

3160

14-340 #400

Adams-Moore, Denise

Form Letter B 8-18

**From:** Alex Dole <alexdoled@gmail.com>  
**Sent:** Monday, September 18, 2017 9:49 AM  
**To:** PW, ODPCOMMENT  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code....pdf

Dear Ms. Mochon,

Thank you for the opportunity to submit comments and suggestions in response to the Advance Notice of Final Rulemaking (Advance "Notice") that was published on August 19, 2017 (47 Pa.B. 4831). I fully support the submission provided by Pennsylvania Advocacy and Resources for Autism and Intellectual Disability, PAR, on September 8, 2017. A copy of the comments are attached to this email.

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Alexandre Dole  
Devereux Pennsylvania Advisor Board Member

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14-546 #402

**Adams-Moore, Denise**

**From:** B. Christopher Lee <clee@kandrlaw.com>  
**Sent:** Monday, September 18, 2017 11:17 AM  
**To:** PW, ODPComment  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code 6100.571.pdf

Dear Ms. Mochon,

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B. Christopher Lee, Esq. - Pennsylvania Devereux Advisory Board Member

**Kurtz & Revness, P.C.**  
1515 Market Street, Suite 1200  
Philadelphia, PA 19102

215-854-6399 (office)  
215-870-0555 (mobile)  
215-569-0216 (fax)  
Email: [clee@kandrlaw.com](mailto:clee@kandrlaw.com)

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**Adams-Moore, Denise**

**From:** Janet Cunningham <jbc1923@gmail.com>  
**Sent:** Monday, September 18, 2017 11:28 AM  
**To:** PW, ODPComment  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code....pdf

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Sincerely,

*Janet B. Cunningham*  
Member, Pennsylvania Advisory Board  
Devereux Advanced Behavioral Health

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1950

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14-540 #404

**Adams-Moore, Denise**

**From:** Rebecca Southwell <RSOUTHWE@devereux.org>  
**Sent:** Monday, September 18, 2017 11:49 AM  
**To:** PW, ODPCOMMENT  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2 PAR Comments 2017 on Advance Notice of Final Rulemaking 55 Pa. Code 6100.571.pdf

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Rebecca Southwell, MSN

**Rebecca H. Southwell**  
Development Manager of Donor Relations, New Jersey & Pennsylvania  
Devereux Advanced Behavioral Health  
444 Devereux Drive  
Villanova, PA 19085  
Office: (610) 801-2172  
Mobile: (610) 996-8195  
[RSouthwe@Devereux.org](mailto:RSouthwe@Devereux.org)



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14-540 (#411)

**Adams-Moore, Denise**

**From:** Amy Kelly <Amy.Kelly@devereux.org>  
**Sent:** Monday, September 18, 2017 1:43 PM  
**To:** PW, ODPComent  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code 6100.571.pdf; FullSizeRender-20.jpg  
**Importance:** High

Dear Ms. Mochon,

Thank you for the opportunity to submit comments and suggestions in response to the Advance Notice of Final Rulemaking ("Advance "Notice") that was published on August 19, 2017 (47 Pa.B. 4831). I fully support the submission provided by *Pennsylvania Advocacy and Resources for Autism and Intellectual Disability, PAR*, on September 8, 2017. A copy of the comments are attached to this email. I have also attached a picture of me and my daughter Annie.

As a parent to a 15 year old daughter with severe Autism and Intellectual & Developmental Disabilities, I worry EVERY day about my daughter's future care once she turns 21 and no longer receives federal education entitlements. Most likely, Annie will need to live in a supported living environment with a group home or residential care. Since Annie's diagnosis at 2 years of age, I have changed careers to become a behavioral health professional whose sole purpose as a mother, tireless advocate and Devereux's Director of Family and Community Services is to enhance and ensure a happy and meaningful quality of life for people with autism and intellectual disabilities. I do this through staff trainings (both in and out of Devereux) on a family's perspective of living with Autism and IDD, lectures and speaking events at many local colleges and hospitals about awareness and care, and by participation as a family advisor and behavioral health professional for groups such as the Children's Hospital of Philadelphia, The Autism Treatment Network, and the American Board of Pediatrics Foundation. I appreciate that ODP has restated its commitment to set rates consistent with efficiency, economy and quality of care and be sufficient to ensure access by eligible consumers to Waiver Program Services. As such, I want to underscore PAR's recommendation that the new regulations contain a provision that supports the application of an annual inflation adjustment to fee schedule rates. Other healthcare-related industries are afforded this opportunity, and Devereux's services are no less worthy. In fact, consistent, caring, and competent ID/A staffing, long challenged by inadequate rates, are crucial to the daily, high-quality care and services our individuals with an intellectual disability or autism deserve – and need - to be able to become their individual personal best, and to live meaningful fulfilled lives. It is challenging enough to find people who are called to provide quality direct care as staff for adults with Autism and Intellectual Disabilities – but this can be made easier by providing fair and competitive pay to reduce staff turnover and to allow for Devereux to equally compete against other providers.

Thank you again for this opportunity, and for your daily work on behalf of tens of thousands of individuals, and their families, in the Commonwealth. And thank you for your future help with the care of my own Annie.

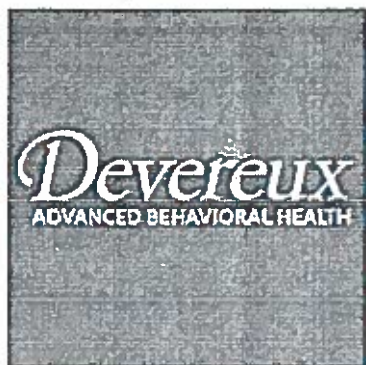
Most sincerely,  
Amy

*Amy Kelly, MBA, MNM  
Director of Family/Community Services  
Devereux Advanced Behavioral Health  
85 Old Eagle School Road  
Strafford, PA 19087*

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**Adams-Moore, Denise**

**From:** Melissa Markowitz <mmarkow2@devereux.org>  
**Sent:** Monday, September 18, 2017 2:17 PM  
**To:** PW, ODPCOMment  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code 6100.571.pdf

Ms. Mochon,

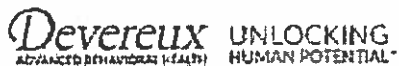
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*Melissa Markowitz, MSW, LCSW*  
Director of Social Services and Compliance  
Devereux PA CIDDS  
390 E. Boot Road | West Chester, PA 19380  
[mmarkow2@devereux.org](mailto:mmarkow2@devereux.org)  
610.431.8133 (office) | 610.425.6311 (fax)

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**Adams-Moore, Denise**

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**From:** Stephen Bruce <sbruce@devereux.org>  
**Sent:** Monday, September 18, 2017 4:04 PM  
**To:** PW, ODPComment  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code 6100.571.pdf

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Stephen Bruce, M.Ed., BCBA | Executive Director – Pennsylvania Adult Services  
Devereux Advanced Behavioral Health | 139 Leopard Rd., Berwyn, PA 19312  
(w) 610-251-2086 | (fax) 610-296-6861

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14-540 #422

**Adams-Moore, Denise**

**From:** Christopher Betts <CBETTS@devereux.org>  
**Sent:** Monday, September 18, 2017 4:22 PM  
**To:** PW, ODPCOMMENT  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
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**Christopher Betts MA | Assistant Executive Director**  
Devereux Advanced Behavioral Health - PA Adult Services | 139 Leopard Rd, Berwyn, PA, 19312  
(w) 610 296 6929 | (c) 484 568 3957

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**Adams-Moore, Denise**

**From:** Greg Newell <gnewell@navenewell.net>  
**Sent:** Monday, September 18, 2017 4:26 PM  
**To:** PW, ODPCComment  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code....pdf

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Sincerely,  
Greg

*Devereux Pennsylvania Advisory Board Member*

Gregory Newell, PE | President



900 West Valley Road, Suite 1100, Wayne, PA 19087  
 P: 610.265.8323 | gnewell@navenewell.net  
 www.navenewell.com



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Adams-Moore, Denise

3160

14-540 #428

**From:** Shamra Spencer <SSPENCER@devereux.org>  
**Sent:** Monday, September 18, 2017 10:26 PM  
**To:** PW, ODPComment  
**Subject:** Home and Community-Based Supports and Licensing; Fee Schedule Rates; Advance Notice of Final Rulemaking  
**Attachments:** 2017.0908 PAR Comments on Advance Notice of Final Rulemaking 55 Pa. Code....pdf

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Best regards,  
Shamra

Shamra J. Spencer, M.S.  
 Assistant Director of Development, New Jersey & Pennsylvania  
 Devereux Advanced Behavioral Health  
 444 Devereux Drive  
 Villanova, PA 19085  
 Office: (610) 801-2173  
 Mobile: (610) 804-7147  
[SSpencer@Devereux.org](mailto:SSpencer@Devereux.org)

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Nancy Greenstein  
Chairperson, Board of Directors

Elizabeth Andl-Petkov  
President and Chief Executive Officer

September 15, 2017

Ms. Julie Mochon, Policy Director  
Office of Developmental Programs, Room 502  
Health and Welfare Building  
625 Forster Street  
Harrisburg, PA 17120

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Dear Ms. Mochon:

**RE: Comments on Advance Notice of Final Rulemaking: 55 Pa. Code 6100.571  
(Fee Schedule Rates), published by the Department on August 19, 2017**

We fully support the comments as submitted by our association, PAR, as noted on the attached letter of September 15, 2017. In addition we offer the following comments:

For the six fiscal years from FY 2012 through FY 2017, in compliance with its Waiver and regulations, ODP had established first four, than three geographical area rate designations based on 2010 cost data. ODP updated its cost data as of March 2017 and determined that differentiation among areas was warranted.

Rates for FY 2018 were proposed with two geographical areas. With no rationale provided, on May 12, 2017, ODP reversed its position and announced it would move to one area rate across the entire Commonwealth. There was no opportunity for comments or feedback on this decision. Having only one area in Pennsylvania for FY 2018 results in a tremendous competitive disadvantage for Area 1 providers, as compared to Area 2 (or Area 3) providers, who will receive windfalls from receiving disproportionate rate increases. While the methodology ODP used to determine the FY 18 area designations has been questioned by some, ODP's response by eliminating any methodology has resulted in an inequitable, noncompetitive rate structure that is out of compliance with its own regulations and waiver submission. Most importantly, if rates are not geographically reasonable, it will increase the possibility of providers not offering certain services, or providers not continuing services. This will impact the quality of care for individuals receiving services in this area because providers will have to force savings by keeping salaries as low as possible. This will impact recruitment of staff and retention of staff leading to higher staff turnover rates and reduced quality. Providers will have to also cut components of services that they may deem as not essential, such as QI

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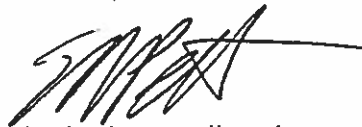


staff, training staff, transportation costs, occupancy costs, and any other support services which, again, will impact the quality of support to those we serve. All of this puts individuals receiving services in the Philadelphia area at a distinct disadvantage and frankly treats them unequally and in a way that many may see as discriminatory. The cost of living is a relevant concept in regard to provider rates because about 85% of provider's costs are the cost of its workforce. It is pertinent to the quality and sustainability of services that providers are able to move toward paying a living wage to every member of its workforce. A major driver of the cost of living being higher in Philadelphia is the 4% City Wage Tax. In addition, Philadelphia requires a \$12/hr. minimum wage, while the State minimum wage is \$7.25/hr. This underscores the need to have a higher rate for Philadelphia services to assure that adequate staffing can be recruited, trained and supported in maximizing the quality of services to those residents of Philadelphia who are beneficiaries of the Waiver Program.

Therefore, PATH recommends that the Department use an independent data source and consider the actual cost of providing the services, required by the Department's regulations, in the geographic area that those services are provided. PATH urges a return to the Department's March 11<sup>th</sup> draft publication which provided rates that more accurately reflected the geographic costs for the provision of services for Fiscal Year 2018 with those rates being increased annually by tying them to nationally recognized Cost of Living Index.

PATH thanks the Department for the opportunity to comment on these regulations that significantly impact the lives of the people we support and their families.

Sincerely,

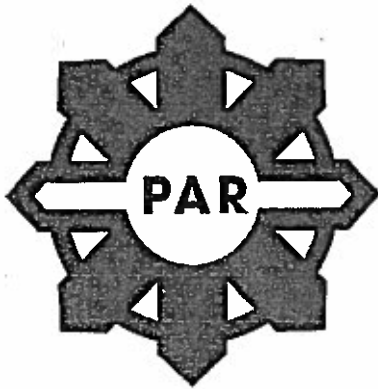


Elizabeth C. Andl-Petkov  
President & CEO

EAP/san







Pennsylvania Advocacy and Resources  
for Autism and Intellectual Disability

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September 15, 2017

Ms. Julie Mochon  
Human Service Program Specialist Supervisor  
Office of Development Programs  
Department of Human Services  
Room 502, Health & Welfare Building  
625 Forster Street  
Harrisburg, PA 17120

**Re: PAR's Comments on Rate Setting Methodology for Consolidated and Person/Family Directed Support Waiver-Funded and Base-funded Services for Individuals Participating in the Office of Developmental Programs Service System.**

Dear Ms. Mochon:

PAR is Pennsylvania's statewide association whose members provide the majority of the Commonwealth's residential and non-residential services and supports to over 50,000 individuals with an intellectual disability or autism. On behalf of its members, PAR is pleased to submit comments and suggestions in response to the Notice published by the Department of Human Services (the "Department") on August 19, 2017 (47 Pa. B. 4919) announcing the proposed methodology used to develop payment rates effective July 1, 2017 through December 31, 2017 for residential habilitation eligible, life sharing eligible and transportation trip services funded under the Consolidated and Person/Family Directed Waiver Services (the "Rate Setting Methodology"). As providers of covered services under the Waiver Programs, PAR's members are dependent upon Medical Assistance reimbursement to assure that they can provide both quality care and access to services by the individuals who rely on and benefit from Waiver Program services.

Waiver Program providers of residential habilitation eligible, life sharing eligible and transportation trip services are confronting high employee vacancy rates and staff turnover due directly to the fundamentally flawed Rate Setting Methodology that is set forth in 55 Pa. Code Chapter 51. The Rate Setting Methodology, first adopted on June 9, 2012 (42 Pa. B. 3230) and unchanged since its initial publication, by design, understates the reasonable, allowable costs that providers will incur from July 1, 2017 – December 31, 2017. The depiction of the proposed methodology as "cost based" is a misnomer in that the costs on which the payment rates are developed reflect costs that are two years old, i.e. costs taken from approved FY 2015-16 cost reports that are not adjusted to reflect the actual (or even imputed) relevant cost experience of Waiver Program providers during the intervening two years. Nor are the rates brought forward to December 31, 2017 to reflect projected cost increases consistent with nationally recognized economic indexes. The cumulative impact and loss on providers due to the Rate Setting Methodology for FYs 2013-14, 2014-15, and 2015-16 is estimated to total over \$150M.



Given the undisputed inadequacies of the Rate Setting Methodology, including its budget driven outcomes and its material understatement of the actual and reasonable costs incurred by providers to render Waiver Program services, please explain why ODP asserts that the Rate Setting Methodology will enable providers of residential habilitation eligible, life sharing eligible and transportation trip services to render quality care and to meet the documented needs of individuals as set forth in their Individual Support Plans and to comply with the CMS-approved Pennsylvania HCBS Community Settings Initial State Transition Plan from July 1, 2017 through December 31, 2017.

The Department must explain, in establishing payment rates for residential habilitation eligible, lifesharing eligible and transportation trip services, why it did not bring the costs forward from FY 2015-16 using a nationally recognized index, such as the Medicare Home Health Market Basket Index, and why it did not apply the same index to bring the rates forward from July 1, 2017 to December 31, 2017.

The Department must explain how Waiver Program providers can retain and recruit qualified staff to provide "cost based services" under a rate setting methodology that fails to account for the routine, common, reasonable costs that providers must incur in the geographic market in which they operate, on a current basis, and that instead reflects outdated historical costs with no adjustments whatsoever to account for increased costs incurred during the two year lag period (particularly employee wage and healthcare costs) and the additional costs to be incurred in the projected fiscal year.

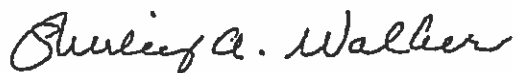
The Department must explain why Waiver Program providers, due solely to the inadequate and intentionally depressed payment rates that are the outcome of the Rate Setting Methodology, must continue to secure and incur (unreimbursed) deficit financing to assure the provision of quality care and services to that places them in jeopardy of insolvency.

Principle Recommendation

PAR urges the Department to adjust the Rate Setting Methodology and apply the Medicare Home Health Market Basket Index to the FY 2015-16 provider incurred costs, as reported in ODP-approved cost reports, through June 30, 2017 and to apply the same index to bring the resulting rates forward through December 31, 2017. In so doing, the Department will help to mitigate the perpetual annual deficit financing experienced by Waiver Program providers.

We welcome the opportunity to meet with you to discuss any questions or clarifications on our comments.

Sincerely,



Shirley Walker  
President and CEO



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