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July 10, 2023

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By Email to: pwodp_outreach@pa.gov
Subject: Selective Contracting Concept Paper Comments

Dear Ms. Mochon,

Thank you for the opportunity to provide comments on the Selective Contracting Concept Paper issued through ODP Announcement 23-042 on May 24, 2023. We are grateful for the opportunity to provide feedback and recommendations regarding the information that has been provided thus far. We further appreciate the stakeholder representation and multiple opportunities that Strategic Thinking Workgroup members will be afforded to deliberate and critically examine the concept and processes intended to be developed through this initiative.

General Comments and Recommendations

Investment in DSP Workforce

We recognize and fully support the inclusion of *Implement Strategies to Support Workforce* as a primary goal of Selective Contracting. It is essential that regardless of performance levels or preferred tiers, that the base level fee schedule rates equitably fund Direct Support Professional (DSP) wages at a competitive level for all service providers.

To this end, we recommend that the concept paper be amended to specifically include investment in the DSP workforce through a commitment to update market-based data upon which rates are to be developed in accordance with prevailing ODP regulations. This would enable Selective Contracting to be implemented from a more secure foundation and enable the ID/A system to reset fees with a greater understanding of the lasting impact of the pandemic and its influence on the broader service economy. This would also better support and facilitate the other stated primary goal: *Sustainability and Improving Service Quality*.

With the regulatory requirement to update the data used to establish fee schedule rates at least once every three years and the expectation that new rates would need to be effective no later than January 1, 2025 there is no reason to delay a rate review. Due to a combination of factors involving the application of Bureau of Labor Statistics (BLS) occupational codes, the current fee schedule rates omitted a significant portion of inflation when they were enacted on January 1, 2022. Actual inflation since that inception date has increased by an additional 8% over the past 17 months for which U.S. Department of Labor data is available (USDLE-23-1301 published June 13, 2023). Inflation alone warrants a review and update of fee schedule rates.

As fee schedule rates fall farther behind inflation, there are fewer DSPs resulting in fewer services to fewer people. The resulting surplus of funds at the state level places ODP in a position to increase fee schedule rates within its existing appropriation. This would better support the system now and establish greater confidence within the ID/A community as Selective Contracting proceeds along its ambitious timeline.

Clarity of System Design

An organizational chart illustrating the system design that ODP has described in its Concept Paper would be helpful in conveying the overall structure and relationships that ODP intends to utilize, such as the External Administrative Vendor relationship to Administrative Entities, existing ODP information systems, and any direct contact with or access to data by providers. Similarly, process maps to define and illustrate the functions to be performed in the new Selective Contracting service model would be useful to understand the concept and inform modifications going forward.

Existing ODP Policies & Regulations

It is recommended that a future revision of the Concept Paper include a summary or analysis of the expected impact and implications of Selective Contracting on existing ODP policies and prevailing regulations. While it may be too early to determine a significant portion in advance of the model's full development, policy areas such as the Supports Intensity Scale, Needs Group Assignments, Needs Exception Allowances, Health Risk Screening Tool, and other practices and policies that currently align the level of care with payment would likely affect existing policies and/or regulations. Identifying these areas in advance may present opportunities to streamline certain processes to improve efficiency or enable simplification.

Workgroup Composition

We recommend continued evaluation and review of the workgroup composition to ensure that it remains diverse and balanced in its representation of the provider community. We further request that representatives from Mercer Consulting, NASDDDS, resources accessed from other states, and other subject matter experts working with ODP be available to and included in discussions with workgroup members so that they may benefit from their knowledge and expertise as options are being explored and considered in the development of the Selective Contracting model.

Specific Recommendations to the Concept Paper

Pay for Performance

It is understood that four tiers are under consideration for Residential providers and that the top two tiers would qualify for enhanced payment rates. We recommend that the tier structure be included and clearly defined within the Concept Paper. As the performance standards and metrics are further developed it is requested that periodic reporting be communicated or posted to the ODP website so that the broader community can review updates and changes as they are being approved or considered for adoption.

Specific details on tiers and the reasoning and support behind the defined differentials should be shared widely, as well as considerations for specific contract language for preferred tier providers and the time frame for which enhanced payment rates would be available to providers in the event of tier changes or other factors that may affect preferred status. Once again, we emphasize that references to the existing Fee For Service rates for the lower tiers must be sufficient to fund DSP wages at a competitive level.

Separate from enhanced payment rates, the Concept Paper more specifically identifies Potential Pay for Performance Standards, and which performance areas are currently under consideration for Pay for Performance. For each of the areas qualifying for pay for performance, we recommend that outcomes be emphasized and be the primary consideration upon which incentive payments are developed and determined.

We are pleased that Technology is included for consideration for those providers using Remote Supports. We further recommend the inclusion of Assistive Technology as a potential Pay for Performance area to promote its broader use and adoption. Beyond technology considerations we note that ODP has expressed its desire and intent to “reduce reliance on service models highly dependent on traditional staffing.” Much of the current system is based upon needs assessments that continue to rely on staffing levels and ratios to determine appropriate funding. Innovation will be essential to complement traditional staffing and alternatives that yield comparable outcomes must be funded appropriately. ODP systems and processes must support and incentivize innovation in order to achieve this objective.

Data Management

Opportunities to streamline data management and adopt common applications for physical health, mental & behavioral health, and medical record management are recommended. Integrated care solutions for the ID/A community are likely to require systems and resources that service providers may be unlikely to access on their own.

In reviewing the guiding principles of the Everyday Lives recommendations, Page 4 of the Concept Paper states,

Recognition that while individuals and self-advocates with I/DD have medical, mental health, and dental needs that require medical services, the goal of home and community-based services is to enable people to live and engage in community life.

Supporting people in their everyday lives involves health and wellness. Systems and databases that track health and wellbeing support overall health, which is integral for everyone to engage in community life. We recommend as part of the Selective Contracting review and implementation process, that all opportunities to leverage existing technologies and databases that are already serving the ID/A community be evaluated for expansion and integration as part of a broader integrated care solution.

Timeline

We recommend that prerequisite activities be included on the timeline and that these include fee schedule rate adjustment activities to ensure that the newly adopted system is properly resourced and the budget to support it is fully approved in advance of its implementation. We further request that the provider community receive proper notice of any changes or expected delays well in advance of changes to the greatest extent possible.

Future Work

For each of the identified areas in this section of the Concept Paper we request that ODP publish, post, and distribute information for stakeholder review. To the extent that documents are produced for implementation and use by providers, or consultant reports and actuarial studies are prepared, we likewise request that this information be made readily available so that we may remain informed as new developments emerge and progress toward implementation proceeds.

While it is clearly stated that “ODP intends to contract with the current enrolled providers at the time immediately preceding the 1915(b)(4) effective date,” the Concept Paper is equally clear that,

The selective contracting authority allows state Medicaid programs to determine specific criteria for provider contracting under their fee-for-service delivery system thereby creating restrictions on who can provide the service. This has the effect of removing the requirement of contracting with any willing and qualified provider per Section 1902(a)(23) of the Social Security Act.

As there will undoubtedly be unintended consequences once Selective Contracting is implemented, we request that no current providers are penalized or limited in any way from providing services being rendered at the time of implementation. We further request that all providers meeting current licensing and performance standards be afforded the opportunity to maintain their active provider contract status with ODP, and that all who wish to pursue Selective Contracting requirements have the opportunity to do so.

Thank you for your time and consideration of these comments and recommendations. We greatly appreciate the ability to participate in this process toward improvements and enhancements to benefit service providers, families, and everyone served by and needing service from the community ID/A system. Please feel free to contact us with any questions or clarifications that you may need.

Grateful regards,

Patrick DeMico

Patrick DeMico
Executive Director