.
15. QUESTION:  
Are there limits to the types of services which can be provided (i.e. if it is difficult for a person to leave there [sic] home without a nurse with them for recreational opportunities, can nursing for feeds, suctioning, etc. be part of the services under the waiver)?
- ANSWER:  
All services provided through the NHTD waiver are pending approval by the federal Centers of Medicare and Medicaid Services (CMS). Once approved, the waiver application, including the list of approved services, will be posted on the DOH and CMS websites. Current Medicaid State Plan Services will continue to be provided as such.
16. QUESTION:  
As long as a person can be maintained safely in the community, is there a financial limit to the services which can be provided?
- ANSWER:  
Participants' comprehensive service plans must, as required by Federal rules, meet the NHTD waiver cost neutrality standards established by DOH.
- RRDCs will be responsible for managing the mix of participants in their regional area so that the aggregate group can be cared for at less cost in the community than they would have otherwise been cared for in a nursing facility. Therefore, while the costs of providing necessary care and supports to some individuals in the community may

exceed that of a nursing home, it is necessary that others who require less expensive services will balance and maintain the group's overall Medicaid cost at the required level.

17. QUESTION:

Can the Nurse Evaluator position be either an RN or an LPN?

ANSWER:

The RRDC will employ, either directly or under contract, a Registered Nurse (hereinafter referred to as "Nurse Evaluator") certified or able to be PRI/SCREEN certified to evaluate, as necessary, new participants and participants returning to the community following a significant medical event that may have altered the individual's cognitive or physical abilities.

18. QUESTION:

"To minimize the potential for conflicts of interest, it is preferred that entities selected for RRDC contracts not provide, nor be affiliated with other entities that provide Medicaid State Plan services." It goes on to further describe how applicants which do provide state plan services would be placed in the "B" pool of applicants, while those not providing such services would be in the preferred "A" pool. (Section V. 6.)

Yet as mentioned previously, In APPENDIX D-1, Contractor Responsibilities and Activities, it says that RRDCs may be required to become Licensed Home Care Agencies for the purpose of conducting evaluations, etc. for state plan services.

Because Licensed Home Care Agencies are State Plan Medicaid service providers, don't these two sections contradict each other? An applicant that was a Licensed Home Care Agency at the time of the application would be placed in the "B" pool and incur a penalty during application review. Doesn't this mean that certain agencies would be penalized during the application phase for having a characteristic that all RRDCs might ultimately be expected to have?

ANSWER:

The RRDCs may, in the future, be required to become Licensed Home Care Services Agencies solely for the potential purpose of allowing the Nurse Evaluator to work with a Local Department of Social Services to perform evaluations of waiver participants for certain Medicaid state plan services, as well as NHTD waiver services. Please note the RRDC would not use its status as a LHCSA to provide State Plan home care services while the RRDC contract is in effect unless it was a pool "B" applicant.

19. QUESTION:

In APPENDIX D-1, Contractor Responsibilities and Activities, it states, "The RRDC will employ, either directly or under contract, a Registered Nurse ... certified or able to be PRI/SCREEN certified to evaluate, as necessary, new participants and participants returning to the community following a significant medical event that may have altered the individual's cognitive or physical abilities." ... "NYS may require some or all entities contracted as RRDCs to be licensed as Licensed Home Care Agencies for the purpose of contracting with Local Departments of Social Services

to perform evaluations of waiver participants for certain state plan Medicaid services."

Under what circumstances would a RRDC be required to become a Licensed Home Care Agency?

ANSWER:

See previous response.

- What would happen if the RRDC agency did not wish to become a Licensed Home Care Agency? Would the RRDC applicant be disqualified from applying for the RRDC?

ANSWER:

NYS may require some or all entities contracted as RRDCs to be licensed as Licensed Home Care Agencies for the purpose of contracting with Local Departments of Social Services to perform evaluations of waiver participants for certain state plan Medicaid services.

- Could the RRDC alternatively sub-contract with a nurse evaluator or other appropriate staff to provide the needed services instead of becoming a Licensed Home Care Agency?

ANSWER: No

20. QUESTION:

If an RRDC became a LHCSA, will they be able to approve Consumer Directed Personal Assistance Services?

ANSWER:

Consumer Directed Personal Assistance Services (CDPAS) is an unrelated program to the NHTD waiver, RFA and the resulting contract. Accordingly, we can not comment on the likelihood of the LDSSs contracting with RRDCs service contractors for their CDPAS program.

21. QUESTION:

Who initiates the process and/or services of the RRDC to a nursing home resident?

ANSWER:

The RRDC is primarily responsible for initiating services to nursing home residents. Please refer to page 18 of the RFA, which addresses this issue.

22. QUESTION:

Has DOH specified an expected proportional distribution of RRDC workload between nursing home transition and diversion activities?

ANSWER: No

23. QUESTION:  
Will there be a target for the number of transitions and diversions for each region?

ANSWER:

No. However, the RRDC contract performance monitoring and evaluation will review outcomes in each region taking into consideration factors such as the numbers/characteristics of potential waiver participants and the regional community based resources available to meet their needs.

24. QUESTION:  
What is the role of the Nurse Evaluator?

ANSWER:

The Nurse Evaluator must be a Registered Nurse certified or able to evaluate PRI/SCREEN results, as necessary, for: 1.) new NHTD waiver participants and participants returning to the community following a significant medical event that may have altered the individual's cognitive or physical abilities, and 2.) questions regarding level of care determinations. The Nurse Evaluator will provide the results of his/her evaluation to the Service Coordinator selected by the participant, as well as to other appropriate parties at the direction of the Department and as identified in the work plan developed as part of the RRDC negotiated contract. As requested, the QMS will also assist the RRDS, in revising participants' service plans.

25. QUESTION:  
What are the responsibilities of the RRDS if a waiver participant or prospective participant wants to move to another state?

ANSWER:

The RRDS should assist waiver participants in their transition off the NYS waiver.

26. QUESTION:  
Will the RRDS be responsible for recruiting providers to meet the cultural and linguistic needs of waiver participants?

ANSWER: Yes.

27. QUESTION:  
Does the NHTD waiver require statewide cost-neutrality or regional cost-neutrality?

ANSWER:

The NYS statutory and federal requirement is for statewide cost neutrality. However, this will be managed on a regional basis.

28. QUESTION:  
What is the recommended ratio of RRDS staff to waiver participants?

ANSWER:

Contractors are being selected based on their experience with the targeted population of this waiver and must be conversant in staffing levels sufficient to meet their contractual responsibilities.

29. QUESTION:  
What is the role of the RRDS in recruiting providers?  
ANSWER:  
Please refer to page 18 of the RFA, which addresses this issue.
30. QUESTION:  
Because of the federal requirement for the provision of culturally and linguistically competent services to waiver participants, will DOH develop and provide standard educational materials for this purpose or must each RRDC budget for this function?  
ANSWER:  
The RRDC must budget for this function.
31. QUESTION:  
If a person lives at home with their family, are they eligible to receive NHTD waiver services?  
ANSWER: Yes
32. QUESTION:  
If a waiver participant is eligible for existing non-Medicaid community-based programs that serve the elderly and their caregivers, can the waiver participant participate in those programs in addition to receiving waiver services?  
ANSWER:  
Yes; it is expected that non-Medicaid community supports and services will be included in eligible NHTD waiver participants' service plans.
33. QUESTION:  
Can the RRDS recruit existing non-Medicaid community-based providers to become waiver providers?  
ANSWER:  
Yes, but they must meet the qualifications and become Medicaid enrolled providers.
34. QUESTION:  
Does DOH have a list of Medicaid recipients who live in nursing homes who are interested in transitioning to the community?  
ANSWER:  
DOH anticipates that the applicant will be knowledgeable of the target population likely to be eligible for this waiver.
35. QUESTION:  
Can family members be employed as waiver providers?  
ANSWER: No

36. QUESTION:  
What are the responsibilities of the Local Departments of Social Services in the NHTD waiver?

ANSWER:

The Local Departments of Social Services (LDSS) will maintain their current responsibilities for Medicaid financial eligibility determinations and evaluation/authorization for certain State Plan services.

37. QUESTION:

If there are two applicants from the same region, and one is from "Pool A" and has a passing score, and the other applicant is from "Pool B" and has a better score, will the contract automatically be awarded to the "Pool A" applicant?

ANSWER: Yes.

38. QUESTION:

Will applicants who are Medicaid Managed Long Term Care Program providers be assigned to the "Pool A" or "Pool B"?

ANSWER: Pool "B".

39. QUESTION:

Is there a housing subsidy available with the NHTD waiver?

ANSWER: No

## **B. Quality Management Specialist (QMS)**

1. QUESTION:

Please indicate whether there are any requirements regarding the performance of the participant satisfaction surveys.

ANSWER: The Participant Satisfaction Survey is part of the overall Quality Management Program that will include direct feedback from waiver participants regarding their satisfaction with accessibility of program services, choice of providers, respectful treatment by providers, and community integration. The surveys will be conducted annually for a statistically valid percentage of waiver participants, as determined by DOH. The Quality Management Specialist (QMS) will assure that those conducting the surveys are properly trained to interview participants, expected to take place in the home. The QMS will analyze the results of the surveys and submit annual reports to DOH.

2. QUESTION:

Please specify how many Service Plans the Department anticipates will need to be reviewed. Can this number be broken down between the retrospective sample and those over a certain monetary value?

ANSWER:

The QMS will review every Service Plan over the amount of \$300 per day and conduct retrospective reviews of statistically valid random sample of at least 10% of a of Service Plans in Year One, at least 5% in Year Two and at least 2% in Year Three.

3. QUESTION:  
Since the necessary federal approval for the waiver has not yet been obtained, does the Department anticipate that the Quality Management Specialist contract will begin on the same date as the Regional Resource Development Centers, or does it anticipate that the QMS contracts will start later than the RRDC contracts?

ANSWER:

The Department anticipates that the Quality Management Specialist contracts will begin at the same time as the contracts for the Regional Resource Development Centers.

4. QUESTION:  
What activities of the QMS may be subcontracted?

ANSWER:

The Department did not anticipate subcontracting of QMS activities and would prefer not to have subcontracting occur. However, if an applicant wishes to subcontract, in its application it must document to whom, the scope of the activities proposed to be subcontracted and provide a description of its subcontract management, oversight and corrective action mechanisms. Any subcontracts are subject to DOH prior approval.

5. QUESTION:  
Will the QMS have direct contact with waiver participants?

ANSWER:

Yes. The QMS may have situations where they have a direct contact with waiver participants.

6. QUESTION:  
Is the QMS intended to replace the current DOH Office of Health Systems Management (OHSM) provider survey process?

ANSWER: No

7. QUESTION:  
Will DOH establish performance benchmarks?

ANSWER: Yes

8. QUESTION:  
Will the QMS or the RRDS have the lead responsibility for the exchange of data and other information with DOH?

ANSWER:

The QMS and the RRDS will have the lead responsibility for communication with DOH each according to their particular area of responsibility.

9. QUESTION:

Has DOH developed specifications for data systems?

ANSWER:

NHTD Contractors are required to transmit data using software compatible with Microsoft Office applications used by DOH. The Department has not yet developed specifications for other data systems.

10. QUESTION:

What are the roles and responsibilities of the QMS in assisting the RRDS in investigating participant incident reports and/or reviewing open incidents?

ANSWER:

The QMS will assist DOH on a case-by-case basis with investigation of any incidents involving abuse, neglect, death, and at any other time that the RRDS or DOH requests. The roles and responsibilities of this position are very broad and DOH expects the QMS to have an equally broad range of experience working with people with disabilities and their providers.

11. QUESTION:

How does DOH distinguish between the training responsibilities of the QMS and the RRDS?

ANSWER:

The QMS is expected to provide training in regard to quality assurance activities including incident reporting, tracking and investigation, to RRDC staff and waiver providers, as needed. The QMS will also provide training in regard to the NHTD waiver program quality assurance policies, protocols and philosophy and work closely with DOH staff to assure that all training is delivered consistently across the State.

The RRDS is expected to train service providers and offer technical assistance on the needs of the waiver participants, development and implementation of Service Plans, standard documentation and reporting requirements.

12. QUESTION:

What number of QMSs will there be around the State?

ANSWER:

Three: Metropolitan (New York City and Long Island), Eastern (Albany, North and South) and Western (rest of state) regions.

13. QUESTION:

What are the experience requirements of the lead QMS?

ANSWER:

The QMS should be knowledgeable about federal Home and Community Based Services (HCBS) waiver programs, have experience developing and implementing quality management programs, and understand the issues concerning individuals who will be served by this waiver.

14. QUESTION:

Will the QMS have input into the development of the Program Manual?

ANSWER:

The Program Manual will be developed before the program begins. However, QMS input will be sought for future policy development and manual revisions.

15. QUESTION:

If an agency's parent organization is a member of another not-for-profit entity, is this considered an "affiliation"?

ANSWER: Yes

**Nursing Home Transition and Diversion Waiver  
RRDC Applicant Conference Attendees  
March 16, 2006**

ARISE, Inc.

Shannon Scott, Assistant RRDS – Traumatic Brain Injury Waiver (TBI)  
Crista Zirgulis, RRDS – TBI

Center for Independence of the Disabled, NY

Susan Dooha, Executive Director  
Paula Wolff, Direct Service Supervisor

Glens Falls Independent Living Center

Joy Leiden, RRDS – TBI  
Karen Thayer, Executive Director

Headway for Brain Injured

Diane Landwehr, Director

Independence Care Systems

Anna Fay, Director of CDPAS  
Loreen Loonie, Director, Community Relations

Independent Living Center of Hudson Valley

Denise Figueroa, Executive Director  
Leslie Underwood, Nursing Home Transition Diversion Advocate

Mercy Advocacy Center

Bonnie Hope, Traumatic Brain Injury RRDS

NY Association for Homes and Services for the Aging

Diane Darbyshire, Policy Analyst

NY County Health Services Review Organization

Robert Rosenbloom, Vice President  
Harriet Starr, VP, Government Contracts

Northeast Health

David Howells, Director of Planning

Regional Center for Independent Living

Tom Christensen, Board Member  
Bruce Darling, Executive Director

Southern Tier Independence Center

Al Jennings, Assistant RRDS – TBI

Sunnyview Rehab Hospital

Barbara McCarthy, RRDS – TBI

The Dale Association, Inc.

Linda Van Buskirk, CEO

Westchester Independent Living Center

Nadine Bravo, Special Projects Coordinator  
Margaret Nunziato, RRDS - TBI

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QMS Applicant Conference Attendees**

March 16, 2006

Center for Independence of the Disabled, NY

Susan Dooha, Executive Director

Paula Wolff, Direct Service Supervisor

Glens Falls Independent Living Center

Joy Leiden, RRDS – Traumatic Brain Injury Waiver (TBI)

Karen Thayer, Executive Director

Headway for Brain Injured, Inc.

Ronald Fernandez, RRDS – TBI

Diane Landwehr, Director

Independence Care Systems

Anna Fay, Director of CDPAS

Loreen Loonie, Director, Community Relations

Mercy Advocacy Center

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Bruce Darling, Executive Director

School & Community Support

Melissa Capo

Tim Feeney