

January 18, 2022

Department of Human Services
Office of Developmental Programs
Division of Provider Assistance and Rate Setting, Fourth Floor
Health and Human Services Building
625 Forster Street
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Subject: Proposed ID/A Rates

Members of the ID/A Rate Review Committee,

Thank you for the opportunity to comment upon proposed fee schedule rates for community intellectual disability and autism (ID/A) services. We extend our gratitude and appreciation that updated rates have been proposed prior to the October 5, 2022 date required under current regulation. We recognize that a significant investment has been made in an effort to meet the urgent need to reinforce a diminishing workforce that has resulted in a service crisis, exacerbated significantly by the COVID-19 pandemic.

Further investment into fee schedule rates is critically needed to sufficiently address workforce issues in the current labor market. Direct Support Professional (DSP) wages must be significantly increased for employers to compete for qualified workers. Data is readily available to support additional rate increases needed to stabilize the community system for the 58,000 people enrolled in Office of Developmental Programs (ODP) services and to establish the sustainability and capacity necessary to address over 12,000 people who remain on the waiting list.

Historical Use of BLS Data as a Wage Benchmark for Direct Support Professionals

ODP has historically utilized data and reporting from the U.S. Department of Labor, Bureau of Labor Statistics (BLS) in its rate setting methodology. ODP Informational Memos 075-12 (issued on August 23, 2012) and 017-17 (issued on March 3, 2017) reference the following BLS codes.

TABLE 1: BLS Codes Used in ODP Rate Setting Methodology with CPI Trend

Occupation Code (SOC)	Occupational Title	BLS Pennsylvania Statewide Data		BLS + CPI-U		Pct. Increase	Average
		May 2015	May 2020	Dec 2021			
21-1015	Rehabilitation Counselors	\$ 18.56	\$ 20.52	\$ 22.31		20.22%	28.53%
21-1093	Social and Human Service Assistants	\$ 14.75	\$ 17.09	\$ 18.58		25.99%	
31-1011	Home Health Aides	\$ 10.58	\$ 12.75	\$ 13.86		31.04%	
39-9021	Personal Care Aides	\$ 10.65	\$ 12.75	\$ 13.86		30.18%	
39-9041	Residential Advisors	\$ 12.54	\$ 15.59	\$ 16.95		35.19%	

Note: In 2017 ODP replaced Residential Advisors with Registered Nurses in its methodology.

ODP Informational Memorandum 075-12 states:

Selected job positions applicable to the types of direct care as well as other program staff positions involved in the delivery and oversight of waiver services. Positions were classified into categories. Group 1 was composed of direct care worker positions.

The Occupational Titles in Table 1 comprise all codes included in Group 1. As referenced in ODP Informational Memorandum 017-17 current fee schedule rates originally proposed for FY2017-18 are based upon BLS data published in May 2015.

Due to the fact that the most recent published BLS data includes reporting through May 2020, Consumer Price Index data from BLS has been applied in Table 1 to trend wage growth between the period May 2020 through December 2021 using the CPI-U index.

The CPI-U index is referenced in Governor Wolf's Executive Order 2016-02 as amended on June 28, 2018, "Minimum Wage for Employees of the Commonwealth and Organizations Receiving State Contracts" and the index referenced in House Bill 92 of The General Assembly of Pennsylvania proposing an annually applied market index to ID/A fee schedule rates. The CPI-U index has increased by 8.74% since May 2020 and by 7.0% over the past 12 months. (Source: Consumer Price Index December 2021 News Release, Publication USDL-22-0018 issued on January 12, 2022)

The Consumer Price Index for All Urban Consumers (CPI-U) increased 7.0 percent over the last 12 months to an index level of 278.802 (1982-84=100). For the month, the index rose 0.3 percent prior to seasonal adjustment.

As Table 1 indicates applying BLS data as a benchmark and trending forward using currently published BLS Consumer Price Index data, the current wage assumptions used historically to inform fee schedule rates through December 2021 have increased by 28.53%.

Eliminating all trending and basing calculations exclusively upon published BLS data through May 2020, the average increase for these job classifications is 18.20%. An average increase of 18.20%, without any CPI-U trending, is used in this analysis going forward as the most conservative approach.

TABLE 2: BLS Codes Used in ODP Rate Setting Methodology Without CPI Trend

Occupation Code (SOC)	Occupational Title	BLS Pennsylvania Statewide Data		Without Trend		Pct. Increase	Average
		May 2015	May 2020	Dec 2021			
21-1015	Rehabilitation Counselors	\$ 18.56	\$ 20.52	\$ 20.52		10.56%	18.20%
21-1093	Social and Human Service Assistants	\$ 14.75	\$ 17.09	\$ 17.09		15.86%	
31-1011	Home Health Aides	\$ 10.58	\$ 12.75	\$ 12.75		20.51%	
39-9021	Personal Care Aides	\$ 10.65	\$ 12.75	\$ 12.75		19.72%	
39-9041	Residential Advisors	\$ 12.54	\$ 15.59	\$ 15.59		24.32%	

Overtime Assumption Used in ODP Rate Setting Methodology

An overtime factor is not included as a separate line item in ODP rate assumptions. As noted in Footnote 2 of the ID/A wage assumptions,

Wages for direct care staff reflect an adjustment for overtime by applying a 5% increase for full time employees below an annual salary of \$35,568.

In September 2021 ODP conducted a survey for Providers of Waiver and Base Funded Services to “help inform ODP rate assumptions.” Based on its survey results ODP reported a post-pandemic vacancy factor of 27%. Additionally, ODP rate assumptions include Paid Time Off (PTO) of 10-25 days + 10 training days + 11 federal holidays (full-time only).

Overtime is paid at a 50% premium over base wage. Given the allowances in rate assumptions for PTO and ODP survey results indicating a vacancy factor of 27% it is unreasonable to assume that a 5% wage adjustment would sufficiently cover needed replacement cost hours paid at an overtime premium at a full-time/part-time staffing ratio of 75:25, as published in ODP rate assumptions.

Discounting for any impact from one-time relief payments targeted for recruitment and retention efforts under the Commonwealth’s American Rescue Plan Act initiative, a 20% overtime replacement cost factor is a conservative estimate in the current market environment and consistent with historical data from statewide DSP compensation surveys prior to the pandemic. Employers pay 1.5x base wage for every hour of overtime. Assuming the 50% premium applies to 20% of hours worked, the factor applied should be 10% *above* the base wage assumption.

This translates to a 10% overtime factor adjustment applied to total wages, rather than the 5% figure embedded into ODP wage assumptions. Correcting for the additional 5% of overtime premium and increasing the BLS average wage accordingly, the percentage increase in wages becomes 19.10% ($18.20\% \times 1.05 = 19.10\%$)

Application of ODP Benefit Factor to BLS Wage Data

Published ID/A Rate Assumptions accompanying proposed fee schedule rates include a benefit factor of 15.85% for Employee Related Expenses (ERE) that are directly proportional to wages. These include Retirement, Life Insurance, Short-Term and Long-Term Disability Insurance, FICA, and Workers Compensation Insurance. Applying this same factor to the wage differential calculated in Table 1, the total increase in wages and wage-related benefits is 22.13%. ($19.10\% \times 1.1585 = 22.13\%$)

This represents the percentage increase necessary to fully fund a DSP wage increase using BLS data and applying adjusted overtime and benefit factors consistent with prevailing ODP rate assumptions and methodology. These calculations are summarized as follows.

TABLE 3: ADJUSTMENTS TO BLS WAGE DATA FOR OVERTIME AND BENEFITS

Occupation Code (SOC)	Occupational Title	BLS Baseline			Total DSP Compensation Increase		
		May 2015	May 2020	Pct. Increase	Average Wage	Overtime+5%	ERE+15.85%
21-1015	Rehabilitation Counselors	\$ 18.56	\$ 20.52	10.56%	18.20%	19.10%	22.13%
21-1093	Social and Human Service Assistants	\$ 14.75	\$ 17.09	15.86%			
31-1011	Home Health Aides	\$ 10.58	\$ 12.75	20.51%			
39-9021	Personal Care Aides	\$ 10.65	\$ 12.75	19.72%			
39-9041	Residential Advisors	\$ 12.54	\$ 15.59	24.32%			

Conversion of DSP Compensation Levels into Fee Schedule Rates

Based on survey data compiled from our membership, the average proportion of DSP compensation to total ID/A claims revenue is estimated at 69.72%. Applying this factor to determine the amount by which rates in each service category must increase to support a wage and benefit increase of 22.13% yields a minimum fee schedule rate increase of 15.43%. Table 4 identifies the percentage increase required in each identified service category.

Projected claims are derived from Home and Community Based Services (HCBS) Waiver Amendments filed on March 1, 2021 for the Adult Autism Waiver and November 22, 2021 for the Consolidated, Participant and Family Directed, and Community Living Waivers.

TABLE 4: DSP CONVERSION OF COMPENSATION TO FEE SCHEDULE RATE INCREASES

	Projected Claims	DSP Comp	BLS Comp	Min Rate	ODP	Estimated	Shortfall	Shortfall
Service Category	Appendix J	% of Claims	Increase	Increase	Proposed	Dollar Increase	in %	in \$
CPS	\$ 523,774,149	69.72%	22.13%	15.43%	9.02%	\$ 47,244,428	6.41%	\$ 33,568,874
Residential Habilitation	\$ 2,023,933,143	69.72%	22.13%	15.43%	8.29%	\$ 167,784,058	7.14%	\$ 144,489,316
Supported Employment	\$ 31,592,958	69.72%	22.13%	15.43%	1.32%	\$ 417,027	14.11%	\$ 4,457,462
Small Group Employment	\$ 15,801,030	69.72%	22.13%	15.43%	5.69%	\$ 899,079	9.74%	\$ 1,538,868
								\$ 184,054,519

Note: CPS Proposed percentage increase uses base rates without enhancement at 50% community utilization.

To fully fund wage and benefit increases based on historical BLS data used to replicate DSP wages assumptions, a minimum rate increase of 15.43% is required. Using BLS wage data with assumptions noted above applied and information from HCBS Waiver amendments, the additional investment needed for fee schedule rates is \$184,054,519.

Please note that the calculations above do not include trending and are based on May 2020 BLS data. **The application of published CPI-U data from the U.S. Department of Labor trended from May 2020 through December 31, 2021 would increase needed investment into rates by an additional 8.74%.**

Using only published BLS data, an adjustment for overtime, and prevailing ODP rate assumptions as illustrated in this analysis an additional increase of \$184 million is warranted. When the current ID/A rates were published on August 19, 2017 the annual fiscal impact identified for subsequent years was \$475.732 million. This included \$64 million to annualize the Community Living Waiver. For the community intellectual disabilities line item of the 2017-18 budget this represented a 14.7% increase. The currently proposed investment of \$405.018 million represents a 10.75% increase over anticipated HCBS expenditures as identified in the ODP Waiver Amendments.

Health Insurance

The monthly expense for health insurance in rate assumptions was reduced from \$617.00/month to \$571.29/month, or 9.3%. Accounting for the 5% reduction in full-time employees included in revised ODP rate assumptions, this still represents an overall decrease to a significant expenditure over a five-year period of documented growth and increase in health insurance premiums. According to the Society of Human Resource Management (SHRM) referencing Mercer's Survey of Employer-Sponsored Health Plans 2021, premiums in 2022 are expected to increase by 4.7%. This follows documented increases in recent prior years ranging from 2.1 to 4%.

Administrative Costs

Rate assumptions continue to apply a 10% factor for administrative expenses. In a highly regulated environment in which providers must administer and comply with a complex service system, individual cost components and requirements should be evaluated and used to determine the appropriate administrative factor to be applied based on this data. The majority of providers report administrative costs over 10%. Each additional 1% increment of administration applied to program costs would yield an additional \$34,242,236 into fee schedule rates.

Services Emphasized In Everyday Lives Publications

ODP emphasizes a number of priorities within its Everyday Lives document. These include supporting people with complex needs and employment. People currently supported in Residential Habilitation under Needs Group 4 are receiving an 8.75% average increase. This is not sufficient to cover wage increases needed to recruit and retain qualified workers. The average rate increase for Residential Habilitation for all Needs Groups is 8.29%. While none of the proposed increases would sufficiently address workforce recruitment and retention for residential services, the proposed increases provide a further disincentive and impediment for those supporting people with complex needs. Proposed increases for Supported Employment (1.32%) and Small Group Employment (5.69%) also fall sufficiently below the amount needed to address staff compensation requirements and cannot support the sustenance or growth of these services.

Rate Setting Methodology

No material changes to rate setting methodology have been proposed by the Commonwealth. Fee schedule rates are to be established using a market-based approach so that payments are consistent with efficiency, economy and quality of care and sufficient to enlist enough providers to ensure choice and availability for participants. Under prevailing rates in the current economic environment this standard cannot be met consistently. Proposed rate adjustments should consider all market factors including impact of the pandemic and fund compensation at a level capable of competing with other industries for skilled and experienced workers needed to deliver care and service.

Establishing pay equity with state-operated programs through the rate setting process is a reasonable measure to provide a compensation benchmark for community services and address the market-driven provisions specified in regulation that address the development of fee schedule rates. It is recommended that ODP modify the application of its rate setting methodology to include wage and compensation data for DSP-equivalent positions in the Pennsylvania State Centers, as this is the only currently available market reference for DSP wages available to the Commonwealth. State center wage data is not used in rate development for HCBS despite the similarities in the work performed, sources of funding, and the individuals served. Workers providing services in the Pennsylvania State Centers are the most comparable positions to DSPs available and should be included in rate development and in the routine analysis of HCBS workforce investment calculations by the state.

It is further recommended that rates be evaluated annually against prevailing market conditions and economic indicators to assess whether or not a fee schedule rate update is warranted under regulation. This would ensure that rates and DSP compensation remain competitive in order to provide needed care and services to all eligible participants. TPA supports Pennsylvania House Bill 92 as the mechanism to accomplish this through a nationally recognized annually applied market index.

Given current market conditions, the recent documented spike in inflation, and the application of BLS data presented dating back to May 2020, we request that rates be enacted retroactively to July 1, 2021 for all services. To the extent that American Rescue Plan Act (ARPA) funds are being used to fund rate adjustments in the current fiscal year, we understand that eligible expenses under ARPA may be included dating back to April 1, 2021.

Equal Pay for Equal Work with Pennsylvania State Centers

The Equal Pay for Equal Work campaign has requested an investment of \$541 million into fee schedule rates. Although calculations have been adjusted to incorporate new information as it has become available, we have consistently adhered to our original request of \$541 million. The tables below reflect the calculations used to determine the amount needed to achieve pay equity with State Centers.

TABLE 5: CALCULATIONS OF EQUAL PAY FOR EQUAL WORK WITH STATE CENTERS

Equal Pay for Equal Work		Determination of Statewide DSP Hours				
State Center Avg Wage	\$ 18.66					
DSP Avg Wage	\$ 14.38					
Hourly Wage Disparity	\$ 4.28					
DSP Hours - Statewide	102,960,000					
Additional Wage Cost	\$ 440,668,800					
Benefit Cost/ERE	\$ 66,100,320					
Overtime Cost (Net)	\$ 44,066,880					
Total Cost	\$550,836,000					
		DSPs	Pct	Hrs/Yr	Total Hours	
		44,000	80%	2,080	91,520,000	
		11,000	20%	1,040	11,440,000	
		55,000	100%		102,960,000	

Based on data from June 2021, Pennsylvania's State Centers pay workers an average hourly wage of \$18.66, versus only \$14.38 for DSPs working in HCBS settings. Since the compilation of this data State Center workers received 2.5% wage increases effective October 1, 2021, one of seven guaranteed pay increases funded by the Commonwealth between 2019-2023.

The proposed investment into fee schedule rates is currently \$405 million. Our campaign continues to advocate for the additional \$136 million needed to meet this objective.

Conclusion

TPA recommends further analysis and review of data from the U.S. Department of Labor, Bureau of Labor Statistics to adequately invest in DSP compensation through fee schedule rates. Market conditions, prevailing regulation and rate setting methodology warrant an analysis that will produce rates sufficient to attract and retain DSPs with the skills and experience needed to provide care and support to people with intellectual disabilities and autism in communities across the Commonwealth.

Thank you for accepting these recommendations to further increase fee schedule rates for our DSP workforce to better serve people and families. We are available to answer any questions you may have regarding our data, conclusions, or recommendations and welcome your feedback. Thank you also for your consideration and the opportunity to provide these comments, and for the ongoing support to people with disabilities provided by the Office of Developmental Programs and the Commonwealth.

Sincerely,

Patrick DeMico

Patrick DeMico
Executive Director