

SOAR Dialogue Phone Call

November 17, 2011

(Attendance: Emily Carmody, Jaquetta Bullock, Katherine Pullicino, TJ Reynolds-Emwanta, Terri Clark, Aundry Freeman, Kathryn Winston/Mike Hosick, Grace Maynard, Liz Lumley, Linda Mandell)

- I. Introductions and Community Updates-
 - a. Emily Carmody, NCCEH- We are doing Documenting Disabilities trainings at the State Hospitals the last week in November, Wake County LME and WakeMed Hospital are partnering to fund a SOAR Caseworker in Wake, Proposal into UNC Hospital to fund other SOAR caseworker positions
 - b. Jaquetta Bullock, New Direction Ministries, Vance County- no updates
 - c. Aundry Freeman, Pisgah Legal Services, Asheville, NC- New SOAR caseworker for Henderson County is hired and will be attending the training in December
 - d. Terri Clark, PATH, Cumberland County- Have three cases in process with one case go into regional audit, working with 3 referrals
 - e. Katherine Pullicino, - Met with the directors of the senior citizen program and faith communities to get volunteers to do SOAR cases, Merger with Southeastern LME is most likely going to happen in January 2013
 - f. Grace Maynard, Urban Ministries Center, Charlotte, NC- Holding a fundraiser today for Urban Ministry Center
 - g. Linda Mandell, Greenville, NC- Recently one a case but the awardee passed away this week, benefits allowed for hospice home care so he did not die in pain
 - h. Kathryn Winston, Wilmington- Had one win and two denials this month, the two denials came with medical summary reports, will take these cases to the appeals level
 - i. Liz Lumley, LATCH, Durham- No new report, getting screenings done to take on new cases
 - j. TJ Emwanta, PATH, Forsyth County- No updates at this time

- II. Announcements:
 - a. Durham SOAR Training December 13-14th
 - i. Please refer anyone interested to our website to apply for the training
 - ii. Ten spaces are left for the training
 - iii. NCCEH is rotating location for quarterly SOAR trainings
 1. West, Central, and East North Carolina
 2. Eastern Training in the Winter
 3. Western Training in the Spring/Summer
 4. If your organization is willing to host the training, please contact Emily Carmody
 - b. Angela Herron is no longer going to be a SOAR DDS Examiner
 - i. Angela will complete the cases that she has currently been assigned but will not take any new cases
 - ii. Keri Green will take over as her replacement

iii. Donna Gould and Derrick Martin will remain as SOAR DDS Examiners

III. Ethics Check In

a. No questions this month

IV. SOAR Appeals Process

a. For this discussion the group reviewed slides from the PRA webinar about Reconsiderations and Appeals

i. The audio file for the webinar is unavailable

ii. Please see the slides attached to dialogue post on the NCCEH website

iii. Even though many SOAR caseworkers are not taking cases at the Appeals level, this information is helpful to educate service providers and applicants in the community

b. On-the-Record Favorable Decision

i. At this point in the appeals process, we leave DDS and enter the ODAR system

1. ODAR = Office of Disability Adjudication and Review

2. Separate system than DDS

ii. Review of the PRA slides by Vicki Dunham (start at Slide 16)

1. Slide 17: Steps after a denial at Reconsideration

a. Need to know the reason of denial in order to gather information to counter these reasons

b. Can see decision process on a CD from SSA

c. Linda- at what point do you need to get the CD?

i. Emily- it is important to get the CD ASAP so you can see the reasoning in the process

ii. Emily- may even want to get it before filing for the appeal

iii. Linda- I have a case now that the SSA office won't give it to me even though I'm a 1696 Representative

iv. Linda- SSA told me to wait until the hearing is closer

v. Emily- you can get a CD of information at any time as the 1696 Representation

vi. Emily- CD is important because it will guide you as to what information you need to gather

d. TJ- Our ODAR system in Greensboro is changing

i. You are required to go to a special training because they are no longer going to get CDs of evidence

ii. Special training is coming up in December

iii. Have to have a cell phone to receive text messages

iv. They will give you a website for you to log into to see the evidence for a case, rather than giving a CD

v. SSA may be moving in this direction as well

- e. Aundry- Not the same as the Electronic Records Express program
 - i. ERE is where you send records to DDS
 - ii. At the hearing level in ODAR, you have to get trained in their computer
 - iii. Send a text message to you to let you know when the information is online for your applicants
 - f. Terri- Is this the program where you have to register with ODAR?
 - i. Aundry- Yes, this is the way you can see the information at the ODAR system
 - ii. TJ- it is important to register because what I have heard is that SSA will use the same system in the future
 - iii. TJ- The current trainings are just with ODAR and at ODAR offices (1 hour trainings) but will eventually expand to SSA
 - iv. Emily- Do we know the name of this program?
 - 1. Terri- I was invited to do this before but did not do it because it said a lot about setting up a direct pay account.
 - 2. TJ- I was told by Greensboro ODAR that you do not have to have a direct pay account.
 - g. Emily- I will email our state SSA contact to see about getting more information about the ODAR trainings and the possibility of this system expanding to the SSA/DDS system to keep everyone informed.
 - h. Emily- I will also get contact information for ODAR offices in the state so SOAR caseworkers can reach out to them to see about trainings.
 - i. Emily- Right now, I would encourage people who have been invited and want to participate to go to the trainings.
 - j. Terri- Information on the SSA website:
<http://www.socialsecurity.gov/representation/eFolder.html>
 - k. Emily- Can request an On-The-Record Favorable Decision if you feel like you have enough evidence in the file to prove your case
2. Slide 18- Reasons for Denial
- a. One thing to keep in mind is if the earnings history contradicts the date of onset you are claiming
 - b. Look for incidents where DDS did not omitted medical evidence or did not review all the records on file
 - c. Kathryn- What is the best way to order earnings records?

- i. Emily- you can explain the dire need to the SSA office to see if they can give it to you for free
 - ii. Emily- You can also pay for the earnings history with SSA
 - iii. Aundry- Asheville SSA office is now requiring 6 pieces “identifying” information to speak to you about an applicant
 1. Aundry- DOB, place of birth, address, SSN, mom and dad’s names
 2. Aundry- if you do not know this information, then they will not tell you anything even if you are the 1696 Representative.
 3. TJ- I used to have to provide that but I have not had to answer questions for the last year and a half
 4. Aundry- SSA office manager stated that they are enforcing a policy now that they have not been in the past
 5. Emily- I will email the state SSA contact to see what the policy is for these questions.
3. Slide 19-Timeline for filing
 - a. Use the 60 day period to gather evidence or wait on evidence before filing to make sure you have a strong case
4. Slide 20- Pre-Hearing Based on Age
 - a. Available for applicants who are 55 years or older
 - b. Make sure to submit all the evidence you have ASAP and follow up on status
5. Slide 21- Dire Need can establish need for On-the-Record decision
 - a. Homelessness is a dire need for SSA
 - b. Most of SOAR individuals are going to qualify for dire need
 - c. Terminal illness or imminent death can qualify as well
6. Slide 22- Common Issues
 - a. Address questions regarding Substance Abuse
 - b. Some judges within the system are more sensitive to SA
 - i. Good to network with people within the system to know what the judge’s opinion of SA is
 - ii. The question is still: is the SA material to the disability?
7. Slide 23- Suggested strategies
 - a. Looking for evidence to dispute DDS
 - b. Clarifying letter from treatment provider is great
8. Slide 24- Requesting OTR

- a. Summarize the evidence that you have and propose an On-the-Record decision
 - b. Submit to ODAR with barcode, Electronic Records Express, or with their new system
 - c. Follow up with ODAR about OTR request
- iii. Feedback/Tips about On the Record Favorable Decisions:
- 1. Terri- I've done two OTR with both approved
 - a. Submitted both as dire need because it was processed faster
 - b. Attached evidence to point out severity of physical condition
 - c. One case had discrepancy with the CE
 - i. Medical records stated that there was a problem with range of movement
 - ii. CE never mentioned it
 - iii. Case went to an attorney who made the final decision
 - d. ALWAYS submit as dire need because will be processed faster even if have to go to a hearing
 - i. Emily- Just like the "Homeless" flag with DDS, dire need expedites cases in ODAR
 - ii. Emily- Be mindful that you need to have your medical evidence together and submitted before you request an expedited OTR or hearing
 - e. Look at the evidence to dispute the DDS examiner's decision
 - i. Present the evidence as direct contradiction to DDS reasons for denial
 - ii. Cite or quote the DDS report to show how the evidence contradicts their reasoning
 - iii. Emily- Evidence needs to prove listing AND contradict the DDS decision
 - 2. Katherine- When do you ask for OTR?
 - a. Emily- If a case has been denied at the Recon
 - i. File for an appeal
 - ii. Then, request an OTR based on dire need or age
 - 3. Mike Hosick- ODAR has a national Virtual Screening Unit
 - a. Screening done on cases as they arrive into ODAR
 - b. Attorneys screen to see cases that ought to have been approved at DDS
 - c. Will turn over cases to attorneys from around the country that review cases
 - d. Attorneys that are assigned will call you to get any bit of information they are lacking
 - e. They are able to make attorney level favorable decisions in about 10 weeks

- f. Little to no changes need to be made to the case
 - g. Cases referred to Virtual Screening Unit were those that were proven at DDS level but had a recognizable “incorrect” decision
 - h. Terri- Does the local attorney do the review?
 - i. Mike- screened locally but assigned to attorneys around the country
 - ii. Mike- attorneys tend to be very collegial and collaborative
 - i. Mike- Virtual Screening Unit is a step in between filing for the appeal an OTR decision
 - j. Mike- Virtual Screening Unit started 1 ½ years ago and has about a year left before it needs to be renewed by the commissioner
 - k. Mike- SOAR caseworkers can use the Virtual Screening Unit and OTR decisions to avoid getting attorneys involved in the case
 - l. Aundry- How do you contact them?
 - i. Mike- They contact you.
 - ii. Emily- The Virtual Screening unit will contact the 1696 Representatives for cases that are screened for the Virtual Screening Unit.
 - iii. Emily- A good sign if they call you.
- iv. Review of the PRA slides by William Doub (start at Slide 27)
1. Slide 28- Before Hearing
 - a. Make sure you are the 1696 Rep and know when the hearing is scheduled
 - b. Engagement is crucial at this stage because there is a lot of waiting involved
 - i. Keep weekly or regular appointments with them so they know you are still working on the case
 - ii. Make sure to stay updated on any new medical/mental health information
 - c. If they have retained an attorney, make sure to get a release to speak to them to see how you can help them develop the case
 2. Slide 29- Preparing for the hearing
 - a. The same process of gathering evidence to prove the claimant meets a listing
 - b. Make sure you get up to date/new medical and mental health information for the hearing
 3. Slide 30- Mechanics
 - a. Make sure you are staying on top of communication with judge’s office about hearing and evidence
 - b. Know where/how the hearing will be held

- i. In some rural communities this may involve a video conference call rather than a courtroom
- 4. Slide 31- Other people in the hearing
 - a. Monitor
 - b. Vocational Expert- pay careful attention to what they say in the hearing because may contradict your case
- 5. Slide 32- What the ALJ is looking for
 - a. ALJ- Administrative Law Judge
 - b. All the evidence in the file, including your Medical Summary Report
 - c. MSRs can be crucial medical evidence at the hearing level
- 6. Slide 33- Hearing process
 - a. Hearings can range in their process
 - i. Informal- Judge may not need to hear testimony
 - ii. Formal- needing testimony from applicant, etc.
 - b. Prepare for most Formal to cover bases
 - c. Make sure you are stating evidence and not giving testimony
- 7. Slide 34- Closing statements
 - a. Summarize your argument that this applicant meets a listing
 - b. Show how the disabling condition prevents the applicant from working
- 8. Slide 35- Final Comments
 - a. Don't Panic
 - i. SOAR Caseworkers- that you can work within the ODAR system as a representative as well as with an attorney
 - ii. Applicant- good reminder that the hearing is not an intimidating process and walk them through what will happen that day
- v. Feedback/Tips about ALJ Hearings:
 - 1. TJ- Always prepare a brief that summarizes the evidence and your case for the judge
 - a. Keep to a page and a half
 - b. Point them in the direction of the MSR or even attach it to the brief
 - c. Judges really appreciate this
 - d. Can shorten the hearing process as well
 - e. I can send an example for the group
 - 2. Mike- The hearing is being used to evaluate the credibility of the claimant
 - a. If the claimant is making statements that contradict the evidence

- b. Want them to be as candid and truthful as possible during the process
 - c. I rarely rehearse questions with the claimant so they can be honest in answering
 - d. Emily- good to also mention that the claimant does not need to exaggerate their symptoms
 - e. Mike- make it clear as to the judge at what step in the Sequential Evaluation this person should be approved
3. Terri- Your opening statement should be brief and include the listing that you will be going for in the case
- a. One case I had the judge wanted to see the client to see if they presented themselves like the MSR and medical records describe
 - b. Also be prepared to explain SOAR to the judge
 - c. Judges do a thorough review of the record before the hearing
- vi. SOAR Appeals Outcomes
- 1. 51 outcomes reported at Appeals (31 in 2011 alone)
 - 2. Not the majority of SOAR cases
 - 3. 50 cases approved, 1 Denial
 - 4. 98% approval with average 13 month decision time from the time the application was filed

V. Next Phone Call, Thursday, December 15, 2011, 10-11 am

- a. Register for the next call by following this link: <http://ncceh.org/en/cev/526>
- b. Next call we will discuss how to prepare applicants for awards/income/payees