



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

DEC 12 2011

ID/A Coalition

Dear ID/A Coalition Members:

The Office of Developmental Programs (ODP) appreciates the Coalition's letters regarding the recently announced Rate Adjustment Factor and the Office of Developmental Programs' (the Department's) rate-setting outlier policy. As we complete the two-year transition period from the county-based system to the statewide Prospective Payment System (PPS), we recognize that the Coalition has concerns and questions about payments to providers of services to individuals with intellectual disabilities.

As Pennsylvanians are all too aware, the Commonwealth finds itself in a challenging economic and fiscal environment that has meant doing more with less, not just for families but for government as well. In addition to the difficult economic times, over the past decade there has been significant growth in Home and Community Based Services both nationally and in Pennsylvania. More than half of every new tax dollar taken in by Pennsylvania is spent on human services – an amount projected to grow at an unsustainable rate of 11 percent per year through 2014 if we do nothing about it. As a part of the human services program, ODP must find ways to be a better fiscal steward of the tax dollars entrusted to us while also ensuring that critical services to support individuals' independence can be provided in an efficient manner.

The Need for Increased Fiscal Accountability

ODP's review of our finances, which began several months ago and continues today, has brought dire clarity to these fiscal challenges, a clarity that we did not have before. While ODP's consolidated and P/FDS Waiver budget of \$1.804 billion appropriated by the Legislature for the current fiscal year is flat, we project that service utilization paid for by ODP will increase by \$60 million just for individuals already enrolled in ODP programs. We see growth in service utilization by existing participants continuing, not abating. This growth in costs comes before a single one of 16,000 individuals is moved from the waiting list into one of the Waiver programs. In addition, we estimate potential for cost pressures of another \$151 million in ODP's

budget for this year, including \$121 million for revenue reconciliation payments from last fiscal year that have been paid this year, \$54 million of which is state funds and \$30 million in planned cost containment initiatives that may not be fully implemented in this fiscal year.

Unfortunately, based on our review and analyses, it is clear that ODP's fiscal challenge is not just due to a short-term budget shortfall. In the first year of transition to the PPS, from Fiscal Year (FY) 08-09 in to FY 09-10, ODP saw over 500 individuals increase their annual budgets by over \$100,000 each. Advocates and providers have speculated that this was based in part on pent up demand from the county-based system. The challenge for ODP is that while the overall population served has increased gradually in the first two years of the PPS system, ODP continues to see large increases in units of service not only in FY 09-10 but in FY 10-11, and that pattern is projected to continue into the current fiscal year (FY 11-12). In our trend analysis for this fiscal year's rate-setting process, we found dramatic growth in service units, especially for many of the services that are paid based on a fee schedule. If there are no reforms made, we expect a continued explosion of costs beyond this fiscal year.

We can no longer afford to delay the tough and necessary decisions to ensure the Waiver programs are around for many years to come. We have a duty to the families and individuals with intellectual disabilities who are already being served to ensure ODP's Waiver programs are fiscally sustainable well into the future, to the taxpayers of Pennsylvania to take steps to live within the budget given to us by the Legislature, and to the almost 16,000 individuals on the waiting list to find ways of more efficiently using our resources and to begin reducing the number of individuals on that list. Maintaining the status quo is not fiscally sustainable and it will not meet these duties.

We believe the Rate Adjustment Factor (RAF) is a fair and equitable method to ensure the fiscal sustainability of the Waiver programs. ODP reviewed the potential impact of the RAF by performing a provider by provider revenue analysis for all providers in the Waivers. This analysis shows that while the Legislature kept ODP's budget flat, even with the RAF applied, more than six out of ten service providers will see their projected revenue increase from last year and another two out of ten providers will see their projected revenue stay the same or be reduced by less than 10 percent – far better than the tough financial cuts many Pennsylvanians have faced in their family budgets in this time of economic distress. The RAF is an important step towards fiscal sustainability and program integrity this year and in the

future. We have and will continue to work closely with providers to ease the transition as much as possible.

Fiscal Analysis of Changes Implemented to Ensure Fiscal Sustainability

We disagree with the several of the fiscal analyses the ID/A Coalition cites in their letters based upon several critical points. The following table compares the estimated fiscal impact for what the Coalition has termed "cuts" to the fiscal facts communicated by ODP.

<u>ID/A COALITION</u>	<u>ISSUES</u>	<u>ODP</u>
\$58.5M	6 % RAF 11/15/11 - 6/30/12	\$60M
\$15M	2.5 % RAF 7/1/11 - 11/14/11	-
\$54M	Retained revenue/Margin	-
\$5M	Change in vacancy policy	\$5M
\$2M	Change in use allowance/CPA	\$2M
\$10M	Outlier Policy	\$10M
\$5M	Lowest rates in cases of unapproved CR	-
\$149.5M		\$77M

While we agree with some of the figures the ID/A Coalition has claimed regarding the changes ODP has made to increase fiscal accountability, we have provided an explanation as to why the other figures quoted in the Coalitions letters are not accurate. Note also that the change in vacancy policy dollar amount is an annualized figure.

Rate Adjustment Factor

The amount claimed as a cut for the 2.5 percent RAF for the period July 1, 2011 to November 14, 2011, has been in place since July 1, 2010, and is part of the base of rate setting that was carried forward into the current fiscal year. We should also correct the ID/A's misperception that the fiscal impact of the RAF is computed

by adding 6 percent and 2.5 percent to equal 8.5 percent. The net impact of the RAF annualized for the full fiscal year is less than 5 percent. ***It is also important to note that the RAF is not a reduction against current rates; it is a prospectively calculated reduction in the rates based on cost reports submitted by providers.***

Retained Revenue

As you are aware, ODP has not guaranteed that providers will realize retained revenue during the transition to PPS, and margin is not a component of the cost based rate-setting methodology. The Coalition is misrepresenting the facts by claiming a cut has been taken for something that has never existed in the PPS system.

Outlier Policy

The Coalition's letter raised specific concerns regarding the use of an Outlier Analysis in determining the FY 11-12 rates and the adjustment factor. The Outlier Analysis has been conducted and used every year since the transition to the PPS and has been approved by the Centers for Medicare and Medicaid Services (CMS) in our approved Waiver applications. The Outlier Analysis process allows some exceptions for justified costs and helps ensure that the rates paid to each provider are brought into a narrower range. Moving to a smaller number of more uniform rates will not only satisfy CMS requirements but also provide a more level playing field for providers and ensure a fairer, simpler, more equitable and predictable system for everyone.

Rate Assignments for Providers not Submitting Timely Cost Reports

Similar to the outlier discussion above, ODP's CMS-approved policies for providers who do not timely file cost reports have been in place for three fiscal years. In a system that is based on reported costs, ODP cannot appropriately set rates if providers do not submit timely cost reports. Thus, there is no "cut" related to ODP assigning the lowest rates to providers who do not comply with the cost reporting process. The lowest rate is a cost based rate that providers for a particular procedure code are using to deliver services.

Changes in Vacancy and Use Allowance Policies

ODP has publically stated the need for the changes in vacancy and use allowance policies. In any given fiscal year, ODP would spend approximately \$30 million in total funds (a majority of which are state only funds) for residential placements that are not being used by Waiver participants. The recently announced change in vacancy policy, while still more generous than what CMS will match, will

produce better programmatic and fiscal results for taxpayers and will save the state approximately \$5 million per fiscal year. ODP anticipates moving to a vacancy factor when the new fiscal year begins in July 2012. Similarly, ODP modified our policy of allowing (as a reimbursed cost) a use allowance, or continuing participation allowance, on ineligible assets that are fully depreciated.

In summary, the reductions ODP made to ensure fiscal integrity of the program are half of those claimed in the Coalition's letter. It is important to consider these reductions in light of the \$250 million in net revenue reconciliation payments that have been made during the transition to the PPS system.

We understand that any time there are discussions of changes, providers, families and advocates want to know that those changes will be for the better. Secretary Alexander wants to assure all stakeholders that we will ensure these changes will improve ODP's operations and fiscal controls, provide fair and reasonable rules for families and providers, ensure the program's integrity and continued ability to deliver quality, necessary services to those in need, and assure taxpayers that their money is being spent wisely and carefully on important and necessary services.

Despite the good work that many in the Department and the stakeholder community have done over the years, there is a clear consensus that there is much more work to be done, greater efficiencies to be achieved and greater cost savings that can be made. We hope that the ID/A Coalition and others in the provider community will continue to be important partners in our efforts to reform the system, a task that is essential to preserving and improving services for some of our most vulnerable citizens.

Sincerely,



Kevin M. Friel

Cc: The Honorable Charles Zogby,
Secretary of the Budget
Commonwealth of Pennsylvania

Nancy B. O'Connor, CMS Regional Administrator
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