ID/A COALITION

THE INTELLECTUAL DISABILITIES AND AUTISM SERVICES COALITION OF PENNSYLVANIA

June 4, 2012

Good morning, Chairman DiGirolamo, Chairman Cohen, and members of the Committee. My name is Gene Bianco, CEO of the Pennsylvania Association of Rehabilitation Facilities. My colleagues with me this morning from the Intellectual Disabilities and Autism (IDA) Coalition are Gabrielle Sedor, Communications Director for the Pennsylvania Advocacy and Resources for Autism and Intellectual Disabilities, Linda Drummond, Policy Specialist for the Pennsylvania Community Providers Association, and Brian Baxter, a former DPW official and consultant to the Intellectual Disabilities and Autism Coalition. Mr. Chairman, we very much appreciate your giving us the opportunity to share with you our deep concerns about the impact of DPW's payment policies governing services to people with intellectual disabilities.

Pennsylvania's Home and Community-Based System of Services

Over the past 45 years, the Commonwealth of Pennsylvania has developed a highly cost-effective system of home and community-based services that supports over 50,000 people with intellectual disabilities with a budget of just over $2 billion in state and federal funds. These home and community-based services are provided by over 400 mostly non-profit organizations that employ more than 35,000 Pennsylvanians in communities across the state.

A little over 1,000 people with intellectual disabilities still reside in five state institutions at a cost of more than $250,843/year/person, which is more than twice the cost of equivalent residential and employment services provided in the community-based system ($118,840).

The community-based organizations that provide services to people with intellectual disabilities are tightly regulated by the state. Detailed prescriptions for the services provided to each individual are developed by a team of experts and approved by state officials before any provider can be paid for delivering services. These prescriptions are part of each participant's Individual Supports Plan, which can run as many as 100 pages long. These plans also serve as the Department's authorization for the prescribed services, and include required staffing ratios and the qualifications of staff required to provide each service.

Providers are subject to annual licensing inspections by state officials, as well as ongoing monitoring by county officials for compliance with federal requirements. Progress notes will now be required to show ongoing compliance with specific goals for each individual receiving service specified in each person's Individual Supports Plan. Providers are also required to report any unusual incident to state officials who investigate the most serious problems identified in these reports.

For the past four years, providers have been required to submit extensive cost reports to DPW, ensuring a high degree of accountability to state and federal taxpayers for every dollar spent to provide these services. Providers are also required to submit copies of their independent audits to state officials, and have recently been subject to financial examinations being performed by private auditors under contract with DPW.

Providers are paid by DPW through its Medicaid payment system known as PROMISe on a fee-for-service basis. The rates paid for each of over 100 different services have been set by the costs per unit of service derived from the detailed cost reports submitted by each provider; these reports are subject to extensive reviews by county officials under state supervision, and approved by state officials after further review. The costs per unit of service have been essentially flat for the past three years.

Why is DPW cutting payment for ID Waiver Services?

Since the Legislature has strongly supported funding for community services for people with intellectual disabilities, and has not made cuts in the ID Community Waiver appropriation, it is reasonable to ask why did DPW cut payment for ID waiver services by $150 million during this fiscal year?

Several years ago, the federal government that pays more than half of the cost of these services began to enforce its long-standing requirement that once enrolled, waiver participants must receive all of the covered services for which their need can be documented. As a result, during FY2009-2010, DPW directed providers to supply additional services to existing waiver participants that cost over $100 million more than DPW had budgeted to comply with this federal rule. Providers, who were legally bound to supply these services, understandably expected to be paid for supplying these additional services. DPW, with the support of the Governor's Office and the Legislature, provided increased funding needed to pay for these services.

The following year (FY2010-2011), DPW again budgeted far less than the cost of additional services that DPW directed providers to supply to existing waiver participants. When this over-spending was discovered two months after the end of the fiscal year, DPW did not request additional funding from the Governor's Office or the Legislature to cover the costs of DPW's over-expenditure, as is done in every other Medicaid program Instead, ODP implemented a $150 million payment cut to providers in this fiscal year to pay for DPW's over-spending in the previous fiscal year.

ID waiver providers cannot save money by serving fewer people because they are paid on a fee-for-service basis. ID waiver providers cannot save money by reducing the services provided to waiver participants because DPW prescribes in detail what services must be provided. ID waiver providers cannot save money by thinning out the services provided because DPW sets staffing ratios for each service. The only realistic options available to providers to respond to the $150 million payment cut were to reduce or eliminate clinical staff (doctors, nurses, psychologists, and social workers), and reduce supervisory staff responsible for assuring the health and safety of waiver participants. Our surveys show that as a result of these payment cuts, more than 800 employees have been laid off over the last several months, and far more jobs have been eliminated through attrition, reducing the quality of the services we provide, and putting the health and safety of waiver participants at risk.

Our Analysis of Payment Policies for the Next Fiscal Year

Ten days ago, DPW announced payment rates for the year beginning on July 1st. DPW is saying that providers should be pleased that the across-the-board 6% rate cut that DPW implemented last November will be restored for the upcoming fiscal year. That means that for about two-thirds of the services providers supply, providers will be paid next year the cost they incurred last year, with no recognition of the increase in the cost of doing business, including increases in the costs of employee health benefits, gasoline, and insurance. Next year will be the fourth year in a row that there will be no cost-of-living adjustments. Many of our direct support professionals are paid so low that they are on food stamps, and they often leave their jobs to take higher paying jobs at fast food restaurants.

DPW also announced that beginning on July 1st, "market-based" rates will be used for the first time to pay for a wide range of services that were previously paid through rates based on provider cost reports. Our initial analysis of the impact of these rates suggests that, even with the restoration of the 6% rate cut for cost-based rates, DPW has decided to pay providers overall $40 million dollars less than their allowable, approved costs of supplying these services next year. The "losing" providers will see their payments reduced by $75 million, while "winning" providers will gain $35 million.

In last year's budget, DPW proposed to cut payment for food and housing expenses by $27 million. The Legislature restored $22 million of this cut in recognition of the fact that these expenses are essentially fixed costs that cannot be cut. As noted, these rates were just released. Our preliminary analysis of the rates that DPW has just announced for the next fiscal year for food, mortgages, utilities and home maintenance shows that DPW will pay providers some $17 million less than their costs for food and housing. If this payment policy is not reversed soon, providers will have no choice but to consider closure of group homes because they will not be able to meet mortgage payments, needlessly displacing people with intellectual disability from the places they've called home.

DPW's new "market-based" rates will result in payment to many providers of several hundred thousand dollars less next year than their costs last year for other key services to people with intellectual disabilities. For example, thousands of people with intellectual disabilities who go to work every day making products that are sold in the private market will lose their jobs, as these programs are forced to close their doors as a result of these new rates. On average, payment for these services will be cut by nearly 30% among those providers whose payment is being reduced. Similarly, services provided in Adult Training Facilities will be cut by nearly 20% among those providers whose payment is being reduced. When these programs close, these individuals will have no choice but to stay in their group homes all day, costing DPW even more money to pay for the staff needed to assure their health and safety!

These untested "market-based" rates will cut payment to some providers by millions of dollars next year --- by more than $4 million/year, in one case --- payment cuts which are likely to force the closure of entire organizations during the next several months. On the other hand, these same "market-based" rates will waste taxpayer dollars by paying other providers hundreds of thousands of dollars more than their cost to provide these services. We question a payment policy that will pay some providers hundreds of thousands of dollars more than their costs to provide home and community habilitation services.

DPW needs to go back to the drawing board and work with the stakeholder community immediately to develop rates that work for both the taxpayer and the people these services are designed to support. In the meantime, we recommend that DPW go back to setting rates starting July 1st based on the unit costs in last year's cost reports to assure the continuation of community-based services for people with intellectual disabilities.

People with Intellectual Disabilities do not live "in the average"

These payment cuts mask another serious deficiency in DPW's approach to setting rates for services for people with intellectual disabilities. While DPW intends to pay providers at average rates, the people we serve do not live "in the average". Their needs, and the cost of the services required to meet their needs, varies greatly. Not every provider supports a group of people whose needs are average.

People with medical complications, for example, are more likely to spend time in hospitals than the average. Unfortunately, even though most people with intellectual disabilities are living far longer today in their homes in communities than when they lived in state institutions in the past, people living with medical complications tend to pass away at rates higher than the average. Providers who specialize in serving such individuals will be penalized financially by DPW's payment policy that pays for residential vacancies at statewide averages.

For more than four years, we have advocated for a change in payment policy that would save state tax dollars by generating additional federal matching funds to recognize the costs that providers must continue to incur when residents are temporarily out of their group homes in the hospital or visiting their families. We have advocated that the state's policy recognize the critical differences among providers of the people they serve through a system of provider-specific occupancy factors in setting rates for residential services. DPW has chosen, however, to implement a statewide rate based on averages that provides a windfall of taxpayer dollars to some providers and a financial penalty to others. This makes no sense to us.

Another example of our concerns with payment policies based on averages is DPW's decision to pay all providers in each of three regions in the state the same amount for food and housing costs. This simplistic approach to a key payment policy again results in arbitrary and wasteful windfall payments to providers who developed their group homes years ago and are experiencing lower-than-average debt service costs. Regional rates for food and housing costs also unfairly and arbitrarily penalizes those providers who have responded to DPW's requests that they open new group homes in recent years and are therefore incurring debt service cost higher than the average. We continue to advocate for a payment policy that recognizes the differences between the needs of the people we serve, and the differences in the legitimate costs incurred by different providers. In the meantime, existing payment policies should be maintained until DPW can develop sensible payment policies for these costs.

Conclusion

Paying providers of community-based services for people with intellectual disabilities at their costs is a good deal for Pennsylvania taxpayers for two reasons:

- The costs per unit of service have been essentially flat over the past four years
- State funding for rate increases has fallen 40% below inflation over the past fifteen years, forcing providers to find efficiencies over these years

DPW and its federal partners are the only payers for these services. Our system of about 400 mostly non-profit community-based providers cannot shift costs to other payers, as hospitals and nursing homes are able to do when Medicaid pays less than their costs. A payment system that pays providers less than their costs will, sooner or later, result in the collapse of the Commonwealth's cost-effective system of community-based services for over 50,000 people with intellectual disabilities.

That's why the provider community compares ODP's just-announced rates for next year with the costs on our most recent ODP-approved cost reports. Our analysis shows that compared to last year's allowable, approved costs, ODP is proposing to pay providers tens of millions of dollars less than our costs, with some providers being hit so hard that they will either have to close lines of business, throwing hundreds of consumers out of service, or close their organizations altogether.

ODP officials are saying that the rates they have just announced will pay providers more than their costs of providing residential services, but less than their cost of providing food, housing, sheltered workshops, adult training facilities, and home and community habilitation services. ODP officials are apparently hoping that the over-payments will balance out the underpayments for most providers, although they admit that some providers may have great difficulty in adjusting to the new rates.

Our question is: why should a state agency put together a payment system that overpays some services and underpays other services? Now that we have four years of experience with cost reports, and providers are not increasing their cost per unit of service, why can't ODP develop rates that match each provider's cost, as we have done for many years in the past?

Physicians take an oath "to do no harm." Public officials responsible for developing policies to support people with disabilities should be guided by the same principle. Until ODP adopts payment policies that support stability and certainty, and rates that cover cost, the continued provision of community services for people with intellectual disabilities that cost half of the cost of care in state institutions will be at great risk. People with intellectual disabilities throughout the Commonwealth will be irreparably harmed. An immediate response is needed.