

# Self-Directed Advocacy Network of Maryland, Inc.

Participants, Families, Friends, Support Brokers & Other Professionals advocating for those receiving self-directed waiver services.  
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## DDA Meeting Recap – May 3, 2018

SDAN would like to thank you for meeting with our board at the DDA in Baltimore on May 3<sup>rd</sup> from 3:30-5:00 pm. As advocates, family members, participants, and support professionals, we have a great interest in supporting policy, innovation and federal programs which help Self Directed participants achieve their best lives.

For reference, please note that our understanding of DDA's position is in black; SDAN's position is in red; and any action or response needed from DDA is in **bold**.

**At the conclusion of the meeting and as a result of our discussions, DDA indicated that they would get back to us on the issues below. Please update us on where these stand:**

- 1. Ms. Sastoque indicated she would discuss with DDA legal advisers whether or not paid staff (especially parents who work as staff) can be the designated representative. She was also to find out if support brokers could be the designated representative.**
- 2. Ms. Tessier is to schedule a meeting with SDAN and DDA officials, including Valerie Roddy, regarding our concerns about Transportation payments under the new waiver.**
- 3. Mr. Simons agreed to personally review the methodology used regarding the payment rate for independent support brokers.**

In order to promote our continued communication and collaboration, summarized below is our understanding of your responses to our agenda questions. We intend to share this information with our membership on June 5<sup>th</sup>.

1. The DDA has added new language in the Waiver Submission that requires the participant, legal guardian or his/ her designated representative be capable of making informed decisions about employer and budget authority. Ms. Sastoque said this is not a legal definition like an authorized representative. The participant remains in control of the plan and is the employer of record. (SDAN Position: members expressed concerns about the unintended consequences of the designated representative position. SDAN is concerned this policy could diminish participant rights without clearly supporting the process of enabling each participant's ability to make the decisions they are capable of making. Because this is described as a non-legal designation, then the ability of the designee to take a paid position on the participants team is still not clear. Families are a significant source of support and this will negatively impact participants. We note **COMAR 10.22.05.01, "Through an individual directed approach, each individual, with assistance from the individual's team, is the designer of the services and supports reflected in the Individual Plan (IP)."**)
2. The DDA is providing a new tool (a questionnaire) to help participants and teams determine whether the participant can understand employer and budget authority. The DDA has decided on this tool, but the details/policies are not yet available regarding its use. The DDA described

this tool as an “optional resource”. SDAN believes stakeholders should have input into how capacity to understand employer and budget authority will be determined. SDAN would welcome more information about policy which will guide the use of this tool and how it will be evaluated. Will the participant have the right to refuse this tool? If so, where will this be stated? In discussing this tool, DDA staff used the word “criteria.” This implies having a designated rep will not be optional for some participants.

3. DDA stated that the addition of the Designated Representative was made to satisfy legal concerns the DDA has to make sure everyone understands their responsibility when undertaking Self Direction. SDAN is concerned about the rights of participants and are concerned the legal positions taken by the DDA to address accountability do so at the expense of participants’ rights.
4. Ms. Sastoque said the DDA doesn’t work with Supported Decision Making. SDAN’s position is that supported decision making is a necessary and appropriate process and is the essence of self-direction. **We are confused about DDA’s response and need more information from DDA about this position.**
5. The DDA provided updates about the ongoing training process to bring the CCS performance in line with expectations and increased job responsibilities. Trainings are underway and they are working to increase the performance of this service. When members of SDAN are aware of specific instances of problems/issues with CCS performance they should contact Ms. Sastoque to discuss and provide names and contractor. In many instances, CCSes are not yet demonstrating the competence needed to take on more responsibilities in regard to SDS. We concur with any effort to increase knowledge of CCSes, but feel they are being asked to do an increasing number of duties (which appear to be overwhelming presently) and may be to the detriment of the participant. Currently, the entire team, which includes the Participant, his or chosen advocates, the CCS and the SB, work together to implement a program that reflects the Participant’s needs and desires. The current process of SDS being a team effort (family, CCS, SB, and participant) is necessary to an efficient and effective program. SDAN’s position on the roles of each of these team members was submitted to DDA in late 2016. This continues to be SDAN’s position and it attached here for your reference.)
6. Support Brokerage will be moved to an administrative service and the cost will be covered by the DDA. The SB will be optional in the future. SB services will be provided by contractors who will bill at a rate of \$65. Independent SBs will only be able to bill at a much reduced and capped rate of \$25 hourly. SB services will be limited to two hours per month. SDAN believes that SBs are a necessary part of the team providing essential oversight and adding to the success of many SDS participants’ plan. The methodology for determining the rate for independent SBs is deeply flawed: averaging volunteer, unpaid support brokers into the rate for those who do it professionally is not an appropriate methodology. Can you imagine if teachers’ salaries were based on an average of hours parents volunteer in the classroom and the hours put in by professional teachers? The logic simply isn’t there. In addition, when Mr. Simons first publicly proposed putting the funding for support broker services under administrative costs, he noted that SB services were extremely important and that everyone should have access to them. He explained that by placing SB costs in the administrative portion of the plan, more people would be able to access to the services of a professional supports broker without an adverse effect on their budgets and direct supports. This newly proposed hourly limit on SB services as well as the

- proposed rate reduction will greatly reduce participant access to these “important” services. The steering committee work group on this topic stressed the importance of a support broker as well.
7. Implementation dates for budgets are not on hold. Once the waiver is approved the budgets and plans will be modified to incorporate the new line items or new waiver services with help from the CCS. The details are still being worked out. **SDAN has seen that non-fiscal year implementation dates have been problematic to date and could result in participants not having the funds they need at the time of year they need it. We feel that implementation dates for all SDS plans should align with the fiscal year. In February 2017, Ms. Sastoque assured an SDAN member that funds would be available to participants on the first day of the plan until the last day of the plan, regardless of the fiscal year split. The new budget tool that prorates budgets across fiscal years seems to contradict that assurance.**
  8. My Support, Inc. staffing services may still be available to participants individually and they can investigate this further if they choose to use their new recruitment line item under Goods and Services. DDA is not formally establishing a contract with My Supports to address our staffing crisis. **SDAN wishes to work with DDA to find solutions to the staffing problems, a major issue in the SDS program.**
  9. The CMS responded to the DDA with a variety of questions about the waiver submission; one of which was regarding why some of the new services in the Waiver Submission are being transitioned into place on varying timelines. The DDA is working on a response and could not share them with SDAN. **SDAN feels that stakeholders need much more information about this process. We would appreciate more transparency regarding the waiver submission questions and answers.**
  10. Kathy Sarnecki is no longer in her position as Statewide Coordinator for Self-Direction. No replacement has been found as of yet. DDA would like us to have more contact with the regional leads on our concerns. In the meantime, the Headquarters contact is Terah Tessier. **SDAN believes that one lead person for stakeholders to talk with directly would establish consistency across regions, which continues to be a problem.**
  11. The DDA is reviewing the participant submissions for the Transitions Workgroup membership and hasn't made a decision. This committee deals with how providers will be transitioning in order to come into compliance with HCBS Community Rule. **SDAN submitted an applicant to be included on this committee, but has yet to hear. A representative from the self-directed community should be on any committee or workgroup formed to ensure that unintended effects on self-direction are part of any discussion of policies or procedures.**
  12. The RFP for the FMS contract went out on April 30. The DDA would like to see the FMS take more of a role in helping participants with the employer responsibilities such as developing an employee manual. The DDA is looking for the FMS to take an expanded role in educating the participant and family about matters related to being the employer. The FMS cost will no longer be deducted from the budget effective July 1, 2018. **SDAN has tried to locate the RFP and could not find it. Please send us the link. We would also like more information on when participants will be able to access the funds in their budgets currently allocated to FMS fees.**
  13. The DDA would like to increase the capacity and expertise of the regional DDA Leads and therefore is asking the SDAN organization to work more closely with these leads regarding issues of concern. Quarterly meetings with Mr. Simons will continue. **Again, SDAN believes that a**

central coordinator is essential to help stakeholders deal with inconsistencies between regions, delays in processing, and policy reforms to make self-direction more user-friendly.

14. The DDA will be issuing a set of Fact Sheets about Person Centered Planning on the DDA Website. SDAN is looking forward to seeing these documents, which we have not been able to locate on the website as of 5-28-18. **Please send us a link.**
15. The DDA would like to see SDAN work with Mary Anne Kane-Breschi regarding helping to educate and increase the capacity of participants and families. **SDAN has made contact and is the process of working to get her input.**

SDAN represents a major group of SDS Stakeholders who will be directly impacted by the many changes proposed in the Waiver Reauthorization. Thus, we are seeking to clearly understand DDA positions and policies so that we may better advocate for those who rely upon the Waiver in order to live their lives.

We look forward to your feedback regarding the above.

Thank you for your efforts,

Sincerely,

Alicia Wopat

President of SDAN