

Representative Saylor and members of the House Republican Policy Committee: I very much appreciate this opportunity to testify this morning on the Office of Developmental Program's rate-setting policies affecting Medicaid waiver services to people with intellectual disabilities.

The stakeholder community understands and recognizes that federal waiver policy requires that similar services provided in similar areas be paid similar rates. The goals of this policy are consistency, economy, and efficiency in payment for waiver services.

ODP's Outlier Rate Policy is its major response to this federal requirement. For residential services, which use about 75% of the available waiver funding, ODP has arrayed the rates for all providers in the state from low to high for each size group home, and has arbitrarily reduced rates above one and two standard deviations above the average without regard to the impact on the services to waiver participants. As you have heard today, this policy threatens to deny necessary services to those waiver participants who need them the most to remain in their communities --- services which ODP has authorized and directed these community-based organizations to provide to waiver participants.

Federal waiver policy, however, does not dictate this result. CMS officials have been clear in their support for rate-setting policies that reflect differences in rates based on variances in the needs of waiver participants --- differences in acuity --- and differences in rates based on variances in labor market costs in different geographical areas across the Commonwealth. Pennsylvania is almost unique among states operating Medicaid waiver programs for people with disabilities in its decision not to create several levels of acuity in its definition of residential services. Furthermore, ODP's outlier rate policy does not take into account the 30% difference in the costs of providing residential services across labor markets in the Commonwealth.

As a result, we contend that the application of the statistical method employed by ODP to residential services is not valid. Its outlier rate policy compares apples to oranges to pineapples --- it compares the relatively low cost to serve people who live independently to the significantly higher costs necessary to serve people with significant medical and/or behavioral needs, and it does not reflect significant differences in labor costs across the state. ODP's comparison of all residential services of the same size group home only tells us the obvious --- that the costs to serve some people are higher than the costs to serve others. ODP's policy doesn't tell us anything about the consistency, economy or efficiency of rates for waiver services for people with intellectual disabilities.

The MH/MR Coalition that includes providers, advocates and family representatives has complained to federal officials that ODP's outlier rate adjustment policy violates federal waiver requirements, including the assurance that waiver participants will receive the services they need, and the requirement for the consistent statewide application of rate-setting policies. The outlier rate adjustment policy was the topic of lengthy discussion at a meeting last month hosted by CMS officials that included representatives of both the MH/MR Coalition and ODP. CMS officials have indicated

that they are continuing to investigate the concerns brought forward by the stakeholder community, and a conference call with representatives of the MH/MR Coalition with CMS and ODP officials is scheduled for tomorrow.

For the past two years, the stakeholder members of DPW's Workgroup on MR Waiver Fiscal Issues have unanimously recommended to DPW that ODP carefully review the reasons for differences in rates for waiver services, a review that would include an examination of the clinical needs of waiver participants, as well as an examination of the reasonableness of provider costs to provide services to waiver participants, prior to taking any action that would affect payment rates. We further recommended to DPW that potentially affected providers should be given an opportunity to participate in such a review. These recommendations remain valid today and should be considered by DPW officials.

CMS officials will continue to require ODP to explain and justify differences in rates not reflecting differences in acuity or labor markets. If ODP remains interested in applying its statistical analysis to residential rates, Pennsylvania will need to join other states in developing definitions for residential services that reflect levels of acuity. ODP also needs to develop more accurate methods of measuring the differences in labor costs among the Commonwealth's 67 counties, to ensure that any comparison of rates based on costs is valid. Until these steps are taken, we recommend that ODP refrain from implementing its outlier rate adjustment policy for all residential services, including group homes and family living services.

While ODP's policy of exempting outlier rates above one and two standard deviations above the mean from any adjustments for waiver participants whose needs are "high" may be conceptually appropriate, ODP's implementation of this exemption policy is fundamentally flawed for several reasons: (1) ODP has not developed a written standard that assures a consistent statewide application of this policy; (2) the quality of Individual Support Plans written by Supports Coordinators varies widely and may not accurately reflect the needs of waiver participants; and (3) a decision to deny needed services to waiver participants should only be made after a face-to-face review of the waiver participants' needs by a qualified clinician and a full opportunity for input by the providers who know these individuals best. We are therefore recommending that ODP suspend its entire outlier rate adjustment policy until it develops an appropriate exemption policy.

Finally, ODP's implementation of its outlier rate adjustment policy must meet the test of transparency. The stakeholder community should not be forced to issue a request under the Right-to-Know statute to discover how many and where the outlier rate policy has been applied, and how many and where exemptions have been provided. This information is essential to our understanding of how ODP is administering the new cost-based prospective rate-setting system for Medicaid waiver services for people with intellectual disabilities.

To summarize, we recommend that:

1. ODP refrain from implementing its outlier rate adjustment policy until differences in rates can be fully reviewed by state officials in concert with provider representatives;
2. ODP should refrain from applying its outlier rate adjustment policy to residential services until it develops definitions for residential services that reflect differences in acuties of waiver participants;
3. ODP should refrain from applying its outlier rate adjustment policy to residential services until it develops an accurate methodology for measuring the differences in labor markets among the Commonwealth's 67 counties;
4. ODP should suspend its outlier rate adjustment policy until it develops an appropriate written exemption policy that includes a face-to-face clinical review of the needs of waiver participants before adjusting rates;
5. ODP should practice transparency in its administration of rate-setting policies.

I thank the members of this Committee for the opportunity to testify today on this important issue affecting the lives of some of the Commonwealth's most vulnerable citizens. Mr. Chairman, we appreciate your commitment to shedding light on these concerns by scheduling this hearing today. Thanks you.