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Na Seirbhísí Míchumais/An Rannán Cúram Sóisialta,
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14th March 2022

Deputy David Cullinane,
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Leinster House,
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Dear Deputy Cullinane,

The Health Service Executive has been requested to reply directly to you in the context of the following parliamentary questions, which were submitted to this department for response.

PQ 11555/22

To ask the Minister for Health his plans to review service statements compiled following assessments of need conducted pre-2021 following the Court of Appeal decision in C.M. v HSE [2021] IECA 283 (details supplied) to ensure that these service statements have adequately addressed the educational need of the child in view of findings that this section of service statements completed before this decision is unlikely to have been completed in line with the legislation and statutory entitlements of the child considering the position of the HSE prior to this decision; and if he will make a statement on the matter.

Details supplied: which held that when a child seeks an AON and an education need is identified, that the child is entitled to an assessment of their educational needs.

PQ 11585/22

To ask the Minister for Health the number of assessment of need service statements which were reviewed after 12 months but within 24 months of being issued for each year since and including 2016; and if he will make a statement on the matter.

HSE Response

Since the Disability Act commenced in June 2007, the HSE has endeavoured to meet its legislative obligations under the Act. However, as a consequence of a High Court ruling of December 2009, the effect of which was to open eligibility to all children born after 1st June 2002, the number of children aged five and over, and in addition of school-going age, has risen steadily as a percentage of all applications received. At the end of 2011, the figure stood at 26%, while throughout 2021, this figure averaged 53%. This is a reflection that the AON process is an accumulative process in terms of numbers of children seeking access. However, it is acknowledged that the numbers of assessments overdue for completion remain high.

Activity for the year indicates that there has been significant progress in the number of Assessment of Need reports completed during the year, 8,353 by year end 2021. This has led to a significant reduction in the total number of applications 'overdue for completion', which now stands at 1,793 (excluding those applications for which an extended time-frame was negotiated with the parent on the grounds of there being exceptional circumstances as provided for in paragraph 10 of the regulations).

The increase in activity in 2021 can be attributed to the additional funding allocated to the AON process via Slaintecare. This has been utilised to provide additional assessments through a range of options including overtime for



existing staff and private procurement. The total number of overdue AONs has reduced by 63% since this additional funding was allocated.

The HSE has provided a higher number of service statements in 2021 than in any year since commencement of Part 2 of the Act. During 2021 4,220 service statements were completed. The Act requires an annual review of the service statement for each child with a disability. These annual reviews are not captured in the data base system. The HSE is struggling to meet its obligations in this regard as it represents a huge administrative burden.

With regard to the case mentioned in the PQ above, the Court of Appeal decision in the case of C.M. v HSE [2021] IECA 283 relates to the requirement to refer applicants to the National Council of Special Education (NCSE) for an assessment of their education needs as required under section 8 of the Disability Act (2005).

Heretofore the HSE had not arranged such referrals as the corresponding sections of the Education for Persons with Special Educational Needs Act (EPSEN) (2004) have not been commenced. The HSE and Department of Health are continuing to engage with colleagues in the NCSE and Department of Education to clarify the pathway for these referrals.

The recent Court of Appeal decision does not refer to the provision of service statements. As stated in section 11(6) of the Disability Act *“a service statement shall not contain any provisions relating to education services where the subject of the statement is a child.”*

Standard Operating Procedure for AON

An internal HSE review of the practice of implementation of Part 2 of the Act in 2016 confirmed anecdotal evidence that the approach to AON was not consistent across the country. It was apparent that practice varied widely across the 9 Community Health Organisation (CHO) areas as well as within CHO areas. While a large number of “Guidance Notes” regarding AON processes had been issued since 2007, there had been no nationally standardised or agreed definition of an Assessment of Need. This led to an inconsistent approach to assessment as well as inequity in terms of time afforded to ‘assessment’ versus ‘support or treatment’ interventions with children and their families.

To help address this situation, the HSE has implemented a Standard Operating Procedure (SOP) for the Assessment of Need process to ensure that;

- Children with disabilities and their families access appropriate assessment and intervention as quickly as possible.
- The approach to Assessment of Need is consistent across all areas.

In line with this procedure, Stage 2 of the Assessment of Need process comprises a Preliminary Team Assessment that will identify initial interventions and any further assessments that may be required. This preliminary assessment will usually be undertaken by a children’s disability service that are also tasked with delivering intervention. The Standard Operating Procedure provides an indicative timeframe for this assessment, however, the format for each assessment is a matter for the assessing clinicians and will be based on the information provided through the stage 1 desktop assessment. While not required by the Act, diagnostic assessments will continue to be provided, as appropriate, and these will be captured in the child’s Service Statement as part of the Assessment of Need process.

These changes are intended to alleviate the current situation where children in some parts of the country may wait a number of years before they can access an assessment. During this waiting period, they often have little or no access to intervention or support. It is intended that the changes in the SOP, particularly the new preliminary assessment, will facilitate children with disabilities to access assessment in a timelier fashion.

Overall Reform of Children’s Disability Services

The implementation of the Progressing Disability Services for Children & Young People (PDS) programme is agreed Government and HSE policy. This policy supports the reconfiguration of children’s disability services to provide equitable, child and family centred services based on need rather than diagnosis. This aligns with the UN Convention on the Rights of People with Disabilities.

The Progressing Disability Services for Children and Young People (PDS) model addresses the previous inequity in service provision whereby there may have been an excellent service for some children and little or no service for others. This variance may have been linked to diagnosis, age group or geography. Under the PDS programme



children's disability services are changing from diagnosis based to needs based, so that all children with a disability or developmental delay have access to the right service based on their needs no matter where they live.

PDS is a significant change programme for the provision of services and supports for children from birth to 18 years of age, in line with Sláintecare and the Programme for Government, in order to:

- Provide a clear pathway and fairer access to services for all children with a disability
- Make the best use of available resources for the benefit of all children and their families
- Ensure effective teams are working in partnership with families and with education staff to support children with a disability to reach their full potential.

PDS aligns with two clear objectives of The Sláintecare Report to:

- Provide the majority of care at or as close to home as possible
- Create an integrated system of care with healthcare professionals working closely together.

The National Policy on Access to Services for Children & Young People with Disability & Developmental Delay ensures that children are directed to the appropriate service based on the complexity of their presenting needs rather than based on diagnosis. Many children with a disability who have support needs can be effectively supported within mainstream health services. This policy provides a single point of entry, signposting parents and referrers to the most appropriate service (Primary Care for non-complex functional difficulties and Children's Disability Network Teams for complex functional difficulties).

Children's Disability Network Teams (CDNTs)

In 2021, ninety one Children's Disability Network Teams (CDNTs) were established to provide services and supports for all children with complex needs within a defined geographic area.

CDNTs are teams of health and social care professionals, including nursing, occupational therapy, psychology, physiotherapy, speech and language therapy, social work and others. The team will work closely together in a family centred model, focusing on the child's and family's own priorities. Every child with complex needs will have access to a team, regardless of the nature of their disability, where they live, or the school they attend.

Children and their families will have access to the full range of services and supports of the CDNT according to their individual needs. This includes universal, targeted and specialist supports, such as individual therapeutic intervention and access to specialist consultation and assessment when needed. Supports will be provided as is feasible in the child's natural environments - their home, school and community

Yours sincerely



Bernard O'Regan
Head of Operations - Disability Services,
Community Operations