

Adams-Moore, Denise 3160

14-540 (#420)

**From:** Karin Annerhed-Harris <karin@thealliancecsp.org>  
**Sent:** Monday, September 18, 2017 3:49 PM  
**To:** PW, ODPCComment  
**Subject:** Comments on Fee Schedule Rates  
**Attachments:** Alliance comments - Final Rulemaking Fee Schedule Rates 9.2017.docx

Dear Ms. Mochon,

Attached are comments submitted by the Alliance and our members. Please contact me with any questions.

Thank you for the opportunity to comment on these regulations as they have a significant impact on the lives of the people and families our members support.

Karin Annerhed-Harris  
Associate Director



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# THE ALLIANCE OF COMMUNITY SERVICE PROVIDERS

September 18, 2017

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

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

The Alliance of Community Service Providers represent providers in the Southeastern region of Pennsylvania providing residential and non-residential services to children and adults with intellectual disabilities autism. On behalf of our members the Alliance is submitting comments in response to Advance Notice of Final Rulemaking: 55 Pa. Code 6100.571 (Fee Schedule Rates), published by the Department on August 19, 2017.

1. The Alliance members would like to highlight the Department's failure to take a market-based approach on the rate setting and the department did not use readily available independent data sources or consider local ordinances and statutes in establishing one area rate designation for the state of Pennsylvania.
  - Independent data sources such as MIT's Living wage data which updated every year, the Census Bureau's Metropolitan Statistical Areas, and CNN area wage data all document differences of 10-30% in wage and cost of living data between the Philadelphia Metropolitan area and other areas throughout the Commonwealth that the Department should use in developing a market-based approach to setting rates.
  - The Department's own analysis and rate structure since 2010 has documented and used an area rate designation that resulted in rates being significantly higher in the Philadelphia region and other previously designated "Area #1" areas than Area #2 and previous Area #3 and there is no basis provided for discontinuing this practice.
  - Most recently, data reviewed by the Department and documented in its March 11, 2017 published draft report cited that "area factors are driven by wage level realities across the Commonwealth, as wages compose the majority of costs in delivering home and community-based services". In this report, the Department indicated that the Bureau of Labor Statistics data resulted in an 11% differential between the averages of the highest cost areas (Area 1) versus the average of the lower cost areas (Area 2). Even with this analysis, SPIN maintains that the wage cost and local ordinances and requirements of providing service in Philadelphia are at the highest end of the cost differences that resulted in this average.
  - The Department failed to consider local ordinances and laws that govern operating in the City of Philadelphia such as:
    - By ordinance Philadelphia requires a minimum wage of \$12.10/hour which is \$4.85/hour higher than the Commonwealth of Pennsylvania's minimum wage of \$7.25/hour.
    - There is a 4% city wage tax in Philadelphia which drives up the cost of labor as the area counties do not have a similar wage tax.

- There is an ordinance in Philadelphia that **all employers must provide paid leave time to all employees and substitutes** which is not a law in other areas and drives up the cost of service which was not considered by the Department.

This emphasizes 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 who are beneficiaries of the Waiver Program.

The Alliance recommends that the Department use an independent data source such as the MIT Annual Living Wage Calculator and consider the actual cost of providing the services required by the Department's regulations in the geographic area those services are provided. A living wage for DSPs must be considered as a cost of service. The Alliance urges the department to revisit the Department's March 11<sup>th</sup> draft publication which provided rates that more accurately reflect the geographic markets for the provision of services for FY 18 and that rates are increased annually by tying them to the Home Health Market Basket Index.

2. The Department must adopt in regulation a nationally recognized market index to adjust fee schedule rates annually.

The Alliance suggests that The Department will [refresh the market-based data used] examine and use the data sources set forth in subsection (a) to establish fee schedule rates at least every 3 years, and will adjust rates annually thereafter within each three-year cycle, using a nationally recognized market index.

#### Reasoning and Support:

1. Historically, fee schedule rates supporting people with intellectual disability have not been adjusted following their inception. An appropriate index should be selected and published in advance of its application.
2. Current fee schedule rates do not support a living wage for Direct Support Professionals statewide.
3. Fee schedule rates that do not keep pace with inflation and other economic market forces effectively result in decreased quality and services to people with intellectual disability and autism.
4. Without fee schedule rates that support a living wage, reimburse provider costs, allow for a reasonable retention factor, and include an index strategy that keeps pace with inflation; the resulting rates will not be sufficient to achieve efficiency, economy, and quality of care.
5. Fee schedule rates that do not reflect adequate reimbursement levels will not be sufficient to enlist or retain qualified providers.

In addition to these comments, the Alliance and our members support the comments submitted by PAR on September 15<sup>th</sup>, 2017

Thank you for the opportunity to provide these comments, and for taking the time to review them.

Sincerely,

Cherie Brummans  
Executive Director

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