Fee Schedule Rates
Recommendations for ODP Rate Review
September 29, 2023

One August 24, 2023 the Pennsylvania ID/A associations sent a joint letter to ODP Deputy Secretary Kristin Ahrens requesting an immediate review of fee schedule rates. On September 8, 2023 citing the clear and compelling need to invest in our workforce, and his commitment to support individuals and families more effectively across our ID/A community, Governor Josh Shapiro announced that he had ordered this immediate review.

On February 1, 2023 after analyzing a full year of service under the existing fee schedule rates and analyzing documents that became available under PA Right to Know Law, TPA issued a Fact Sheet highlighting the material errors and omissions resulting from the 2021 rate analysis and the further impact of 6.5% inflation experienced in 2022. That data and information is now being updated to inform recommendations to the current rate setting process.

The following is a review of items previously identified with updated information and recommendations to guide the current rate setting process.

1. **<u>Discounting of Previous Fee Schedule Investment</u>**

   The investment resulting from the previous rate review conducted by Mercer Consulting in 2021 for rates effective January 1, 2022 was discounted to the amount of available American Rescue Plan Act (ARPA) funds allocated to ODP ($400M) and assumptions were revised accordingly. ODP should use a market-based approach to determine sufficient rates capable of delivering quality services to its ID/A community and the Commonwealth should fully fund the amount determined by this analysis. This must include all ten required elements identified within Title 55, Chapter 6100.571(b) necessary to sustain the community system, trend all rates using available inflation data, and account for the impact of inflation going forward.

2. **<u>Adoption of the 25th Percentile</u>**

   For the majority of services Mercer used the 25th percentile to establish lower bound wages. As noted in published residential rate assumptions this equates to an hourly wage of $14.78 for DSP with High School Diploma, which includes an overtime factor of 5% and is actually based on the Philadelphia minimum wage of $14.25 (.75 Full-Time x .05 Overtime = .0375 Overtime Factor; $14.25 x 1.0375 = $14.78). For all CPS services this hourly wage is $15.00.

   The Mercer review is not an analysis of a broader service network, within which ODP services are one component. The rate review involves ID/A services exclusively. Given that the research and calculations performed by Mercer are intended to replicate DSP services and costs, there is no reason or justification to set wages for any service at the 25th percentile. ODP should set all rates at or above the published median or 50th percentile. To promote the desired quality and sustainability expressed by ODP and supported by stakeholders across the ID/A community system, rates should always be set above the 50th percentile.

3. **Use of Federal Wage Data from US Department of Labor, Bureau of Labor Statistics (BLS)**

In the 2021 rate review BLS Standard Occupational Classification (SOC) codes and weightings were used to replicate DSP wages in fee development. The SOC codes and titles previously applied to the DSP position for Residential Services were,

21-1093	Social and Human Services Assistants
31-1133	Psychiatric Aides

Updating these same codes using the May 2022 published report from the US Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wage Statistics (OEWS) yields the following,

	Average Wage	50th percentile	75th percentile
21-1093	$20.00	$18.52	$22.66
31-1133	$18.57	$17.86	$22.27

As the most recently published annual BLS data is from May 2022 the state should also properly trend this data to current inflation. From May 2022 through August 2023 inflation according to BLS published data (CPI-U City Average, Mid-Atlantic Region) has increased by 5% (Index values Aug 2023 (307.026)/May 2022 (292.296) = 5.03% Increase)

The Mercer analysis should also evaluate what the state pays its own workers who perform similar duties for the ID/A population at PA State Centers. The most recent state contract for PA Human Services workers awards 22.1% in wage increases over the next four years. The current starting salary range for a Residential Services Aide (RSA) at PA State Centers serving ID individuals, according to a current posting on the Commonwealth of PA website for a second shift RSA position at Selinsgrove Center, is $37,399 - $51,722, which translates to a 40-hour work week hourly wage range of $17.98 – $24.87. State employees also receive a comprehensive benefit package at a greater cost to the Commonwealth than the amounts reflected in current community rate assumptions, including a defined benefit retirement plan.

4. **Inflation**

Mercer previously analyzed published wage data from May 2020 and trended forward to January 1, 2022 by a factor of 3.5%. Actual inflation over that same period (May 2020 through December 2021) was 8.74%. Updating CPI-U data through August 2023 cumulative inflation since May 2020 is now 19.75%. ODP rates adopted effective January 1, 2022 included no consideration for future inflation. During the period January 2022 through August 2023 inflation has increased by 9.9%

After correcting issues identified in these recommendations, all ODP rates should reflect at least the amount of inflation not included in its current rates (19.75% - 3.5% = 16.25%). It should then ensure that rates are adjusted annually thereafter by applying the CPI-U factor in each subsequent year rates remain effective. This is consistent with currently proposed legislation in PA Senate Bill 684 and PA House Bill 661.

CPI-U is the appropriate cost of living index to ensure wages keep pace with the increased cost of goods and services and is the same index proposed in Executive Order 2016-02 as amended January 25, 2022 to index the proposed Pennsylvania minimum wage and the wages of all government contractors.

5. **Overtime, Replacement Cost, and Vacancy Management,**

Current ODP rate assumptions cite replacement costs identifying a 24% staff turnover rate, 7-10 training days, 3 new hire training days, 10-25 PTO days, and 11 federal holidays per year, per employee. The 5% overtime factor adopted by ODP in current rate and wage assumptions does not sufficiently cover these replacement cost assumptions.

In developing service fees based on its wage and overtime assumptions, Mercer limited the overtime assumption to full-time employees earning up to $35,568 annually, incorrectly presuming that any position earning more would not qualify for overtime pay. The Fair Labor Standards Act (FLSA) does not permit exemption from overtime for certain positions based on the nature of their duties and responsibilities, regardless of the amount earned. Currently proposed federal legislation would increase the exemption threshold to $55,068, which would significantly impact provider costs for supervisory positions currently classified as exempt, and similarly impact current rate assumptions even under the current ODP interpretation.

A current analysis of the PA ID/A workforce must be used to ensure actuarily sound wage and workforce data are applied in the development of wage, overtime, and replacement cost assumptions. ODP should also review its interpretation of the FLSA pertaining to the DSP role to modify overtime assumptions and rate calculations accordingly.

6. Equitable Distribution of Investment into Rates

The impact on individual rates based on the previous investment varied by percentage from 0.9% to 36.26%. The use of ARPA funds in the previous rate adjustment required that no fee schedule rates could be reduced. ODP must equitably apply a market-based rate increase to all services that require DSPs to deliver care and support. As noted in the inflation section of these recommendations, every rate should receive at least an adjustment commensurate with accumulated inflation.

7. Racial and Social Equity

A recent study on the composition of the PA community DSP workforce indicated that it is 72% female and 34% Black or African American (NCI IDD 2020 Staff Stability Report, HSRI/NASDDDS).

Each of these measures represents a disproportionately high level within our workforce compared to mean job data for other industries. By setting community rates at the 25th percentile while paying its own ID workers a higher rate of pay through its collective bargaining agreement, the state is institutionalizing lower pay for these racial and demographic groups, using the same federal matching dollars to serve the same population at its state owned and operated facilities.

PA should ensure that its community-based, private-sector workers are equitably compensated compared to its State Center workers performing the same duties and consider the community PA DSP workforce racial and demographic profile in developing its pay practices to promote racial and social equity.

8. **Health Insurance**

The rate assumption for health Insurance monthly expense was reduced from $617 per month in the 2017-18 fee schedule rate assumptions to $571 per month for the current fee schedule rates effective January 1, 2022. Numerous studies and projections refuted this assumption at that time, and actual cost trend data is now available to support further increases in health insurance costs for employers. The need to invest in DSP wages has required many organizations to significantly reduce benefit plans and charge higher deductibles and co-payments to their employees.

Rate assumptions should use insurance industry data to model an equitable benefit plan design to determine its cost using the required market-based approach. It should also include among its data sources the cost of benefits the state pays for its own workers in similar positions.

9. Administration

Administrative cost included in all rates was set by formula at 10% of the program expenses defined in rate assumptions. This factor does not consider the complexity of Medicaid HCBS programs, or the state and local requirements imposed on providers. Selective Contracting and the forthcoming federal requirements outlined in SMD Letter 22-003 to define an HCBS Quality Measure Set will have a further impact on administrative functions and costs, which along with other pending federal proposals, must be considered in evaluating the data used to establish rates under regulation.

A complete analysis of the requirements, time, and costs to administer the HCBS Medicaid program in PA should be undertaken as part of the rate review and fee development process. A partial list of specific administrative requirements of ID/A providers appears in the System Simplification section below. Once a full analysis has been completed the reasonable cost of these functions should be accurately captured and reflected in rates versus the adoption of a standard administrative factor.

10. <u>Supporting People with Complex Needs</u>

Most people with complex needs require 24-hour care and many are served in a licensed residential setting. In the previous rate update the average rate increase for residential habilitation for needs group 4 (NG4), the highest acuity-based rate level on the ODP fee schedule, was 8.75%, which was below the average percentage investment in rates overall.

While the service system should support and promote the development of alternatives to traditional residential care, it remains the primary means of supporting the majority of people with complex needs. This is acknowledged by the new recommendations affecting residential services proposed under selective contracting, such as a credentialed workforce and an electronic health record. Assumptions, cost estimates, and investment into rates must include all requirements and the array of specialty supports necessary to support people with complex needs.

11. <u>Waiting List</u>

Currently 12,880 people, representing every county in this Commonwealth, need intellectual disability services that they are unable to receive at this time (pawaitinglistcampaign.org). Only through building sufficient system capacity can the waiting list be eliminated. In the recent closure of the PA State Center located at White Haven all residents were transferred to the remaining State Centers, where wages are higher than in community ID/A services also funded by the state. A comprehensive plan must be developed to build the necessary community service capacity to support every individual and family in need.

12. **<u>System Simplification</u>**

In addition to standard general administrative functions that keep businesses operating efficiently and compliant with best practices and prevailing law, the ID/A system in Pennsylvania and the related Medicaid authority governing HCBS programs require comprehensive administrative functions to support licensing, risk management, compliance, electronic visit verification (EVV), quality assessment and improvement (QA&I), incident management, regular assessments using the health risk screening tool (HRST) and supports intensity scale (SIS), coordination with physical and behavioral health systems, and many other regulatory and program policy mandates. Additional requirements under consideration at this time for residential programs include mandatory DSP staff credentialing programs and the required adoption of an electronic health record (EHR).

Administration and oversight of the community ID/A system must be thoroughly evaluated with the intent to reduce and eliminate non-essential functions and activities that have no direct relationship to quality or outcomes. Broad mandates beyond basic health and welfare result in higher costs to the system and those who must operate within it. Eliminating non-essential and duplicative requirements will result in administrative savings that organizations can reinvest into services to produce better outcomes for individuals.

13. **Technology & Innovation**

Existing technologies and databases should be leveraged for their potential benefits to ID/A services and the individuals who receive them. On an individual basis reimbursement policy should promote the adoption of assistive and enabling technologies. Rates should support and incentivize people and organizations to adopt a technology-first approach and philosophy to promote more individualized care and greater independence.

Financial and administrative barriers should be removed and eliminated wherever possible to best support and promote the adoption of technology for individuals. Similarly, innovative practices among providers and families should be encouraged and incentivized to deliver care in a safe and supportive environment that respects individual needs and preferences.

14. **Immediate Implementation of Rate Update**

In June of this year PA House Bill 611 reduced the Intellectual Disabilities Community Waiver Programs line item of the proposed PA budget in the current fiscal year by $170 million. With federal matching dollars this translates to $370 million which could have been used to fund fee schedule rate increases in this fiscal year. The reimbursement rates supporting ID/A are currently too low, which has depleted the DSP workforce to dangerously low levels, causing significant reductions in critical services. As a result, the state is providing fewer services and spending less. Economically, the reimbursement rates for ID/A services are lagging behind inflation by 16.25% and fall farther behind each month. An immediate rate increase is needed. After the necessary amount of investment has been determined rates should be increased immediately, retroactive to July 1, 2023.

These recommendations are intended to inform discussion and dialogue with the Office of Developmental Programs and among all stakeholders and others invested in the success of the ID/A community. We recognize this is not an exhaustive list of issues regarding rates and the rate setting process and encourage all stakeholders to advocate and provide comments directly to address their specific concerns. In summary, it is essential in the current rate review that the Commonwealth:

- Conducts a full market-based analysis to update rates as required under regulation.
- Fully invests in fee schedule rates based on economic data and its stated goals.
- Ensures rates are adjusted for inflation going forward.
- Implements updated rates retroactively to July 1, 2023.

For more information or to learn more about how to support efforts to increase funding for our workforce and the many people who rely on them for care and support please visit our website or contact us directly.

The Provider Alliance
www.provideralliance.org