House Resolution No. 211

By the Honorable Representative Hoffman

Disability Services Sustainability Committee

Louisiana Department of Health's

Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services

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Response to HR 211

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LOUISIANA DEPARTMENT OF HEALTH

Contents

Executive Summary

Purpose

House Resolution No. 211 of 2017 by Representative Frank Hoffman charged the Louisiana Department of Health (LDH) with assembling a Disability Services Sustainability Committee with the goal of identifying potential efficiencies and cost-savings strategies, and to review issues that affect the solvency of the disability services provider network.

Specifically, the Committee addressed 16 distinct areas within the services of Home and Community Based Waivers, support coordination, and Intermediate Care Facilities for Individuals with Intellectual / Developmental Disabilities.

Instead of establishing a standing committee, the department recognized the importance of this issue and organized a workgroup that included the members identified in the resolution to complement the existing stakeholder structure for those served by the Office for Citizens with Developmental Disabilities and the Office for Aging and Adult Services.

In addition to the representatives of these two offices within the Louisiana Department of Health, the workgroup included the leadership of provider organizations that serve people with disabilities. These organizations included the Community Provider Association, the Arc of Louisiana, the Supported Living Network, the People First of Louisiana, the Support Coordination Alliance and the Human Services Interagency Council.

The workgroup held three meetings where LDH shared activities the agency had completed or was in the process of planning or implementing, related to the identified areas of concern. The other participants identified several major systemic areas that they believe are in need of quality improvement strategies and that can be implemented in partnership with LDH.

Discussions included past actions taken by the department to advocate for additional funding for this provider group that includes a rate increase to cover overtime paid by providers to their employees and a change to the rate methodology/rate increase for Personal Care Attendant Services.

Issues that were identified by the provider representatives included the need for simplified billing, the review and approval process for individual plans of care, the recruitment and retention of qualified employees, rate increases and how providers are audited.

This report provides detailed information on these and other areas that were addressed by the members of the workgroup, including LDH actions taken and planned for these areas, and recommended follow-up actions for all relevant parties.

The intent of LDH is that this is the final report to the Legislature regarding this resolution and that LDH will take action to address the identified systemic issues with inclusion of appropriate stakeholder groups.

Section 1 – Background

Providers who deliver services to individuals with developmental disabilities and the elderly through LDH's Office for Citizens with Developmental Disabilities (OCDD) and the Office for Aging and Adult Services (OAAS), have expressed concerns regarding the sustainability of the service delivery system.

Subsection 1.1 – Stakeholder Engagement

OCDD and OAAS recognize that there are several stakeholder groups who can provide valuable contributions and feedback on the service delivery system for people with developmental disabilities, adult onset disabilities, and the elderly. These stakeholders include, but are not limited to, the following: individuals supported and their families/support systems, advocacy organizations, provider agencies, and local governing entities. OCDD and OAAS have strategies in place to ensure opportunities for feedback from all stakeholder groups.

OCDD has the following stakeholder engagement structure:

- OCDD Core Advisory Stakeholder Group [i.e., self-advocates, family members, advocacy organizations (Louisiana Developmental Disabilities Council), and provider representatives] (bi-monthly meetings);
- Developmental Disability (DD) State Advisory Committee (bi-monthly meetings)/Regional Advisory Committees (at least quarterly meetings);
- Louisiana Developmental Disabilities Council (quarterly meetings);
- Support Coordination Executive Director meetings (currently meetings held monthly);
- Provider calls (bi-monthly);
- Provider visits by OCDD management team members;
- Provider association meetings attendance/presentations; and
- Partners in Policy Making.

Over the years, OCDD has established strong communication and ties with its stakeholders, primarily with families and individuals with developmental disabilities. Since last year, the Office has been working to strengthen its relations with providers and provider organizations. OCDD has extended an invitation to providers for an unofficial visit of their facilities to learn more about their agencies, structure, best practices. Discussions also included operational challenges that they may face when interacting with the Office, to assist in resolving concerns and issues. Numerous providers have requested and continue to request these voluntary visits, which are led by members of OCDD leadership. To date, provider visits range from large-scaled operations to smaller agencies statewide. OCDD has also initiated provider calls, which were originally scheduled monthly but are now occurring every other month on the first and third Thursday of the month. The goal of the calls is to ensure ongoing communication with the provider community regarding relevant issues and concerns. OCDD also provides information on issues that impact provider operations through webinars and meetings. Also provided by OCDD staff to the local districts are trainings and visits to provider agencies regarding Home and Community-Based Services (HCBS), the new Home and Community Based Settings Rules from CMS, technical assistance and guidance, as well as the Human Services Accountability and Implementation Plan (AIP) monitoring visits.

OAAS has the following stakeholder engagement structure:

- Regional office quarterly meetings with support coordinators and providers

- Quarterly meetings with executive directors of support coordination agencies (previously monthly; mutual agreement to change to quarterly)
- Provider association meetings (attendance and presentations)
- Louisiana Developmental Disabilities Council
- Executive management meetings with Advocacy Center, American Association of Retired Persons (AARP), Amyotrophic Lateral Sclerosis (ALS) Association, Alzheimer's Association, etc.
- Engagement in specific processes, such as developing and testing new procedures or systems

Subsection 1.2 – OCDD and OAAS Services and Populations

OCDD offers community-based services and supports for people with intellectual/developmental disabilities through Medicaid home and community-based waiver services. These waiver programs allow Louisiana citizens to have greater flexibility to choose where they want to live as well as the waiver services and supports that best suit their needs, while still receiving Medicaid State Plan benefits. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) are facilities licensed to provide residential care for four or more individuals with intellectual/developmental disabilities that meet the criteria for 24-hours/day-of active treatment.

OCDD – Home and Community-Based Waiver Services

- Approximately 11,600 individuals served
- Approximately 500 provider agencies
- Approximately 40,000 direct support workers employed

OCDD - Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID)

- Approximately 4,250 individuals served
- Approximately 539 facilities
- Approximately 20,000 direct support workers employed

OAAS offers community-based services and supports for people who are elderly or have adult onset disabilities through Medicaid home and community-based waiver services (HCBS). These waiver programs provide supports and services to assist Louisiana citizens to remain living in their home. OAAS also oversees the state plan service, Long-Term Personal Care Services (LTPCS), which provides personal care services to adults with Medicaid who meet the medical criteria for this service. Nursing homes are facilities licensed to provide residential and acute care for individuals that meet nursing home level of care.

OAAS - Home and Community-Based Waiver Services and Long-Term Personal Care services

- Approximately 21, 790 individuals served
- Approximately 568 provider agencies
- Approximately 37,360 direct support workers plus adult day health care workers employed (personal care attendants)

Subsection 1.3 – Legislative Funding Requests for Providers

In order to address the concerns of providers, LDH made several funding requests to aid providers in their ongoing efforts to deliver service to the state's most vulnerable.

LDH Provider-Related Budget Requests:

- Rate increase to cover Overtime for Providers
- Rate methodology/rate increase for Personal Care Attendants (PCA)
- Rate increase for Providers (PCA Services)

OCDD Requests:

- Mixed Waiver Offer Request
- Individual and Family Support (IFS) Enhanced Rate
- Support Waiver IFS Hours Request
- IFS Night Rate Increase
- Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) Rebasing

OAAS 2018 Budget Request Items for Discussion:

- Filling of Slots – Community Choices Waiver (CCW) and Adult Day Health Care (ADHC)
- Rate Increase for the Program of All-Inclusive Care (PACE) and Increase in PACE Slots/Capacity
- ADHC Transportation Rate Increase

Section 2 – Actions in Response to HR 211

HR 211 specifically requested information in the following areas:

(1) Information concerning billing, including identification of the current billing and payment processes for HCBS, ICF, and case management agencies, as well as strategies for streamlining these processes.

(2) Information concerning rate methodologies, including evaluation of the current reimbursement methodology for HCBS, ICF, and case management agencies to ensure that it takes into consideration not only current costs, but additional factors necessary to build a high-quality and stable workforce.

(3) Information concerning emergency protocols, including protocols for what constitutes an emergency; identification of the roles and responsibilities of the Louisiana Department of Health, human services districts and authorities, case management agencies, other provider agencies, and individuals and families during an emergency; and recommendations relative to automatic waiving of regulations under certain emergency situations.

(4) Information concerning Medicaid audits, investigations, and monitoring, including analyses of all audits, investigations, and monitoring of HCBS, ICF, and case management agencies to avoid duplication of efforts; identification of gaps in the system where monitoring, audits, or investigations are not being conducted; clear identification of expectations of provider agencies during an audit or investigation; and a written definition of what constitutes an audit finding and the related penalty or fine associated with the finding.

(5) Information concerning unfunded mandates, including identification of unfunded mandates for HCBS, ICF, and case management agencies; strategies for eliminating unnecessary unfunded mandates; and recommendations for minimizing the financial impact of each mandate.

(6) Information concerning abuse and neglect training, including identification of current abuse and neglect training requirements for department staff, and recommendations to ensure that abuse and neglect determinations are appropriate and consistent statewide.

(7) Information concerning cost reporting, including mandatory cost reporting by HCBS to verify expenditures, and recommendations for ensuring that such reports include cost factors necessary to build a competent and stable direct support workforce.
(8) Information concerning background checks and onboarding costs, including identification of current background check requirements and other onboarding costs and strategies for securing federal matching funds to cover these expenditures.
(9) Information concerning case management and support coordination, including the status of action items identified in the report issues in January of 2012 pursuant to Act No. 299 of the 2011 Regular Session of the Legislature, and recommendations to streamline case management processes.
(10) Information concerning electronic visit verification (EVV), including identification of the actual cost to providers for implementing EVV and the total amount of cost savings and cost avoidance resulting from EVV implementation.
(11) Information concerning the plan of care approval processes including an analysis of the current process and strategies to streamline that process.
(12) Information concerning new technology-based solutions which would help the disability services system operate more efficiently.
(13) Information concerning fraud, waste, and abuse, including identification of potential risk areas for fraud, waste, and abuse; and strategies to eliminate or minimize fraud, waste, and abuse.
(14) Information concerning provider manuals, including identification of manuals that contain outdated or inaccurate information (e.g. the Case Management Manual and Certified Medication Attendant Training Manual); the status of necessary updates to such manuals; and recommendations for a process to keep such manuals current.
(15) Information concerning written policies and procedures, including identification of all procedures that providers are expected to comply with but are not officially documented in rule, regulation, policy, procedures, guidelines, manuals, or any other publication of the Louisiana Department of Health; an update on development of written procedures; and strategies to ensure that all expected procedures are officially documented in writing and disseminated to all disability services providers.
(16) Information concerning any other factor related to the efficiency and effectiveness of the disability services system.

LDH convened the identified members in the resolution, along with other interested stakeholders, in order to facilitate an open dialogue and develop strategies to address identified issues. The goals were to share activities that LDH has completed, are in process, or are in planning stages related to the above sixteen areas in order to gather feedback from the workgroup regarding these planned activities and to identify two or three major systemic areas that are in need of quality improvement strategies involving all relevant stakeholders. The members convened during two in-person meetings on October 9, 2017 and January 25, 2018 and a conference call on November 1, 2017.

Meeting/Call Participants:

Name	Organization/Title	10/09/17 (Meeting)	11/01/17 (Conference Call)	1/25/18 (Meeting)
Michelle Alletto	LDH, Deputy Secretary	√		√
Lauren Athota	LDH, Chief of Staff to the Deputy Secretary	√	√	√

Tara LeBlanc	LDH, OAAS Assistant Secretary	√	√	√
Robin Wagner	LDH, OAAS Deputy Assistant Secretary	√	√	
Mark Thomas	LDH, OCDD Assistant Secretary	√	√	√
Julie Foster Hagan	LDH, OCDD Deputy Assistant Secretary	√	√	√
Charles Ayles	LDH, OCDD Deputy Assistant Secretary	√		
Tiffany Dickerson	LDH, OCDD Executive Management Officer	√		
Cecile Castello	LDH, Director of the Health Standards Section	√		
Tonya Joiner	LDH, LGR Director	√		
Kirsten Clebert	LDH, OAAS			√
Tara LeBlanc	LDH, OAAS			√
Tanya Murphy	LDH, OCDD			√
Tanya McGee	Executive Director of Imperial Calcasieu Human Services Authority	√	√	
James Lewis	Developmental Disabilities Director of Imperial Calcasieu Human Services Authority	√	√	√
Brad Farmer	Executive Director of Acadiana Area Human Services District	√		
Troy Abshire	Developmental Disabilities Director of Acadiana Area Human Services District	√	√	
Lisa English Rhoden	Executive Director of Jefferson Parish Human Services District	√		
Nicole Sullivan Green	Developmental Disabilities Director of Jefferson Parish Human Services District	√	√	√
Rose Gilbert	Jefferson Parish Human Services District	√		
Jan Kasofsky, Ph.D.	Executive Director of Capital Area Human Services District	√		
Scott Meche	Developmental Disabilities Director of Capital Area Human Services District	√		

Richard Kramer	Executive Director of Florida Parishes Human Services Authority	√		√
Janise Monetta	Developmental Disabilities Director of Florida Parishes Human Services Authority	√		√
Lisa Schilling	Executive Director of South Central Louisiana Human Services District	√		
Wesley Cagle	Developmental Disabilities Director of South Central Louisiana Human Services District	√		√
Dawn Auvil	South Central Louisiana Human Services District			√
Kristin Bonner	South Central Louisiana Human Services District	√		
Michael DeCaire, Ph.D.	Executive Director of Central Louisiana Human Services District	√		
Paxton Oliver	Developmental Disabilities Director of Central Louisiana Human Services District	√		
JoElla Johnson	Northwest Louisiana Human Services District	√	√	
Sharon Doyle	Developmental Disabilities Director of Northwest Louisiana Human Services District	√	√	
Jennifer Purvis	Developmental Disabilities Director of Northeast Delta Huma Services Authority	√		√
Donna Francis	Developmental Disabilities Director of Metropolitan Human Services District	√		
Libby Leone	CARC	√	√	√
Leslie Fontenot	Medical Resources; President of the Support Coordination Alliance	√	√	√
Representative Frank Hoffman	Louisiana House of Representatives	√	√	
Suzanne Bourgeois	STARC	√	√	
Caroline Meehan	Volunteers of America	v		
Kelly Monroe	Executive Director of Louisiana ARC	v	v	

Jennifer Hebert	Magnolia Community Services	√		
Laura Brackin	Executive Director of the Community Provider Association	√	√	√
Janet Connell	Quality Support Coordination Agency	√		√
Kenny Patton	Arc of Acadiana	√		
Roma Kidd	ARCO	√		
Tammy Johnson	Family Helpers	√		
Wendy Eschete	Lafourche ARC	√		
Jackie Blaney	Executive Director of the Supported Living Network	√	√	√
Elizabeth Fussell	The ARC, Iberville			√
Rebecca L. Johnson	Options			√
Sharon Hennessey	People First of Louisiana		√	√

Subsection 2.1 – Meeting Summary

During the meetings and conference call, major topics were discussed in detail and feedback/ recommendations were solicited. Primary areas of discussion with key points follow:

Billing/Payment/Electronic Visit Verification (EVV)

- LDH clarified that the "EVV report" discussed in the initial meeting did not identify money that LDH is withholding from providers; it instead supplied a reporting of hours that were worked as identified by EVV and not billed for per Molina. This was done to assist provider with billing efficiencies.
- Providers indicated that the concern was not with the EVV report but with the "complexities" of billing and coding and staying up to date with changing rules.

Plan of Care (POC) – Length/Effectiveness Workgroup

- It was felt that the POC must include level of care, assurances of health and safety, and documentation that services are being provided per regulations.
- Committee recommends going forward with POC format as is.
- Committee also recommends moving forward with IT platform to support all users and training needed for implementation.

Abuse/Neglect

- Concern was expressed that all providers and Local Governing Entities (LGEs) have an obligation to report but that there are difficulties with the process in the following areas:

- It often occurs that an incident is not accepted by protective services (Adult Protective Services and/or Elderly Protective Services) and that the provider doesn't know how to address the identified issue or concern.
- If there is a substantiated allegation, who has the responsibility to ensure the concerns of the protective services agency are addressed? What are parameters to address and ensure actions taken are appropriate?
- LGEs are being asked to investigate some things, and they don't feel they have the competency to investigate.

- There is a need for better ways to meet the demand for prevention/ investigation /response.
- Providers reported there is a delay in reporting on the DSW registry and questioned the timeliness and reliability of the registry; and if they bill and something shows up later on the registry, the billing is cancelled. Providers request that a block only occur when a person is put on DSW Registry.
- Assistance is needed in providing training around valuing people, not just reporting abuse/neglect (prevention) values, and philosophy of person-centered approaches, etc., to help with prevention. It was noted that funds are not available at this time to provide additional pay to competent staff or to provide additional training.
- Providers should consider looking behind at background checks to ensure that inappropriate applicants are not hired. There should be a level of accountability and specific expectations. It is the job of the provider to provide training. If it is not being done, then providers need to be held accountable.

Background Checks/Onboarding

- Increasing Rates: There need to be ways to increase rates to cover costs or eliminate some of the current costs.
- Spiraling/Vicious Cycle: Staff turnover results in additional onboard costs which increase over all personnel costs which in turn spirals budget.
- Providers reported that some states include administrative burden in rate determination.
- Cost-reporting tool may need to be revised to get credit for full orientation and look at dollars needed to fund this.
- There was discussion about stopping unfunded mandates. Example: the ability to bill for nursing through PCA if there is a need for home health [Health Standards Section (HSS)/Board of Nursing issue]. New regulations require an increase in nursing, but the provider is not able to bill (i.e., medication administration).
- Some policy changes are more difficult with increased costs, especially those related to regulatory changes (HSS). Providers requested that there be no additional mandates unless required by Center for Medicare & Medicaid Services (CMS) or a true health and safety issue; a HSS agreement needed.
- Requirements related to bringing staff onboard, specifically CMS requirements versus additional requirements, need to be reviewed. What does CMS require for background check versus things that could be put on hold temporarily due to budget crisis?

Provider Manuals/Policies /Procedures

- The Support Coordination Reference Guide is in process.
- The Medicaid Case Management Manual will be updated or deleted by the end of March.
- Policy manuals for four waivers are currently up-to-date but will have major edits pending CMS approval of tiered waivers.
- CMA Training – Projected dates roll-out for new training will be sent out by OCDD. It was recommended that online testing be considered (even if staff person has to go to specific location and take test online). Old manual has been taken off line, and people are not being trained, resulting in over-time pay. Consider putting manual back on line to help providers.

Subsection 2.2 – Action Items for Follow-up by Stakeholder Groups

The following actions items were identified for follow up by *LDH*:

Billing/Payment/EVV/Rate Methodology

- (OCDD) consider extension of timeline for corrections from 21 days to 30 days.
- Explore ability for PCA providers to bill for nursing services and for skilled nursing in OCDD programs.
- Request that payments to providers for "unfunded mandates" (i.e., medication administration training, ACA, EVV, minimum wage increase, training) be prioritized so if funding becomes available; know how it will be provided.
- Explore higher match rate available for implementation of EVV in Cures Act; if higher match available, consider reimbursing providers for EVV.
- Streamline processes to reduce time on documentation issues/revisions/etc.
- Establish a "billing manual" that advises on all requirements and documentation necessary for billing and process for fixing errors.
- Identify root cause of any delay in payments and action items to address.
- Address CMS regulations for what is required in terms of holding payments.
- Improve communication of regulation changes/mandates/etc. to providers.

Plan of Care

- (OCDD) research how to reduce the length of the Plan of Care (POC), evaluate the POC approval and revision process to determine if steps can be eliminated, and explore options to reimburse staff for participation in team meetings and training utilizing a "planning rate."
- (OAAS) include providers in planning.
- Review regulations between program offices and Health Standards Section and address any overlaps/differing regulations internally.

Abuse/Neglect

- Review workgroup responses and recommendations specific to occurrences, develop a plan of action, and identify gaps and issues with the registry.

- Ensure activity around recruitment and retention of trained and competent front-line staff as this is the best prevention of abuse and neglect. Consider rate methodology that allows for increased pay for such staff. Consider implementation of cost reimbursement rate methodology to allow for higher pay for DSW. Provide assistance in conducting training around valuing people, not just reporting abuse/neglect, and the philosophy of person-centered approaches to help with prevention.
- Consider formal training developed by OCDD as a requirement for abuse/neglect.

Background Checks Onboarding

- Compare CMS and current state requirements related to background checks and onboarding.
- Following provider identification of components/requirements not necessary for orientation or that are not value added, review and provide feedback.
- Ensure that OCDD and HSS expectations are the same.
- (HSS) consider changing fingerprinting/background check requirements when staff leave provider and return within a specific time frame. Do not require repeating fingerprinting/ background check if this occurs within a specific time frame.

Provider Manuals/Policies/Procedures

- Update all manuals and provide training on manuals.
- Develop a process to identify ongoing place to report issues/concerns/inconsistencies within program offices, Medicaid, HSS.

The following actions items were identified for follow up by ***Provider Agencies***:

Billing/Payment EVV/Rate Methodology

- Request that any concerns/systemic issues be placed on the agenda for OCDD and/or OAAS provider calls, so detailed issues can be addressed there.

Plan of Care

- Advise LDH program offices of any specific areas in which the Health Standards Section surveyor advises of deficiencies and providers believe there is a different interpretation in program office policy.

Abuse/Neglect

- Send specific examples of occurrences and recommendations for systemic changes.

Background Checks/Onboarding

- Advise LDH of other states who have utilized match funds for background checks.
- Identify components of onboarding new staff training that are not necessary for orientation or not value adding; send examples of where they are not working. Include in cost/rate cost reporting. (Note: Some felt that all requirements are needed.)

Provider Manuals/Policies/Procedures

- Send specific areas where practice/interpretation is inconsistent to LDH.

Subsection 2.3 – Identification of Major Focus Areas for Systems Improvement

As a deliverable following the workgroup meetings and review of the workgroup's recommendations, the following systemic issues (and actionable steps) were identified as the three priorities for recommendation to LDH:

1. **Program Integrity/Audit Issues**
    - Ensure LDH has internal process for program offices to review change in practices for Medicaid Rate and Audit, including internal auditing processes that will result in recoupment/ fines, prior to implementation to advise on potential impact to providers.
    - Consider meeting/education session with Louisiana Legislative Auditor (LLA) and Program Integrity (PI) to explain home and community-based services and operations so they are better informed when completing audits of providers.
    - Consider adding statement to licensing regulations and having formal statement against use of 1099 contract employees.
2. **Systems Changes to promote reduction in Overall Cost of Developmental Disabilities Waivers**
    - Consider increased use of shared supports
    - Consider increased use of remote monitoring
    - Consider elimination of requirements to receive a service every ninety (90) days to remain in the waiver
3. **Reimbursement Rate Increases**
    - Consider inclusion of administrative cost in rate reimbursement or identify alternate means to pay providers for administrative costs
    - Review any proposed changes to rules/licensing regulations for potential impact to providers
    - Develop strategies, proposal, justification, and phase-in of reimbursement rate increases

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