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REHABILITATION & COMMUNITY
PROVIDERS ASSOCIATION

September 14, 2017

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

Dear Ms. Mochon:

RCPA is a statewide association of human service providers representing over 330 members. The following represents consensus comments in response to the Department's advance notice of rulemaking relative to the rate section of the proposed 6100 regulations:

Advance Notice of Rulemaking

1. 6100.571(b) - It refers to "data sources set forth in subsection (a)", but the words "data sources" were struck in subsection (a). Please clarify.
2. 6100.571(b) - "At least every 3 years" is too infrequent. Costs change rapidly and thus waiting every three years is too long and in effect freezes rates in the interim. This should be changed to annually. In addition, this section should include language that requires the department to develop, publish, and reimburse providers with rates based on the data. As written, the department is not required to increase rates even if the data suggests that raising rates is called for. In addition, the language as written is silent on whether the department is allowed to use the data to develop a rate "range". If the language as written allows this practice, then our members have little to no confidence that the department will ever exercise its discretion to increase rates when the current rate falls within the arbitrary range created. Finally, if the department is unwilling to make the aforementioned changes, then an alternative approach should be included in the regulations during the years rebasing does not occur. During those years, the regulations ought to obligate the department to develop and submit rates for approval that are inflated by a nationally-recognized index relevant to the intellectual/developmental disabilities services system, such as the federal Home Health Market Basket Index, and to propose a budget to the Office of the Governor that includes funding to cover the increase in rates.
3. 6100.571(c) - This section talks about "factors" that the department will use, but it is lacking sufficient detail and specificity as to kinds of data or resources the department will use. The section should include language that requires the department to utilize data, research, or other resources that are relevant to the IDD service system, current, peer-reviewed or nationally recognized as credible, and relevant to Pennsylvania.
4. 6100.571(c)(3) - Please add "wages" to this section. Also, please consider including a requirement that, if relevant data is not utilized every year, the factor for wages, benefits, and taxes be based on a nationally-recognized inflation index.

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5. 6100.571(c)(4) "Productivity" – please define and clarify with greater detail.
6. 6100.571(c)(5) "Occupancy" – please define and clarify with greater detail.
7. 6100.571(c)(7) "Geographic costs" – please clarify how this will be factored-in if there is a single statewide rate.
8. 6100.571(c) – Please clarify how ramp-up costs are factored in. If they are not currently factored-in, then please add a new factor to consider or address in some other way.
9. 6100.571(d) – The language as written says the department will publish a "summary" of its rate setting methodology, including data and data sources, and an explanation of the use of the factors. A summary is inadequate. Please remove the three words "summary of its" from this section.
10. General: Because the approved waiver indicates that the residential fee-schedule rates will be based on the SIS, this rate section ought to include language that references the use of a nationally-recognized assessment tool, and that such a tool should be independently administered, peer-reviewed and/or generally accepted by experts in the field. The language should also discuss what the assessment is supposed to show and how it will lead to a determination of a rate, how frequently the assessment should be administered, that the assessment outcome can be appealed, how the appeal can be made, and criteria the department will use to adjudicate appeals.
11. General: While the department has indicated in correspondence to stakeholders earlier in 2017 that there will be a single statewide rate (as opposed to 2 or 3 different rates based on geographical regions), the language shared under the advance notice of rulemaking is absent any mention of or specificity on that topic. Please add clarifying language.
12. General: Please add language that requires the department to publish a second notice following the publication of proposed rates; the second notice should include the comments the department had receive on the proposed rates and an explanation as to whether or how those comments resulted in changes to the final rates.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Stephen H. Suroviec
Chief Operating Office &
Director, IDD Division