pennsylvania
DEPARTMENT OF PUBLIC WELFARE

House Human Services Committee
Funding and Payment Policies of the Office of Developmental Programs
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Department of Public Welfare
June 4, 2012

Good morning Chairman DiGirolamo, Chairman Cohen, and members of the House Human Services Committee. My name is Kevin Friel and I want to thank you for this opportunity to come before the committee to discuss funding challenges and payment practices in the Office of Developmental Programs (ODP).

As you are aware, ODP provides services for persons with intellectual disabilities. These are important services for a vulnerable population and we are committed to ensuring the program can provide these services now and well into the future. ODP pays for these services with both state funds and federal matching funds controlled by the Centers for Medicare and Medicaid Services (CMS).

ODP's services have been altered significantly since its inception, moving from delivery in state institutions to a system primarily offering a wide array of services in home and community based settings; and one administered by counties to a statewide program as of July 2009.

The transition to a statewide program, while necessary to comply with CMS requirements and continue receiving federal matching funds, has been challenging and has led to rapidly increasing costs in recent years due to a combination of limited fiscal controls and managerial accountability. The process known as Revenue Reconciliation, something intended to ease the transition from a county based to a statewide system, was paying many providers far beyond units of service billed – in total over a quarter of a billion dollars. It is clear that the blame should not be laid squarely at the feet of providers as the department itself did not previously institute necessary measures to manage the program. We are now trying to implement these controls and comply with federal requirements, while still delivering the necessary services to this population.

As I have mentioned in previous testimony, we performed a forensic scrub in order to reach a point where the Office of Developmental Programs could understand current spending patterns, forecast what would be spent, and finally to fully understand the financial impact of several policy decisions such as paying beyond federal requirements or match-for empty bed days with state only dollars. The review itself was necessary to make informed decisions about the program and ensure its viability for persons who need services now and into the future. Admittedly, the road has been bumpy, but people in positions of responsibility – be they administrators, providers, legislators, advocates or families have seen over several years that additional dollars did not always equate to additional services or necessarily additional people served. This administration takes seriously its legal and moral obligations to help provide for those in need, especially persons with intellectual disabilities, and do so in way that is effective, efficient and compassionate.

The good news that I can report to this committee today is that this Department took the prudent, if sometimes difficult steps to get to this point and our collective efforts today should focus on the future. Addressing the waiting list is a priority for Secretary Alexander and the Corbett Administration. We look forward to working with you and the entire legislature to find and devote resources to begin to provide needed services to persons on the waiting list. After nearly a year and a half of hard work, the Department finally has a basis for making decisions – both financial and programmatic – that will enable us to begin to move toward a program to provide services to persons on the waiting list, helping them to achieve and alleviating the burden on their families and loved ones. That should be our collective goal. It is our hope that pending budget discussions will enable us to quickly roll out this initiative. My staff and I have met with advocates, families, providers, and other stakeholders, all of whom have provided excellent ideas on best practices for dealing with the wait list. The Corbett Administration is committed to helping persons on the wait list lead full and productive lives, and we hope that you will allow us to work with you to ensure funding for such an initiative.

DPW is also actively pursuing alternative proposals, including an expansion of the Shared Living program to provide families with more flexibility by allowing family members to be providers of the service. Shared living, done well, can provide a better environment for many persons with intellectual disabilities. This can be done cost effectively and with appropriate tools for management, which is an added bonus as it will over time enable us to serve even more persons.

These are but a few of the changes in the pipeline. However, let me repeat, without real fiscal and programmatic integrity to the ODP HCBS programs, it will be difficult for a longer-termed and sustained effort to realize these and other significant improvements including reducing the waiting list.

Consolidated P/FDS Waiver

I want to provide some historical context to the waiver programs ODP manages. The ODP HCBS programs have grown 141 percent in the past 11 years. The cost of these programs has increased from $752 million in FY 2000 to $1.81 billion in FY 2011. In that time, ODP, through waiver expansion initiatives, has only served an additional 7,500 individuals on the waiting list. There are currently over 16,000 individuals who are receiving partial or no services at any given time on the waiting list. While the changing needs of individuals enrolled in the programs have played some part in this increased spending, it does not account entirely for the dramatic rise in costs for these programs.

As part of the annual fiscal planning, DPW determined there was a potential shortfall in the ODP waiver appropriation for FY 12-13. DPW is working as part of the budget process to add additional funds to prevent a provider rate adjustment factor (RAF) for FY 12-13, and to ensure that rates moved to a fee schedule, are at reasonable market rates. The Governor and the Secretary believe that the system needs stability, and avoiding a RAF in the upcoming fiscal year is a commitment to help us truly transition to a better and more stable system.

ODP performed a thorough analysis of provider specific rate impacts. While the funds requested prevent further current provider reductions, more must be done to bring equity, consistency and fiscal discipline to these programs so individuals currently on the waiting list have a chance to be served.

Residential Services

The estimated rates outlined for providers last week for residential services include both cost-based and department-established fee schedule rates. Combining residential eligible and ineligible services, 92 percent of all providers have either a decrease in projected revenues of 10 percent or less or an increase in projected revenues when compared to the prior fiscal year. 80 percent of all providers of residential services (representing 91 percent of total projected residential waiver spending) have a projected increase in revenue versus the prior fiscal year. When factoring in unit growth projections, 93 percent of all providers have either a decrease in projected revenues of 10 percent or less or an increase in projected revenues when compared to the prior fiscal year. 85 percent of all providers of residential services (representing 96 percent of projected residential waiver spending) have a projected increase in revenue versus the prior fiscal year.

Residential Eligible Services

Cost based rates (now applicable only for residential eligible and transportation trip services) represent approximately $1.11B of ODP's FY 12-13 projected total (state and federal) waiver spending of $1.87B. The average residential eligible rate increase across all providers from FY 11-12 to FY 12-13 is estimated to be 6-7 percent with unit cost growth of approximately 2.5 percent across all providers. The decision to not provide a Rate Adjustment Factor to residential eligible services not only restores the prior fiscal year's RAF of 6 percent but allows for provider requested year-over-year cost report increases of 2.5 percent. This is further demonstration of this administration's efforts to provide services to persons with intellectual disabilities in a cost-effective and efficient manner. Absent the arduous process that took place over a period of many months to clean up the finances, policies and management of ODP, we would not be in a position to add these funds.

Residential Ineligible Services

In developing **market based fees** for the residential ineligible services, ODP evaluated information from the U.S. Bureau of Labor Statistics, U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, data from approved cost reports, as applicable, and other independent data sources. This move to market based fees brings greater equity to our payment structures and no longer penalizes efficient and effective providers simply because they were efficient and effective. That's the system we inherited and that's the system that will no longer exist. I'll outline the estimated residential ineligible fee schedule increases below.

Fee Schedule Services

Historically, a small subset of ODP services has been paid on a fee schedule. For FY 12-13, ODP decided to move the following services from cost-based rates to a fee schedule or Department-established fee: Non-residential, respite and residential ineligible. Under a cost based rate setting system, there is no incentive to reduce spending and therefore increase margins. Fixed fee schedule rates allow providers certainty in rates and revenues and thus increase incentives to be cost efficient allowing for the potential to increase their margins. Estimated revenue projections (including projected unit growth) for all Fee Schedule services, including residential ineligible services, that will be paid in FY 12-13 represent approximately $697M of ODP's projected total state and federal waiver spending of $1.87B. The attached table outlines the overall average estimated fee schedule rate and total expenditure increases projected for FY 12-13. Actual rate and revenue changes will vary by provider.

Vacancy Factor

Effective July 1, 2012, providers will no longer bill for vacancies or temporary leave days since the residential payment rates will reflect a vacancy factor. This means the provider does not bill for days where a participant is not receiving residential services, but rather is paid a higher rate for days when the participant is receiving services. CMS is willing to provide federal match on residential eligible expenditures based on rates with a vacancy factor thus alleviating the Department of the burden of shouldering the entire cost and allowing funds to flow to other areas, including a waiting list initiative. The statewide vacancy factor is set statewide at 97 percent.

The following considerations were utilized in determining the vacancy factor:

- Data analyses: PROMISe utilization data and historical approved cost report data based on provider size (defined by Waiver revenue), residential home size, and by procedure code

    - Prior to the FY 12-13 rate methodology being finalized, emerging PROMISe utilization data for residential services and billed vacancy days (from PROMISe) were reviewed; these data sources supported a 97 percent factor (versus the original 95 percent factor previously being considered)
- Capacity management: the minimum level of capacity the Department is willing to fund and
- Consistency: the methodology and application is the same for all providers across the Commonwealth

The CMS approved waiver and the soon to be promulgated regulations allow for an exception process for providers whose occupancy rate in total for all residential waiver service locations falls below 97 percent.

RAF

A budget analysis is performed annually to compare the estimated Waiver expenditures, based on estimated rates and projected unit growth, to the budget appropriation for Waiver programs. A RAF is necessary when the projected expenditures exceed the appropriation. The RAF is only applied to rates for cost-based services (for FY 2012-2013, the RAF would only apply to Residential Eligible and Transportation Services). Additional state funding is being requested to the ODP Waiver appropriation to avoid a provider rate adjustment factor (RAF) for FY 2012-2013. The decision to not provide a Rate Adjustment Factor to residential eligible services not only restores the prior fiscal year's RAF of 6 percent but allows for provider requested year over year cost report increases of 2.5 percent.

Regulations Update

DPW is promulgating regulations under the expedited Act 22 authority that mirror the recently approved CMS waivers to improve provider qualifications and the delivery of services in a cost efficient way, that would ensure continued federal funding for Home and Community Based Services (HCBS) programs and create cost savings.

Currently, there are no regulations outlining provider qualifications or rate setting requirements for the Adult Autism, Consolidated and Person/Family Directed Support HCBS programs. Without regulations, DPW has struggled to exercise appropriate fiscal oversight and ensure integrity within in the system. Without rules it's nearly impossible to manage the programs, and ensure that appropriate outcome measures are in place to allow persons to achieve and flourish. DPW must also meet the federal requirements of equity and consistency across the programs. ODP continues to address its own policies to improve the HCBS programs.

The ODP HCBS regulations provide financial accountability, by setting standard rate setting methodologies and giving DPW the authority to provide adequate oversight to these programs and prevent waste and excess. As part of the rate setting process, DPW has been using market based analyses to ensure budget stability. In addition, the financial tools included in the regulations will allow DPW to explore and implement more risk sharing and innovative models in the future. In addition, they add programmatic accountability by establishing in regulation health and safety standards for all providers to ensure that Pennsylvania's most vulnerable populations are protected.

These regulations will establish a foundation toward the structural improvements necessary to ensure the sustainability of the programs. They will allow DPW to more efficiently, effectively and fairly meet individuals' assessed needs, and to provide a level of accountability, transparency and equity in the financial oversight of the program.

The goal of HCBS regulations is to provide quality services for those in need through a sustainable program with clear and fair rules of the road for families and providers to follow. Lack of clear rules carries a real price. With almost 16,000 persons with intellectual disabilities on the waiting list hoping to enroll in the system, the need for reform is urgent.

Conclusion

In closing, the Department acknowledges that this fiscal year was a challenging one for all ODP stakeholders. ODP has worked to improve fiscal controls, transparency and tools to monitor both current waiver spending and predict waiver trends. Current projections indicate that waiver spending will be very close to the FY 11-12 state appropriation. There is more work to do to ensure continued fiscal integrity in the ODP Home and Community Based Service programs. The Department worked very hard to secure CMS approval of the consolidated and P/FDS waiver renewals. New regulations for the first time in years will soon be promulgated. These regulations will improve both program and fiscal integrity. The Department is grateful to all stakeholders for their input on both the waiver renewal and the regulations. The extensive stakeholder participation over the past several years will go a long way towards improving the waiver program for the participants we serve.

Thank you very much for listening to this testimony and we will be happy to take any questions you might have at this time.

Table 1

Projected % Increase in revenues from FY'11-'12 to FY'12-'13 for listed services	Total Fee Schedule Services		Residential Ineligible Only*		Supports Coordination Only	
	Rate Growth Only	Rate and Unit Growth	Rate Growth Only	Rate and Unit Growth	Rate Growth Only	Rate and Unit Growth
% Increase	3.05%	9.45%	5.21%	7.84%	2.86%	11.10%

*For purposes of making an equitable comparison, the residential ineligible increase is based on a comparison of the area-adjusted gross rates between FY 11-12 and FY 12-13. The FY actual 12-13 rates have been adjusted further to reflect the vacancy factor and net rates (consideration for participant R&B contribution removed), This means FY 12-13 rates will appear significantly lower than FY 11-12 rates due to the shift from gross to net rates.