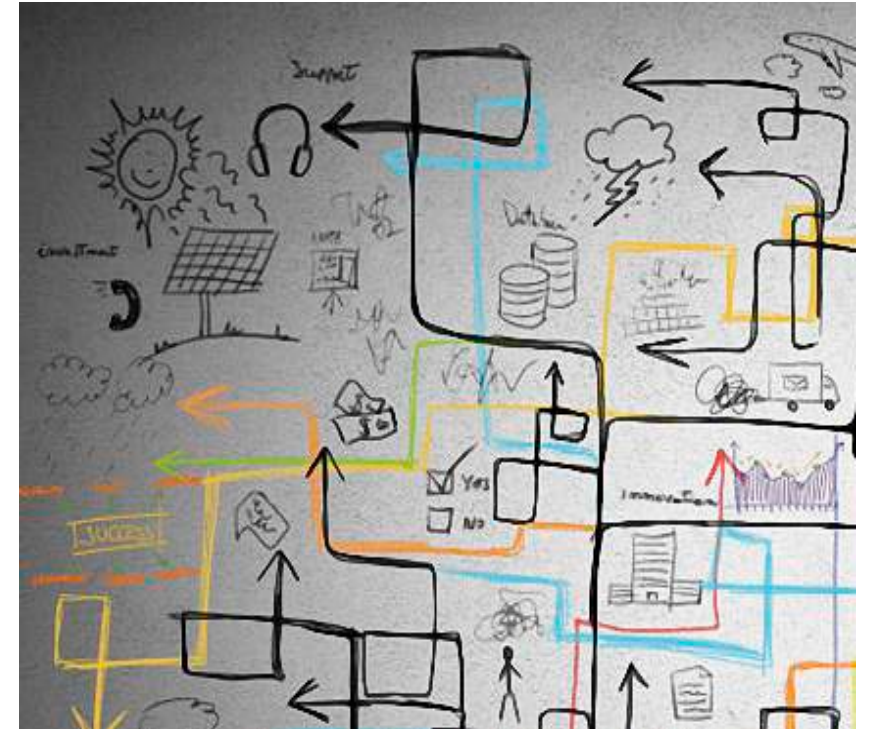


Maintaining & Expanding Choice to Address Conflict of Interest

**DAIL Advisory Board
July 8, 2021**

1. Quick Catch-Up
2. Stakeholder Engagement
3. Choice Model & Added Safeguards
4. Next Steps



Vermont Agency of Human Services

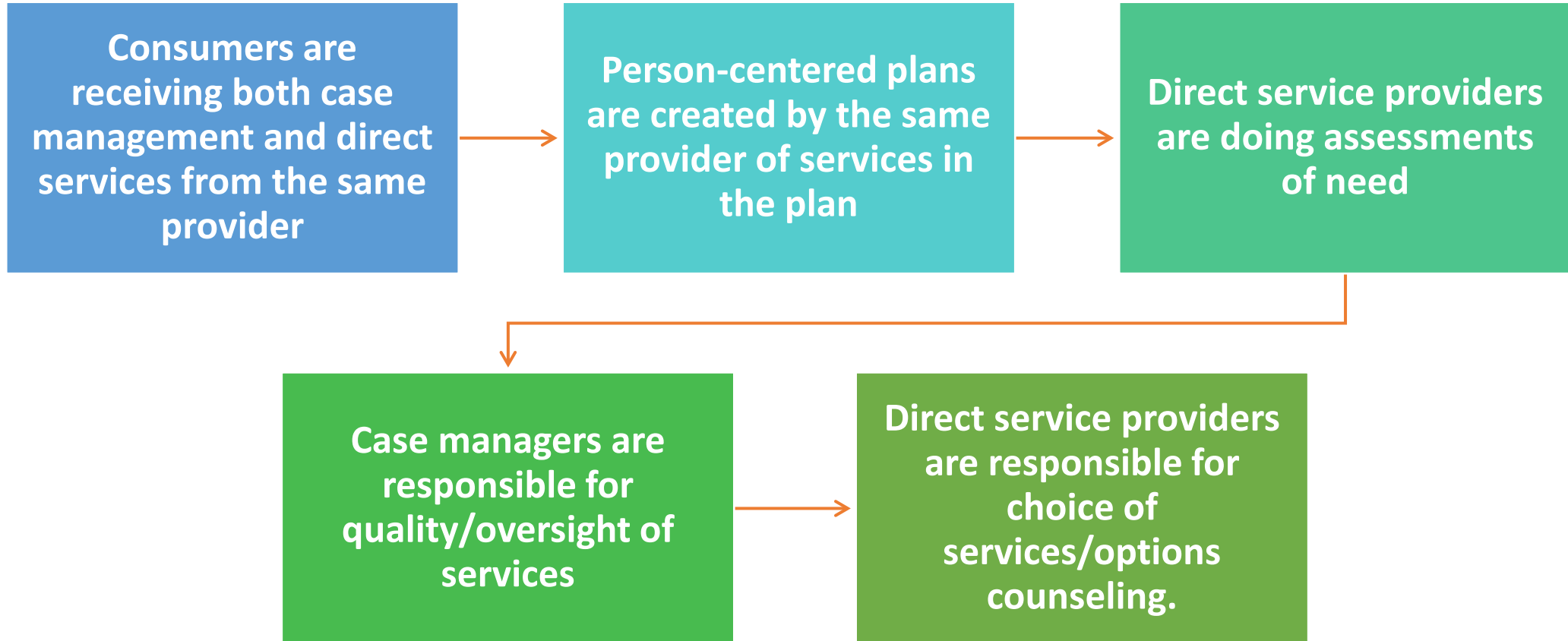
Department of Disabilities, Aging and Independent Living



Quick Catch-Up: What is Conflict of Interest?

- **January 16, 2014**: The Centers for Medicare and Medicaid Services (CMS) issued final regulations on home- and community-based services (HCBS) requirements (79 FR 2947) that includes a requirement that case management be provided without undue conflict of interest.
- **Conflict of interest in Case Management**: HCBS providers that provide both case management and direct services from the same agency are more prone to real or perceived conflict of interest.
- **2019 DAIL stakeholder engagement** plan was implemented in two phases to address conflict of interest in case management across DAIL programs.
- Then the **COVID-19 pandemic** happened.....

Quick Catch-Up: Potential Areas of Conflict



Quick Catch-Up: Developmental Services Overview

Home & Community-Based Services

- Designated Agencies (DA) and Specialized Services Agencies (SSA) are paid to provide or arrange for all covered home and community-based services.
- Payment includes Services Coordination, Assessment/Care Plan Development, Community Supports, Employment Supports, Home Supports, Respite, Clinical Services, Supportive Services and Crisis Services.
- There are over 3,200 individuals receiving DS home and community-based services.
- **Choice of case management agency does not currently exist.**
- **Independent Options Counseling/Peer Navigator and Long-Term Care Ombudsman does not currently exist.**

Quick Catch-Up: Choices for Care Overview

There are currently over 2,100 individuals in home & community-based settings.

About 550 individuals live in Enhanced Residential Care Homes and about 1,985 live in skilled nursing facilities. Long-Term Care Ombudsman Services available to consumers in all settings.

“Traditional” Home-Based

- A case manager helps coordinate a menu of services with the consumer. Care may be provided through a local certified home health agency or if eligible, individuals may hire their own caregivers through the self-managed option. Case management is chosen by the individual from either their local Area Agency on Aging (there are 5) or Certified Home Health Agency (9). **Choice of case management agency currently exists in this option.**

Flexible Choices

- A consultant from Transition II helps create an allowance and budget for services that is managed by the individual or an eligible surrogate. The individual or surrogate acts as the employer and works within their budget to coordinate services to help stay at home. **Choice of case management agency currently exists in this option if the consumer opts to hire a case manager.**

Adult Family Care/Shared Living (AFC)

- AFC is a 24-hour, home-based, shared living option for eligible Choices for Care participants. 11 Authorized Agencies provide service coordination and are paid a daily tiered rate to contract with private, unlicensed family homes that serve one to two people that are not related to the home provider. **Choice of case management agency does not currently exist in this option.**

Stakeholder Engagement – Phase I (2019)

Process

Meetings with stakeholder groups:

- Consumers,
- Families, guardians
- Providers
- Advocacy groups.

Topics covered:

- Information on conflict-of-interest in case management
- Current program structure.

Verbal and written feedback:

- What works?
- What doesn't work?
- Suggestions to reduce conflict?



Results

Robust verbal feedback at in-person meetings.

Limited written feedback

Most common feedback to reduce potential conflict: **areas related to resource allocation – who decides what service and how much.**

Phase 1 feedback was used to inform menu of options for Phase 2 engagement

4 Options for Structuring Case Management

1. Complete separation of CM from direct service provision.
2. Asking provider network to figure out separation of case management and direct service in their regions.
3. Choice of CM separate from or within direct service provider organization, with mitigation strategies.
4. Maintain CM within direct service provider organizations and seek CMS exception.

3 Mitigation Strategies

1. Options for who would complete needs assessments (state or contractors).
2. Long-Term Care Ombudsman (Add for DS, continue for CFC)
3. Options counseling/peer navigation

Phase 1
Stakeholder
Engagement

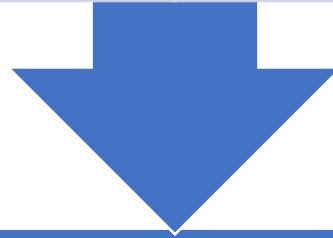
Phase 2
Stakeholder
Engagement

Stakeholder Engagement – Phase II (2019/2020)

Process

Met in person with providers, stakeholders and consumer advocacy groups from across the state and along the continuum of care settings.

Online survey created with stakeholder collaboration to ensure accessibility to consumers, and written feedback.



Results

Opinions were divergent and landed in all areas across the spectrum of options.

Most support was for consumer choice if they want separate case management or not.

Support for all the mitigation strategies, but ombudsman and options counseling/peer navigation most endorsed.

Stakeholder Engagement – Phase 2

Mixed Survey Results - Choice Model

DS Program

- 66 survey respondents supported a choice model compared to approximately 25 who supported complete separation.
- 64 respondents supported maintaining case management at provider agencies and seeking the exception for “only willing and qualified provider.

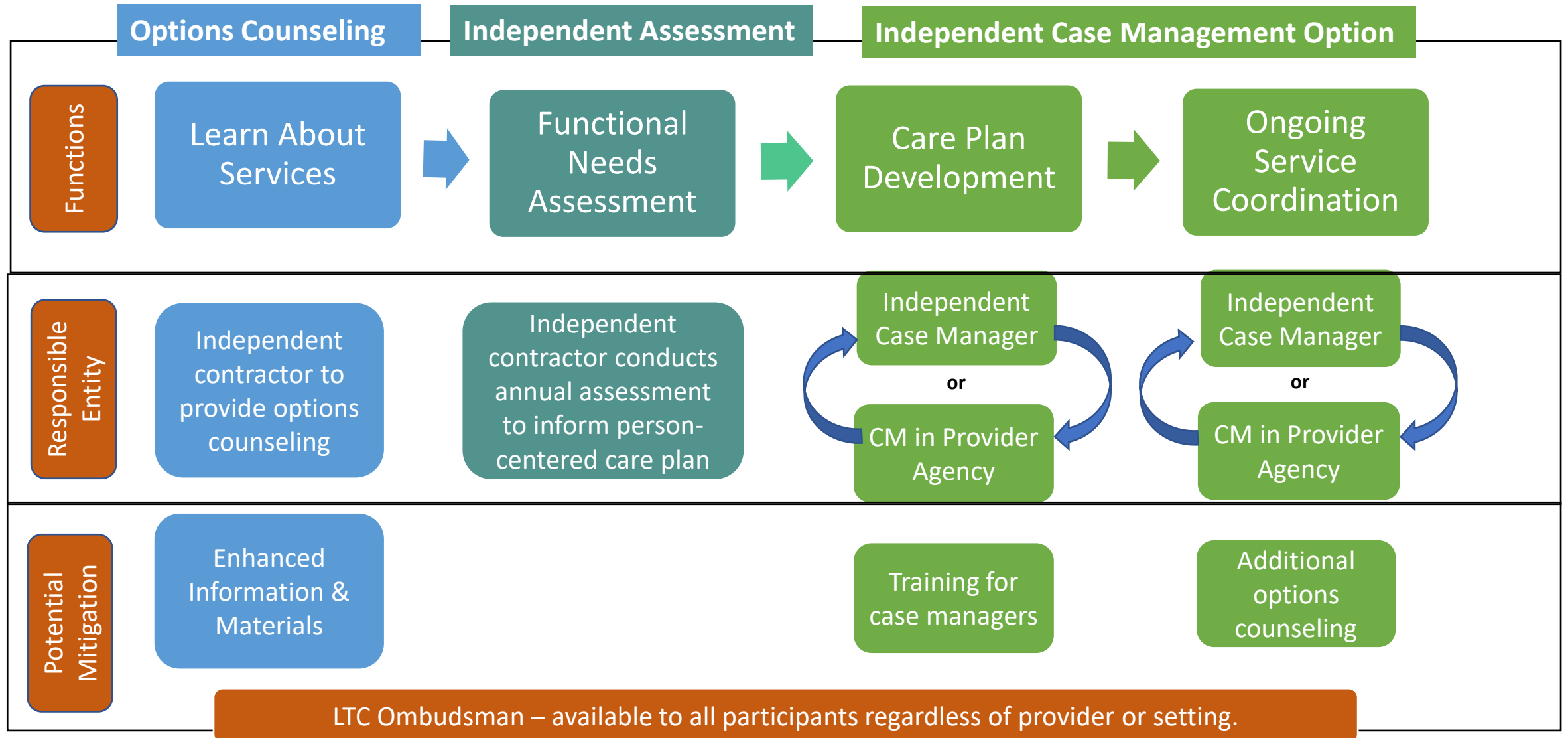
Choices for Care Program

- 60 respondents supported complete separation by the state.
- 37 were against separation. 29 were unsure/unclear.

The Choice Model supports all consumers by offering an informed option to separate case management from direct services.

Adding & Expanding Choice:

Provide *all* individuals the option to choose a case manager that is *separate* from the agency overseeing direct service delivery or is a *part* of the agency that oversees direct service delivery.



Additional Support and Protections

Safeguards when case management and services are delivered under same provider organization.

Structural changes within agencies to separate case management functions from direct service functions – State would approve provider plan.

Enhanced oversight of providers where conflict exists as part of current oversight activities.
[42 CFR 438.71(d)(4)]

Ensure participants are **informed of managed care alternative dispute resolution processes**, including grievances, appeals and fair hearings.
[42 CFR 438.71(b)(ii); 42 CFR 438.71(d)(1) and (d)(2)]

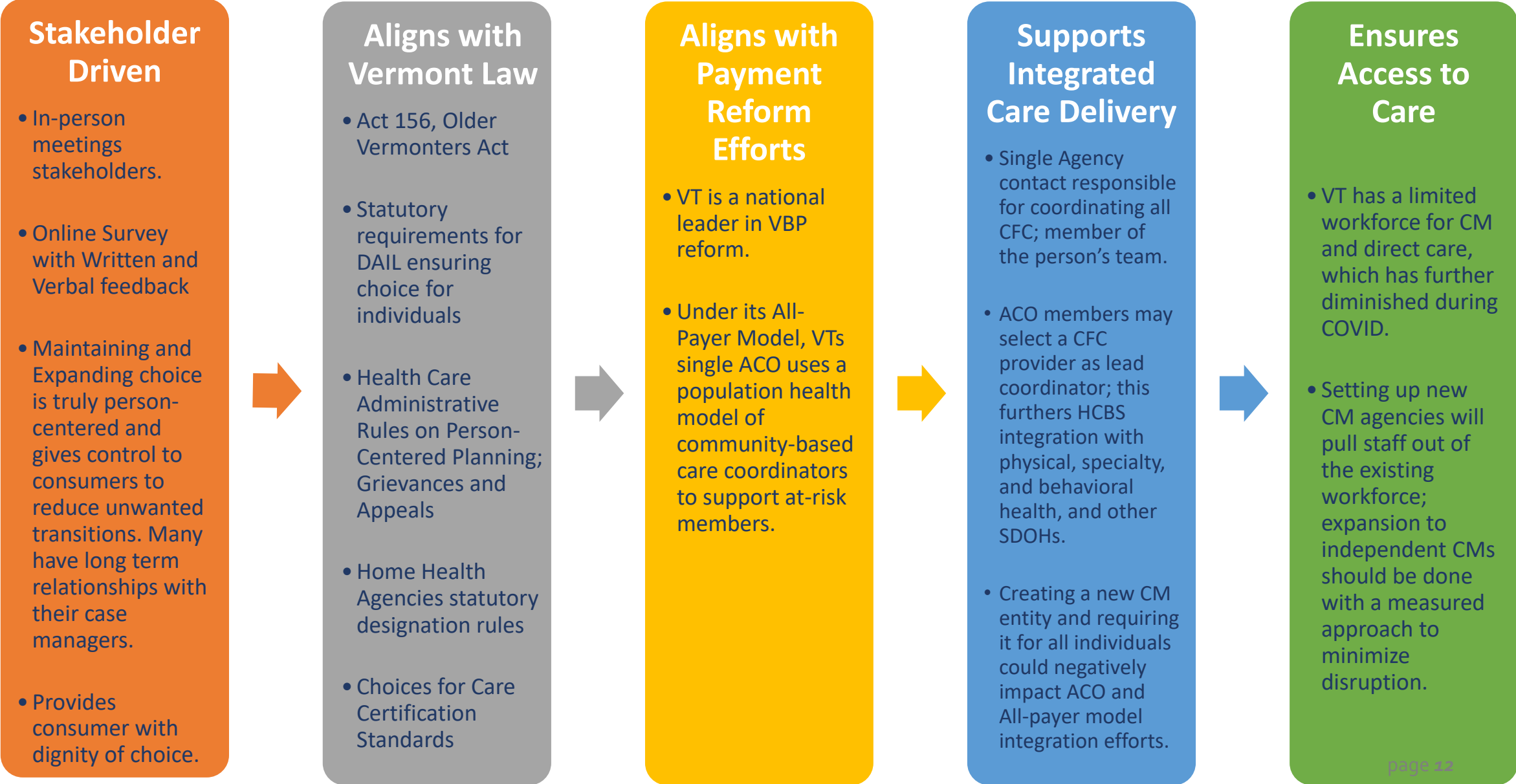
Independent support when conflict arises from the Vermont Long-Term Care Ombudsman or other Legal Aid representation as appropriate.
[42 CFR 438.71(d)(3)]

Continue to require that providers **offer full information regarding choice of providers and range of service options**, including ability to switch providers.
[42 CFR 438.71(d)(2)]

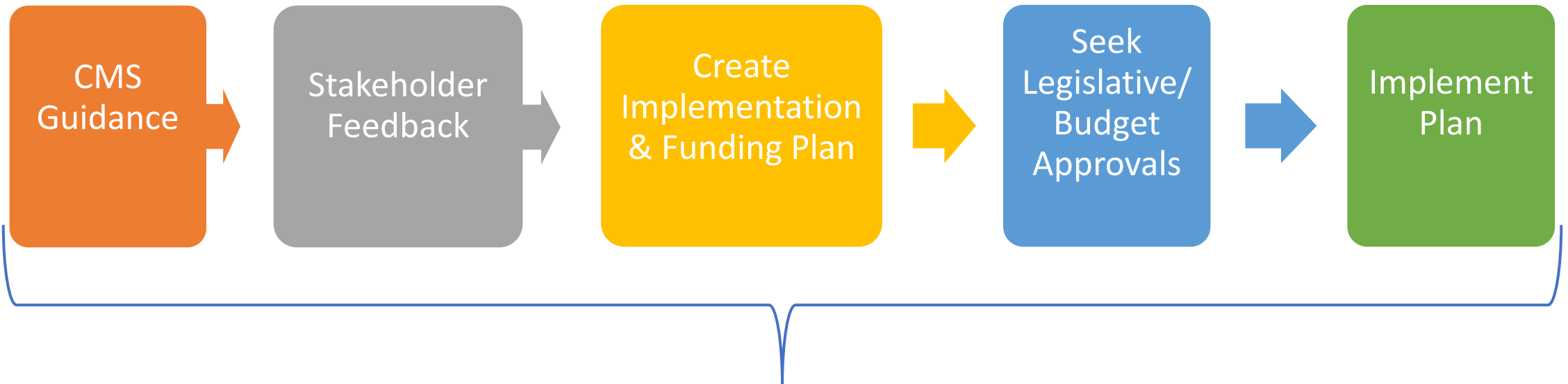
Could be Implemented

Currently Implemented

Adding & Expanding Choice Delivers on Vermont's Values



Next Steps




Timing is dependent upon CMS approval of plan. DAIL plans to seek stakeholder input pending CMS guidance.

Brain Injury Program (BIP)

Vermont's BIP provides rehabilitation and life skills services to help Vermonters with a moderate to severe traumatic or acquired brain injury live successfully in community-based settings.

BIP currently only serves approximately 70 people. There are 12 providers across Vermont providing both case management and direct services.

DAIL has received limited/mixed participant feedback with some participants wanting separation and some wanting things to stay the same.



If the DS and CFC plans are accepted by CMS, Vermont would seek to incorporate similar plan for the BIP (i.e., options counseling, independent case management and long-term care ombudsman).