REHABILITATION & COMMUNITY PROVIDERS ASSOCIATION

Department of Human Services, Office of Developmental Programs
Division of Provider Assistance and Rate Setting
4th Floor, Health and Welfare Building,
625 Forster Street, Harrisburg, PA 17120

January 31, 2022

RCPA Comments Regarding the Proposed Rate Increase – January 2022

On behalf of our members, we would like to thank Deputy Secretary Ahrens and the staff at ODP for making the extraordinary efforts during the pandemic to support providers in policy adaptation, as well as the infusion of one-time funds, retainer payments, and enhanced rates. We appreciate the support to assist providers in their efforts to provide as many services and supports as possible to those who rely on the staff for these services.

Upon review of the proposed rates we do, however, have several concerns we would like to share. It is understood that the basis for the rate setting methodology are several assumptions of "average costs" of doing business. We specifically have concerns about the assumptions that were utilized to develop the rates and that the issues that the provider work group presented and discussed were not taken into consideration.

By far the biggest expense lines for providers consist of staffing costs — salary and benefits. Several of the ODP assumptions have a significant impact on the rates and we believe that they are not based on accurate data.

Underlying Rate Assumptions

Hourly Wage. While most of the professional services are based on a range starting at $15, we are concerned that the range of some positions including residential, IHCS, and older adult day service staff begins 37 cents lower than the $15 standard. And while a starting place for pay range of $15 would have been welcomed in the past, some of our members have had to adjust their staff wages as much as 37% in order to stay competitive in the labor market. The proposed rates will not support increasing wages (and does not even cover the 7% annual inflation experienced each of the past two years). Providers have calculated that this increase may allow them to raise wages to $13 – $14 per hour, far less than what is stated in the proposed rates. The fact that these rates may be in place — i.e., fixed — for up to three years increases our concern.

The current DHS/ODP rate assumptions for each service are given as a broad range, with differences as small as $6.56 and as great as $21.67 between the high and low end of the ranges. It is therefore unclear from where in the wage range ODP chose to base the new rates. CDI calculated the wage funding deficit/surplus for the low end, high end, and mean wage within each of the service category ranges. The rate assumptions do not seem to adequately accommodate provider cost and this may prohibit providers from achieving these levels of wages for DSPs. If ODP used the low end of the DSP wage range, there would be a very small surplus for Residential and Day Program services wage funding and a large surplus for In-Home and Employment Services wage funding. If ODP used the high end of the DSP wage assumption range, there would be large deficits for each service category, with the highest deficit for employment services wage funding. If ODP used the mean wage within each wage assumption range, there would be deficits for all service categories except for In-Home services. A conclusion that could be drawn is that providers will be unlikely to pay DSPs even the mean wage within the wage range category for all services except for In-Home Services.

Health Insurance. The estimated health insurance assumption at $571.29 per employee does not reflect the actual cost of health insurance. In fact, this represents a 7% decrease from the current ODP rate assumption. The assumed cost decrease is also inconsistent with a Mercer report published in December 2022. Mercer's National Survey of Employer-Sponsored Health Plans found that employer-sponsored health insurance cost rose sharply in 2021, the highest annual increase since 2010. Mercer's analysis of actual health benefit costs reported a cumulative 16.3% average increase over the last four years and including their 2022 cost projection expects the five year cost increase to approximate 20.7%.

Mercer's chief actuary, Sunit Patel, cautions that a number of factors could result in ongoing health benefit cost growth acceleration. "At the top of the list of concerns are higher utilization due to "catch-up" care, claims for long COVID, extremely high-cost genetic and cellular drug therapies, and possible inflation in healthcare prices."

It also appears that employee benefits do not include dental or vision coverage or the cost of any portion of dependent health care coverage. Given that many of our workforce are women-headed households with dependents, this is unsustainable for employers. We must offer our employees comprehensive insurance for their dependents. In stark contrast, the health benefit cost for state employees is 97% higher than the funding for the HCBS equivalent.

The assumptions also do not include any benefits for part-time staff. The majority of our members do provide benefits (usually a reduced amount) to part-time staff, and in fact are required to provide certain benefits to employees who work 30 hours a week (in essence considered full time – employees do not need to work 40 hours in order to be eligible for benefits). Further, providers are mandated to provide sick leave for part time staff since the pandemic. A provider's flexibility in this area is limited by the Affordable Care Act and the provisions for health insurance to remain affordable, which remains a challenge with entry-level positions, so passing the additional costs on to employees is not an option.

Other insurance assumptions are also lower than what providers are currently experiencing. The average employer retirement match in 2020 was 4.5%. Using the proposed assumption of 2.3% will not adequately support this benefit.

Turnover. The assumption for staff turnover is 24%. RCPA conducted a recent workforce survey of providers in PA that showed despite the overwhelming need for direct support professionals, these individuals separated from their positions within an average of three months of hire, at an annual turnover rate of more than 130% during the pandemic. While these are unusual times, our members have reported that pre-pandemic the turnover rate was closer to 55%.

Overtime. The overtime assumption of 5% is also significantly lower than what providers are actually experiencing. In the same RCPA survey, provider's vacancy rate for direct support professional positions was 24.0%. Using a salary threshold for positions to determine the number of employees eligible for overtime is not an accurate measure. Salary alone does not allow for exemption, and some positions do not also meet the duties test that allows for exemption from overtime in labor laws.

Administrative Costs. Administrative costs are assumed to be 10%. None of our members report that their administrative costs are only 10%. It would be helpful to understand what ODP considers as part of administrative costs; a more reasonable estimate is 13% – 14%. In an already highly regulated system, providers have been faced with increasing administrative responsibilities in the past 3 – 4 years with incident management requirements, increased need for Certified Investigators, Incident Management Representatives, Human Rights Teams, Health Risk Screening Tool (both the initial completion, and any follow up activities), Qualify Improvement Activities, etc. ODP has recognized the need to increase oversight staff within the Office of Developmental Programs in order to keep up with these additional duties. Providers also need additional staffing to manage these requirements. Providers are also experiencing increased costs for Cyber insurance with the increased use of technology, and D&O insurance.

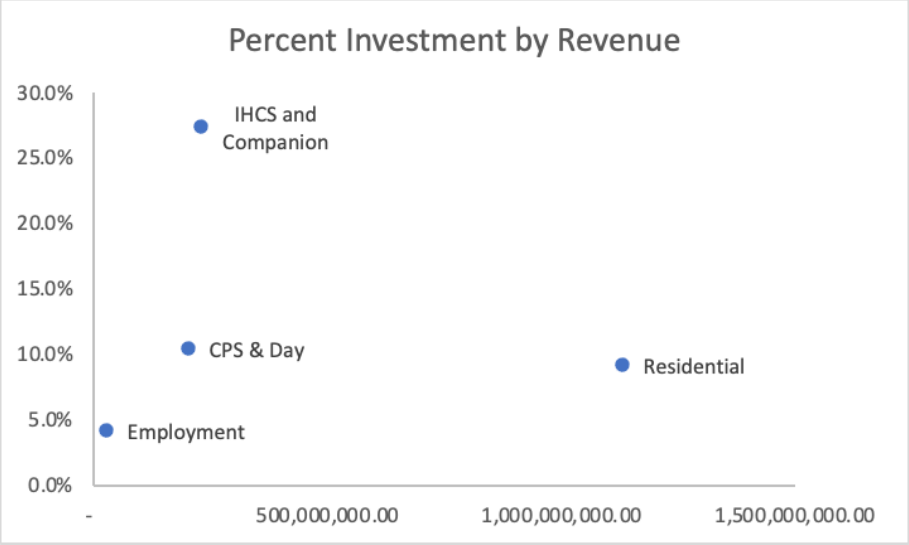
These requirements also have a direct impact on Supports Coordination Organizations due to their increased responsibilities and provider oversight.

Training. The assumptions for training days for employees is inadequate (especially residential services staff which was estimated lower than other services). In order for staff to complete new orientation training that covers all of ODP regulatory requirements, and annual training for all services, the amounts included do not cover what is needed. We recommend at least 5 days for orientation training and minimally an additional 10 days for annual training for all licensed services. Some jobs require even more training and we hope that that is taken into consideration.

Supports Coordinators also have a multitude of mandatory trainings that are required by ODP, and to keep in mind for all positions, that when these staff are attending trainings, they are not performing the direct care that they were hired for, or completing billable services. This impacts the bottom line for providers as well, as in most cases, someone else is covering those duties, and providers are paying the staff for the training time as well.

Specific Service Rates

In reviewing specific service rates, we are concerned with the inequity of the increase across the various services.



A CDI study of 84 providers, all three of the largest service categories by revenue (Residential Habilitation Needs Group 4, 3, and 2) all fell under the 11.56% Consumer Price Index – Urban (CPI-U) inflation rate from June 2018 – December 2021 at an increase of only 9%. On the other end of the spectrum, the three smallest service categories by revenue (Respite, Housing Transition and Tenancy Sustaining, and Temporary Supplemental Services) all fell very high above the CPI-U at increases of 36%, 93%, and 31%, respectively.

Rank in Revenue	Revenue	Service Category	% Change in Statewide Fee
1	$ 436,217,104.14	Residential Hab - NG4	9%
2	$ 252,767,272.85	Residential Hab - NG3	9%
3	$ 203,305,306.75	Residential Hab - NG2	9%
32	$ 71,601.08	Respite	36%
33	$ 28,956.24	Housing Transition and Tenancy Sustaining Supports	93%
34	$ 15,786.00	Temporary Supplemental Services	31%

CPS Facility Rates

One of the most concerning are the CPS Facility rates (with the exception of the 1:1 rate). These rates are not sustainable and will likely result in the closure of facility-based services. Facility-based services are necessary to many individuals for various reasons including personal care needs, behavioral issues, personal choice, etc. Ultimately, this will result in individuals losing this choice and potentially being without services.

The increase ranges from 1% to 5% on the rate paid prior to the pandemic, not the current enhanced rates that will end likely in October of 2022 based on the proclamation of the public health emergency ending. We do not anticipate the costs of operating services will be significantly reduced when the pandemic ends, and therefore the cut in reimbursement will have a devastating impact on providers.

Service	Ratio	Code	2022 Rate	2021 Rate	Diff.	%
CPS Facility	1 to 7 to 10	W7223	$2.49	$2.44	$0.05	2%
CPS Facility	1 to 4 to 6	W7226	$4.13	$4.01	$0.12	3%
CPS Facility	1 to 2 to 3	W7224	$5.33	$5.23	$0.10	1.9%

This equates to an average increase of 2.8%, while the CPS Community rates increase by an average of 15.23%. How can such a large difference be justified? The same staff are providing both services and staffing accounts for the majority of the expenses for both programs. While we understand that there are some variable expenses, they are not so significantly different so as to justify this wide disparity.

The range of increases for the facility-based CPS services may be interpreted as a philosophical decision by ODP to phase out any program that is facility-based. If that is the case, then ODP must state what services will be in place for populations such as those individuals with serious medical and behavioral complications. Unilaterally closing vital facility-based services does not address these critical needs.

Supported Employment Services

The proposed increase to Supported Employment Services is also a disappointment to our members who provide these services. Given the fact that PA is an “Employment First” state, an increase of just less than 1% does not show support to these providers, particularly considering the likelihood that these rates will be in place for up to three years.

This service has been increasingly more difficult to staff. Additionally, the Supported Employment (W9794) Increase from $17.75 to $17.91 does not match the AAW increase to $18.64. If Supported Employment (W9794) was increased from $17.75 to match AAW (W7200 and W7206) of $18.64, this would merely be a 5% increase.

Residential Habilitation and Lifesharing

The proposed rates for Residential Habilitation and Lifesharing in general are appreciated. There are some concerns with the assumptions as mentioned above. The other concern is the use of a 97% vacancy factor, as the statewide data collected by ODP actually demonstrates that provider actual utilization is near 91%, which represents 33 days. A Residential Vacancy Factor of 97% is 11 days. Providers who serve individuals who chose to leave the home on a regular basis experience a higher vacancy rate. This results in a significant loss of revenue if the vacancy factor does not represent a more accurate rate.

Supports Coordination Organizations

Supports Coordination Organizations (SCOs) have concerns with the proposed rates for many of the reasons already discussed – additional responsibilities that have been added to their roles, benefit and salary levels, the amount of training that is required for their positions, and the impact on their ability to complete billable work due to all of the above. The population eligible for services has expanded, which also increases the demand for SC services. Competition for SCO staff has increased greatly in PA with the implementation of Community HealthChoices (CHC). MCOs have been able to offer a much higher salary, making it nearly impossible for the SCOs to compete, leading to a high level of turnover in the SC

positions. SC positions require a BS degree but the SCOs can't compete for qualified staff. A 6.6% increase is not adequate to address these needs.

Agency with Choice

These rates must be evaluated in relation to the newly published wage chart for AWC services. The rates do not meet the new wage rates. Most significantly, there is a mismatch between W1726 and W1726 U4, as the wages increased by 69% and 80% respectively, while the reimbursement rates increased by only 34% and 35%.

Additionally, W7282, W7282 U4, W9794, W9862, and W9862 have similar disparities between the wage rate increase and the billing rate increase.

The Managing Employers are paying 98%–100% of the max wage for the service, with the majority closer to 100%. We would expect that to follow a similar pattern with the increase in wages in 2022. There are sixteen AWC service codes that produce a negative net between gross wages and reimbursement rates. After applying 20% for taxes, insurances, and benefits, that number jumps to twenty-eight AWC service codes that produce a negative net.

Furthermore, the rate doesn't sufficiently capture other expenses incurred by AWC providers that are directly related to service provision, such as overtime costs (especially given emergency staffing needs) and SSP training costs as mandated in 6100 and to meet the requirements of the ISP. For the 2:1 Enhanced Services, our Managing Employers are using two enhanced staff for the service, not just one — and this is what contributes to the faulty assumptions with the rate in this area.

In-Home and Community-Based Services

In-Home and Community-Based Services face the same concerns regarding the staffing pay rate assumptions, as well as the ongoing issue of lost billable time when the length of service is short of the 15 minutes captured by the EVV system. This policy has a detrimental impact on providers' ability to maintain these services. If a staff member provides 14 minutes of service, the time of the unit is short by 1 minute. As a result, the entire time is not billable. We implore ODP to adopt the rounding policy as implemented in the Office of Long-Term Living for comparable services. As it currently stands, the only rounding of units for HCBS is rounding down, to the great disadvantage of the providers. The provider must pay the staff for the time worked regardless of the ability to bill for that time.

Behavioral Supports

We recommend aligning Behavioral Support Services staffing requirements across waivers using the ID/A waiver requirements as standard. The stricter AAW requirements are a barrier to hiring staff. Currently, a behavior specialist can provide support under the ID/A waivers with a Bachelor's Degree, provided there is oversight from someone with a Master's Degree. AAW staffing requirements are much stricter, requiring a Master's Degree in specific fields, or with specific coursework in Applied Behavior Analysis. This makes it difficult to hire a staff member to serve all individuals within an agency if they are funded by both waivers.

Adult Autism Waiver (AAW)

Providers were informed by ODP that the Autism Waiver Funded Day Habilitation would be transitioning to Community Participation Supports in order to better align with ODP and with licensing regulations. This did not occur. Because Day Habilitation service definitions require activities beyond those in CPS, such as providing transportation to and from program and providing one meal for every four hours, aligning both services is essential for providers. Propose using the ID/A waiver requirements (CPS) as standard.

- New AAW Day Habilitation (W7066): $12.39
- New comparable ODP CPS rate, facility (W7244): $11.68
- New comparable ODP CPS rate, community (W5996): $11.84

The Supported Employment (W9794) Increase from $17.75 to $17.91 is a 1% increase and does not match the AAW increase to $18.64. Small Group Employment 1:1 is not permitted in AAW — a disservice to those who could benefit from this level of service.

Overall, RCPA would like to express our concern that the impact these rates will have on services not only relate to the provider system in our state, but also to the individuals and families who need and rely on these services to live an everyday life. As we have experienced throughout the pandemic, and the undeniable staffing crisis, when families and individuals do not have the needed support from staff in their homes, it has an impact on their quality of life, their mental health, and the family members' ability to keep their employment outside of their homes. Consideration must also be given to the significant regional differences in expenses that have an impact on providers in those areas.

Individuals who have complex needs will be even more at risk, since the services that are necessary to support those who have more intense support needs due to medical or behavioral challenges are not equitably considered in these proposed rates. The rates act as a disincentive to providers to serve those who are in need of higher levels of staff care.

In closing, we ask that ODP consider this rate refresh one step toward a more stable service and support system, and recognize that while an increase may help us catch up with expenses that have increased more than 7% in the past year alone, providers cannot afford to wait another three years for the rates to be increased. ODP has continued to add responsibilities to direct care staff and providers, but do not make corresponding increases to the reimbursement. We are not attracting a well-qualified workforce, yet are expecting them to take on ever increasing professional duties. The outcome of the rate refresh will provide the framework for providers to evaluate whether it's feasible to continue a full complement of supports to individuals with intellectual and developmental disabilities and/or autism in the long-term. An infusion of funds and efforts to increase interest in this field are essential to develop the workforce that is required for these services.

We urge ODP to pay heed to the comments that are submitted and make appropriate adjustments before implementing new rates. Furthermore, the rates should be backdated to April 1, when the increased FMAP was made available. Implementing the increases on this date will also allow Pennsylvania to take advantage of the Enhanced Federal Medical Assistance Percentage. Providers are in crisis and need support from ODP now.

Carol J Ferenz

Carol Ferenz, Director, IDD Division