

November 15, 2021

Julie Mochon  
Department of Human Services  
Office of Developmental Programs  
625 Forster Street, Room 510  
Harrisburg, PA 17120  
RA-odpcomment@pa.gov

Dear Ms. Mochon,

Thank you for the opportunity to comment on the proposed amendments to the current waivers for people with intellectual disabilities and autism (ID/A), fee schedule rates, and rate setting methodology. We appreciate the commitment to make permanent certain provisions adopted under Appendix K of the existing waivers permitted by changes to the Social Security Act as amended by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Enabling and allowing facilitation of remote services through technology and permitting critical Home and Community Based Services (HCBS) for individuals in hospital settings are welcome changes.

To further support remote services and the inclusion of services for children with medically complex conditions, we recommend specific provisions be included in the proposed waiver amendments that address high-speed internet, necessary hardware adaptations, or other secure data connections necessary to support these services. Reliable and secure transmission for remote monitoring, evaluation of clinical data to monitor complex conditions, and support for telemedicine capabilities is a critical element that should be reimbursable under the waivers.

For newly proposed Transition to Independent Living payments, we request the publication of details regarding the payment determination method. Staffing costs to support remaining individuals in the residential settings will vary and this will ultimately affect the ability of providers to meet other fixed costs to support the remaining individuals in the residence. We recommend that financial impact be evaluated for all qualifying transitions and that any reasonable shortfall be supplemented through an exception process.

Regarding the rate setting methodology for fee schedule rates, we note there are no material changes proposed. Fee schedule rates are to be established using a market-based approach so that payments are consistent with efficiency, economy and quality of care and sufficient to enlist enough providers to ensure choice and availability for participants. Under prevailing rates in the current economic environment this standard cannot be met consistently.

Current rate setting methodology cites the use of “Commonwealth-specific compensation study” data; however, the state is the primary financial resource for wages meaning that surveys reflect only what contracted providers can afford to pay under the fee schedule. To supplement this resource, Pennsylvania has routinely used published data from the United States Department of Labor, Bureau of Labor Statistics (BLS) database; however, there is currently no specific Standard Occupational Classification (SOC) Code in BLS data for a Direct Support Professional (DSP) providing care to people with ID/A in HCBS programs.

Based on data from June 2021, Pennsylvania’s owned and operated State Centers pay their workers an average hourly wage of \$18.66, versus only \$14.38 for DSPs working in HCBS settings. State center wage data is not used in rate development for HCBS despite the similarities in the work performed, sources of funding, and the individuals served. Workers providing services in the Pennsylvania State Centers are the most comparable positions to DSPs available and should be included in rate development and in the routine analysis of HCBS workforce investment calculations by the state.

As noted in the waiver descriptions the intent of the HCBS waivers is *“to emphasize deinstitutionalization, prevent or minimize institutionalization and provide an array of services and supports in community-integrated settings.”* Establishing pay equity with state-operated programs through the rate setting process is a reasonable measure to provide a compensation benchmark for community services and address the market-driven provisions specified in regulation that address the development of fee schedule rates.

It is recommended that ODP modify the application of its rate setting methodology to include wage and compensation data for DSP-equivalent positions in the Pennsylvania State Centers as the only currently available market reference for DSP wages available to the Commonwealth. It is further recommended that rates be evaluated annually against prevailing market conditions and economic indicators to assess whether or not a fee schedule rate update is warranted under regulation. This would ensure that rates and DSP compensation remain competitive in order to provide needed care and services to all eligible participants.

Thank you for your consideration and the opportunity to provide these comments and recommendations, and for the ongoing support to people with disabilities provided by the Office of Developmental Programs and the Commonwealth.

Sincerely,

*Patrick DeMico*

Patrick DeMico, Executive Director