

YOUR OPPORTUNITY TO BE HEARD ON THE NEW SDMA LAW: BE PART OF THE OPWDD REGULATORY PROCESS



As you know, last July 26 Governor Hochul signed New York's Supported Decision-Making Agreement Law, Article 82 of the Mental Hygiene Law (Good News [7/29/2022]). We were both excited—because it's the most progressive SDMA law in the country— and delighted—because, in large part, it tracks all the provisions of SDMNY's *Principles for SDMA Legislation* (link below). As we've explained, the law doesn't go into effect (including requiring third parties to honor and accept decisions made by persons with approved SDMAs) for a year, and until OPWDD

"promulgate[s]... the rules and regulations necessary to implement this [law] for adults who receive or are eligible to receive services that are operated, certified, funded or approved by the office of people with developmental disabilities." MHL Sec. 82.15(a)

We understand that OPWDD has begun drafting regulations, and is open, indeed welcoming to comments from interested parties, presenting the opportunity for stakeholders to be heard on provisions contained in the law. We encourage members of our community to share their views and concerns with the drafters.

Please note, however, that, unlike the legislative process, this isn't about what you might want in the law, or think should be included (but wasn't). Rather, rules and regulations are intended to implement the law as it is written, and as it has been passed by the legislature. So if you are interested in participating in the regulatory process, you should begin by carefully reading the statute (link below) and referencing the specific section or sections you're commenting on.

A major area for regulations is the form of facilitation that will be required for legislative recognition of decisions made using SDMAs. Of course we are hoping for approval of the 3-phase facilitation process developed and piloted by SDMNY, including the training and mentoring required for facilitators. Comments from Decision-Makers and their families and supporters will, we're sure, be welcome.

There are also issues left open by the law as written. For example, should SDMAs that have already been signed under SDMNY supervision be "grandfathered"? May supporters be paid? (This is especially important for older Decision-Makers who may not have family or other natural supports, but who may have long and trusting relationships with Direct Service Providers.) Should facilitation services be available to immigrants who are ineligible for Medicaid services? Should the provision about who can be a supporter be clarified to include undocumented persons? These are just some of the areas where comments may be useful, but OPWDD will want to hear from everyone about any areas of the law that may need more clarification or detail.

If you want your views on these or any other issues included in the law to be considered by OPWDD during the drafting/promulgating process, here's where/how to submit them.

- You can email them directly to OPWDD's regulatory counsel on the SDMNY project, Haldan Blecher, at haldan.m.blecher@opwdd.ny.gov
- Or you can mail letters to:
OPWDD
ATTN: Counsel's Office/Haldan Blecher
44 Holland Ave., Albany, NY 12229.

The rules and regulations that will implement New York's SDMA law are incredibly important. As people who have been directly involved in the movement to advance the legal and human right of people with I/DD to make their own decisions, and to have those decisions legally recognized, the voices of our community are critical, echoing the famous slogan of the disability rights movement,

NOTHING ABOUT US WITHOUT US!