



**HOUSE REPUBLICAN PARTY COMMITTEE  
9/23/10 TESTIMONY  
SUBMITTED BY COLLEEN A. STUART, C.E.O.**

First, I would like to thank Chairman Saylor and the House Republican Policy Committee and the Representatives from my Districts in Northwest Pennsylvania for the opportunity to provide testimony on the **“Outlier Rate Adjustment Policy”** and the affect the Office of Developmental Programs’ new **“Fiscal Policies and Procedures”** as well as the Governors Budget cuts will have on providers and persons with disabilities.

As the Chair of the Northwest Provider Committee membership and an active Member, as well as past Board Officer and newly re-elected Board Member, of the Pennsylvania Association of Rehabilitation Facilities (PARF), I am extremely aware of the system changes and how they are affecting community providers of service.

As many of the Committee Members are probably aware, PARF and the Northwest Provider Committee have always made every effort to educate legislators about how policy and budget changes directly impact providers and the stability of the entire service system. Now, more than ever, our voices must be heard.

Over the past ten years, and really as long as I have been in the system, providers have had to withstand fragile economies and budget cuts to insure that this delicate population received services and supports that sustain their health, safety, skill improvement level and community integration. Our resourcefulness to continually try to absorb those changes has become increasingly more challenging each year. With budgets that have been cut or flat funded (for most of those years), increased cost of living adjustments, coupled with the new **“Fiscal Policies and Procedures”** and this years’ budget cuts, providers are at the end of their ropes.

As providers we excel at adapting to change, as evidenced in how we adapted to **“Everyday Lives”**, **“Individual Support Plans”** and the **PROMISe Billing System**. We understand the requirements of the Centers for Medicare and Medicaid for funding and compliance. As a community we have all worked very hard to support and provide feedback to assist in this State’s efforts to adapt to those requirements and insure we maintain federal funding for services.

The biggest problem we all face **NOW** is the instability **related to fiscal management and administrative process** within the current proposed ODP system. Our primary concern is those we serve. We are also businesses within the community. To keep our doors open we must know and be able to count on an assurance that we will be paid at the rates established in advance of service delivery. In very basic words, if we have built a budget for our company, in good faith, with CMS-ODP approved rates and authorized units, as a business we will operate on those assumptions. **As non profit providers, who are obligated to expend dollars to support severely disabled individuals, we must have adequate funding and we must have the assurance that after we provide a service the rates and payment promised for the services will not be reduced.** If we have already provided services and expended dollars, we can not be in constant fear that either the Rate Adjustment Factor or annual Revenue Target will be decreased **during the year** because of state budget changes. The current and proposed ODP fiscal procedures will destabilize the community system.

**I would like to present some specific concerns of providers and recommendations on behalf of stakeholders.**

I. First the Issue of Concern regarding the **“Outlier Rate Adjustment Policy”**. Since Pennsylvania’s HCBS waivers for people with mental retardation do not contain residential habilitation service definitions reflecting differences in the acuity of waiver participant needs and services, the application of a “standard deviation” methodology on a statewide basis for residential habilitation services has no basis in CMS policy. The services being compared by ODP for some degree of uniformity are neither similar, nor are they provided in similar labor markets. ODP’s exceptions process is based on an unwritten standard, which is neither transparent, nor can it assure a statewide consistent rate-setting methodology.

Stakeholder Recommendations:

1. ODP’s Outlier Rate Adjustment Policy should be placed on a moratorium until the waiver is amended to include a range of service definitions for residential habilitation services that accurately reflect the differences in waiver participant service needs.
2. ODP should defer implementation of its Outlier Rate Adjustment Policy until a methodology can be developed that accurately reflects differences in labor market areas throughout the Commonwealth of Pennsylvania. The Penn State study of the variations in cost to provide county services, cited by ODP officials a few years ago, is an example of such a methodology that ODP should consider.

3. No rates should be subject to outlier rate adjustment until after a thorough review of the reasons for variance greater than two standard deviations. This review should include an opportunity for the provider and the treatment team to meet face-to-face with ODP officials for a full discussion of the reasons for the variation.

As persons with disabilities have individualized needs, those who fall within the outlier rates can many times require an advanced level of support. Due diligence must be taken to insure that these individuals receive the level of support necessary to insure their health and safety and the safety of those that support them.

But, the Outlier Rate Adjustment Policy is just one of many concerns with the Office of Developmental Programs (ODP) fiscal Policies and Procedures. The current ODP fiscal system in Pennsylvania that supports persons with disabilities is unstable and unpredictable. For the past six years the Department of Public Welfare (DPW) officials have worked closely with a wide range of stakeholders to develop detailed fiscal policies for the community mental retardation waiver program that would meet federal requirements. The process was challenging, and both state officials and stakeholders made significant compromises. Most recently the process has changed drastically. Changes to the fiscal policies and procedures are changing significantly without stakeholder input.

2. **A great concern – our major concern is the recent “Rate Adjustment Policy”.** ODP’s Rate Adjustment Policy shifts the costs of increased service authorizations and projected future increases in utilization of services by waiver participants to the providers of existing services. It is not a valid methodology for a cost-based prospective payment system. Prospective payment rates cannot be tied to state budget changes. They cannot be adjusted multiple times during a fiscal year as the state’s budgetary environment changes. No other Pennsylvania Home and Community-Based Waiver Program or Medicaid Program is governed by any such policy. In every case, changes in authorizations and utilization are funded by state appropriations. The services to people with intellectual disabilities should not be paid in a manner that is more onerous to providers than are the payment systems for any other population group receiving Medicaid services in Pennsylvania.

Stakeholder Recommendations:

1. All increases in service authorizations must be charged to ODP's changing need budget, which is an entitlement within HCBS waivers.
2. Prospective rates should not be adjusted for projected utilization tied to 100% of authorized units of service. Unit rates already reflect year-to-year changes in actual utilization.
3. Rates should not be changed during a fiscal year as a result of budget changes, per ODP's existing written policy on the Rate Adjustment Factor.

This and many other changes to the ODP fiscal policies and procedures, along with the Governor's 1.9% 2010-11 budget cuts, are not only causing instability to an already fragile system but possible health and safety issues for the individuals within the system. **Community Providers cannot withstand cuts, and we certainly cannot exist with random cuts to rates imposed retroactively.** Not only do we provide a crucial service to each and every community, but we are also fiscally responsible non-profit businesses. The possibility of retroactive and unanticipated cuts after monies are already spent for crucial services will destabilize our communities and services to persons with disabilities. This instability could result in a much greater cost to the state with individuals needing higher cost levels of care in the health care and criminal justice systems.

Although these are just a few of the challenges we are facing, we ask that the Committee hear concerns and respond to our recommendations regarding the need for more stability. The provider community is willing and waiting to assist ODP in addressing these concerns. But, we must act quickly before damage is irreparable.

Thank you for your time and consideration of what we all have presented here today.

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