

Summary of Public Comments Received and ODP Responses Regarding the Proposed Fee Schedule Rates for Select Services

The Department of Human Services (Department) published a public notice in the *Pennsylvania Bulletin* on May 27, 2023 of the proposed Fee Schedule Rates for Community Participation Support, Needs Group 5 Residential Habilitation, Life Sharing Without Day, and group Music Therapy, Art Therapy, and Equine Assisted Therapy services funded through the Consolidated, Community Living, and Person/Family Directed Support (P/FDS) Waivers and Transportation Trip services funded through the Consolidated, Community Living, P/FDS and Adult Autism Waivers. The Fee Schedule Rates for Community Participation Support and Transportation Trip services will be in effect on November 11, 2023, 6 months after the expiration of the Federal novel coronavirus (COVID-19) public health emergency. The Fee Schedule Rates for Needs Group 5 Residential Habilitation, and group Music Therapy, Art Therapy, and Equine Assisted Therapy services will be effective on January 1, 2024. The Department received comments on the notice from 16 people and organizations.

The following is a general summary of comments received in response to the proposed Fee Schedule Rates and rate setting methodology.

- Twenty-six comments were received on the rate setting methodology, in general.
 - One comment requested an increase in rate for Benefits Counseling service and stated it does not cover provider costs.
 - One comment said health insurance assumption is inadequate. The same comment said for ERE-Health Care Costs, the ERE assumption of \$571.29 for health care has been decreased and it is not realistic of real world trends. The same comment said according to the 2021 Kaiser Family Foundation report, the average premium for single coverage is \$644, and the report also states that on average, health care costs increase by 4% annually. The same comment stated nationally, 2021 claims are up a combined 20% with an annualized trend of 9.7% over a two year time frame. The commenter asserted DSP wages sit near or below poverty level. The same comment said their contribution for health insurance will continue to rise annually and low wages and rising health care perpetuates poverty. The same comment stated this contributes to turnover.
 - One comment said ODP's rate assumptions are too low and the rate refresh process does not address annual cost increases. The same comment stated a COLA should be developed.
 - One comment said ERE-Workers Compensation-The Workers Compensation percentages as a percent of compensation appear arbitrary by service code. The same comment stated Workers Comp does not delineate between indoor/outdoor locations for premium purposes. The same comment said no matter where an employee is injured, the employers' obligations under Workers Comp are the same.
 - One comment recommended a consistent 5.5% increase across all services.
 - One comment said the Administration percentage should reflect 15-20% allowable cost component. The same comment said this would be in line with Generally Accepted Accounting Principles (GAAP). The commenter recommended breaking the administrative lines down in more detail with allowable % (i.e. training, technology, admin support staff).

- One comment recommended ODP bolster the rates for In-Home and Community Supports (IHCS), respite, and companion so that individuals have choice. The comment also posed the question- how many individuals are staying in CPS because there are no IHCS providers?
- Two comments stated the need to keep rates at a level that enables providers to pay wages that attract/retain new staff. The comments further stated the doing so can support individuals autonomously in the community, and the possibility that such rates might require a commensurate increase in the annual waiver cap.
- One comment said the absentee factor for CPS was not adjusted at all for either Community or Facility services. The same comment said the absenteeism is more directly aligned with utilization, this is the more significant factor in determining an equitable rate adjustment necessary to offset decreased utilization. The commenter recommended that ODP analyze its CPS utilization data and adjust its absentee factor accordingly to reflect current CPS utilization
- One comment said the rates should be market-based.
- One comment said retirement assumptions have decreased compared to the current rates. The same comment said employer retirement match averages 4.5%. The comment recommended the assumptions be increased to reflect real world trends.
- One comment said the proposed rates fail to account for the costs and expenses associated with serving clients that are not only intellectually disabled, but also have sensory disabilities. The same comment said a revision to the Proposed Rates not only ensures a continuation of current services, but also fosters the growth of additional service providers.
- One comment said another class action can be avoided by ODP revising its rates to ensure that service providers to deaf individuals with intellectual disabilities are funded through a rate structure that accurately reflects the true costs of the services. The same comment said ODP's current assumptions fail to account for the unique and current costs required to provide high quality programming to low-income adults with various intellectual disabilities who are also deaf or hearing-impaired. The same comment said the Proposed Rates, which simply formalize rates that have been in place since 2021, fail to account for inflationary costs that all service providers have experienced over the last two years.
- One comment recommended ODP reconsider, revise, and increase the proposed rate changes for CPS Services Fee Schedule Rates as well as those Rates with the Enhanced Communication modifier. The same comment said the Proposed Rates, if adopted, fail to provide sufficient reimbursement to entities providing Community Participation and Support and Home and Community Habilitation services to those within the deaf and hard of hearing community.
- One comment said the rate assumption for SCOs needs to include far more than supervisors and directors. The same comment said supervisors should never supervise more than 5 SCs especially in the world of turnover we are in, and money needs to be built in for incident management, quality oversight, and training in ratio with the number of SCs that are within the agency. The same comment said a vacancy factor needs to be taken into account.
- One comment was regarding assumptions for Non-Residential services of "3 new hire trainings for 24% of staff"? The same comment said Residential services "1 new hire trainings for 24% of staff"? All staff should be trained in order to provide a quality service. The same comment said the training assumptions are not realistic. All staff are required to be trained. The same comment said Full time / Part Time status is not a factor into required trainings.

- One comment said the rate for Speech, Physical Therapy (PT), Occupational Therapy (OT), Equine, and Music therapies is drastically under the rate that insurance pays and private pay rates are. The same comment stated the rates do not help with recruiting efforts for the waiver so there has been little to no sign up for providers under these services. The same comment stated they are receiving reimbursement of \$27.00 per 30-minute music therapy session and requested a rate increase to \$35.00 per 30-minute session at the present time.
- One comment suggested an Increase the daily rate of supported living so that more providers would be willing to qualify to provide this support.
- One comment said rates should allow providers to invest in a sufficient number of accessible vehicles.
- One comment stated the mileage rates should be updated to reflect current IRS standard mileage rate of \$0.656.
- One comment requested the data, calculations, and recommendations that produced the rates and ranges that now appear in the residential rate assumptions.
- One comment said ODP's insufficient fee schedule rates are the principal cause of providers' staffing shortages and conflict with ODP's duties under the waiver programs to assure access by waiver program beneficiaries to good quality care and supports. The same comment said these HCBS Medicaid beneficiaries are entitled to and in need of those critical services. ODP has a duty to assure access by those individuals to good quality ID/A services. The same comment said the well documented and fundamental inadequacies of the current fee schedule rates, coupled with the confluence of historic upheavals in the nation's workforce and competition for employees by every employer, undermine and obstruct providers' ability to compete in the marketplace to retain and recruit competent employees. The same comment said ODP failed to fairly adjust the rates despite the inadequacy of the rates to support the payment of competitive wages consistent with legitimate market-based standards and trends. The same comment said ODP should reflect on its responsibilities under those HCBS programs to demonstrate how it assures that providers can continue to accept and serve beneficiaries absent payments that reasonably reflect the recognized and irrefutable costs they incur to deliver services consistent with regulatory standards.
- One comment stated Older Adult Day Living-W7094- Older adults with ID have increased needs. The same comment recommended the rate currently proposed start as the floor for 1:6 ratio. Rates should be increased for higher staffing ratios to best support the needs of those with aging/ID. Respite needs a with and without day rate. Respite can occur in a Life Sharing home. It may be that some will attend their regular program or maybe with the provider all day every day. It aligns the two programs if there were a with and without day rate for respite.
- One comment said a Life Sharing without day rate needs to be established for unlicensed Life Sharing (under 30 hours per week) as well as respite in a Life Sharing home.
- One comment suggested to include a rate for supported living for individuals who will always require 24 hours supports but have their own home and don't want to move into a Community Living Arrangement (CLA).
- One comment recommended that providers also be eligible for reimbursement for increasing units of service provided to individuals who are now attending more days, or longer days, in CPS programs.

ODP's response: After reviewing the comments on the proposed rates, the Department determined that no changes were necessary to the Fee Schedule Rates. The rates for Life Sharing Without Day services will not be implemented as proposed because funding for these services was not included in the enacted General Appropriations Act for Fiscal Year 2023-2024.

- Three comments were regarding Needs Exception Allowance (NEA) rates.
 - One comment said the residential rate assumptions state that “definitions of Needs Group 4 and Needs Group 5 based on ODP policy.” The same comment said there are no stated criteria or definitions that determine which participants qualify for Needs Group 5. It is presumed that individuals qualifying for Needs Exception Allowances would be eligible for Needs Group 5; however, specific criteria should be developed and “ODP policy” clearly defined to ensure that other individuals who may qualify for this level of service, are authorized to receive it. The same comment requested that this policy provide clarification on any anticipated changes to the Needs Exception Allowance process as we expect financial resources previously dedicated to needs exceptions will be needed at least in part to fund the higher reimbursement rates proposed for Needs Group 5.
 - One comment said that the ODP policy applicable to Needs Group 5 be issued for review and public comment.
 - One comment asked if ODP would use NEAs to create a rate in the short term? The same comment said adults do not have access to Early and Periodic Screening, Diagnostic and Treatment (EPSDT). The same comment said this Needs Group prevention of hospitalization is a primary goal and a Life Sharing provider would need special consultations from nursing and other disciplines like speech or OT within their homes.

ODP's Response: ODP released Announcement 23-083 to provide details about the availability and criteria for NG5 residential fee schedule rates and to re-issue the criteria, process, and procedures for residential fee schedule rate exceptions in the Consolidated Waiver.

- One comment was an inquiry regarding inclusion of vision and dental insurances in the assumptions.
 - One comment inquired if ODP included vision and dental in their assumption? The same comment stated those are separate costs outside of a health care premium.

ODP's Response: The BLS data source utilized as the basis for Health Benefits ERE assumption includes consideration for medical, dental, vision, and prescription drug coverage. Therefore, those components are considered broadly under that category for waiver rate setting.

The following three comments were received that were outside the scope of the public notice and are thus not addressed in this summary:

- One comment inquired in regards to Employment Supplemental Payments Would ODP consider “Incentive bonuses” for individuals who maintain employment for various lengths of service, such as 1 year? This way, quality services becomes the focus, not just onboarding individuals into jobs to meet a metric in order to receive payments.
- One comment suggested that staff hired for the community participation part of CPS could be easing the staffing crisis in other collapsing services.
- One comment suggested to include a rate for supported living for individuals who will always require 24 hours supports but have their own home and don’t want to move into a Community Living Arrangement (CLA).