

Primer

House Appropriations Committee (D)

JOE MARKOSEK, DEMOCRATIC CHAIRMAN

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Department of Human Services Intellectual Disabilities System

The Department of Human Services (DHS), formerly the Department of Public Welfare, supervises and funds Pennsylvania's intellectual disabilities (ID) system. Institutional care is provided through state centers directly operated by DHS, as well as private intermediate care facilities (ICFs/ID) under contract with DHS. Community services are administered through the counties.

The Mental Health and Intellectual Disability Act of 1966 establishes responsibilities for state and county government, identifies mandated services, defines eligibility, and creates procedures for commitment to state facilities. In 1966, all services were provided in state institutions which cared for more than 13,000 individuals. Pennsylvania's intellectual disability system has since evolved from an institutional system into a predominantly community-based system. **During 2013/14, about 3,380 individuals received institutional care, while nearly 52,000 individuals received services in the community.**

Total funding (state, federal and other funds) for Pennsylvania's ID system has more than doubled over the past 15 years, from nearly \$1.4 billion in 1999/00 to \$3 billion in 2013/14. This growth reflects the expansion of community programs that serve individuals who are eligible for Medicaid services. Community programs currently account for approximately 80 percent of total ID funding.

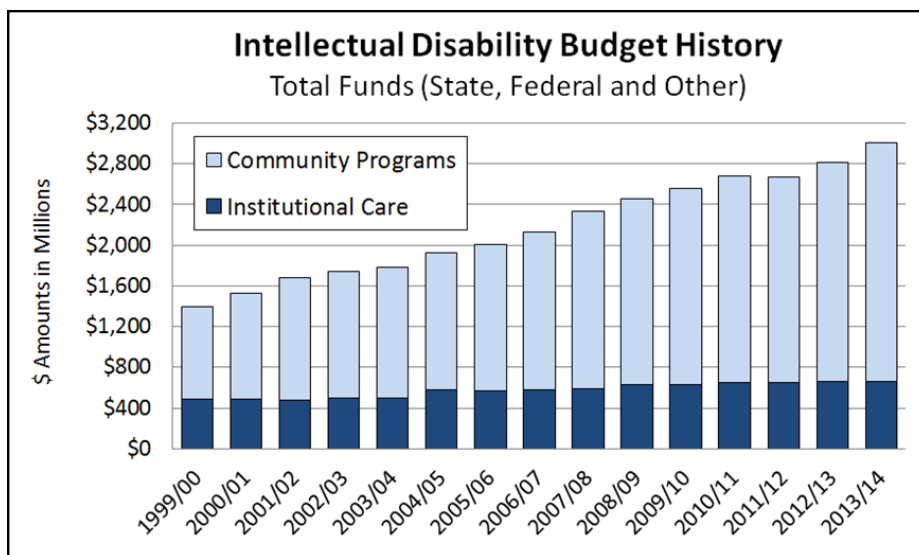
Institutional Care

Persons receiving institutional care have wide ranges of disabilities and needs: most have severe or profound levels of intellectual disability; many have co-existing mental health diagnoses or seizure disorders; and many have visual or hearing impairments.

Pennsylvania provides institutional care through state-operated centers and private ICFs/ID. Both types of institutions provide 24-hour residential care and specialized health and habilitation services. Each state center and ICF/ID must meet federal Medicaid standards related to program services, staffing, physical environment, and client health and safety.

Institutional care is funded through two separate appropriations in

the state budget: ID State Centers and ID Intermediate Care Facilities (ICFs/ID). The primary revenue sources are state General Funds and federal Medicaid funds. Beginning in 2004/05, Pennsylvania instituted a provider assessment to generate additional revenues.



- Pennsylvania receives federal Medicaid matching funds based on its federal medical assistance percentage (FMAP). Historically, the federal government pays between 52 percent and 55 percent of expenditures for these facilities.
- Each state center and private ICF/ID currently pays a 6 percent assessment on net operating revenue. The assessment reduces the need for state General Fund spending and serves as an alternative revenue source to draw federal matching funds.

ID State Centers

DHS operates five state centers in: Ebensburg, Cambria County; Hamburg, Berks County; Polk, Venango County; Selinsgrove, Snyder County and White Haven, Luzerne County. The centers primarily serve adults – as of January 2014, only two residents were under age 21. The number of residents totaled 991 in July 2014, leaving the centers operating at less than half of their bed capacity.

The appropriation for State ID Centers funds the staff, operating expenses and fixed assets (i.e., maintenance equipment and office equipment) needed by DHS to effectively run the centers. The annual funding level is primarily driven by personnel costs, which account for 80 percent of total expenditures. This is because the staffing levels for each center must meet minimum staff-to-client ratios required to maintain federal certification and avoid the loss of federal Medicaid funding.

ID Intermediate Care Facilities (ICFs/ID)

DHS contracts with private ICFs/ID to provide services for approximately 2,000 individuals. The ICFs/ID vary in size, from large facilities located on campus-like settings to small facilities located in the community. In 2014, there were 20 large facilities serving nine or more individuals and 150 small facilities serving four to eight people; the largest facility served 190 people.

The appropriation for private ICFs/ID funds the per diem rates paid by DHS to these contracted providers. To use funding more efficiently, DHS encourages ICFs/ID providers to convert to the Home and Community Based Waiver program in the community ID system. These conversions shift funding from the ICFs/ID program to the county-administered system, where waiver programs are an

Olmstead Litigation

In June 1999, the U.S. Supreme Court issued a landmark decision in *Olmstead v L.C.* which found that unjustified institutionalization of people with disabilities is a form of discrimination under the Americans with Disabilities Act. The *Olmstead* ruling requires states to provide community-based services when the state's treatment professionals reasonably determine that community placement is appropriate, the person does not oppose such placement, and the state has the available resources to provide the placement. The *Olmstead* decision applies to people currently in institutions and those who are at risk of institutionalization.

Recent *Olmstead* lawsuits brought by advocates have led to settlement agreements under which DHS is required to move residents from the state centers to the community waiver program. To comply with the settlements, DHS moved 50 residents in 2012/13 and 100 residents in 2013/14; another 50 residents are to be moved in 2014/15.

alternative to institutional care and give the state flexibility in using federal funds.

Community Programs

Community intellectual disabilities services are administered through county Mental Health/Intellectual Disabilities offices. Pennsylvania has 48 single and multi-county MH/ID offices that serve the 67 counties. Community services include residential programs as well as non-residential programs.

Residential programs help individuals become independent and encourage active participation in the community. Residential options include:

- Licensed group homes for three or four people;
- Support to individuals renting an apartment or owning their own home; and
- Family living settings, in which one or two people receive services in the licensed family home of an unrelated adult.

Non-residential programs provide services to individuals and their families.

- Day services help individuals with intellectual disabilities develop their personal and vocational skills – services include adaptive equipment, employment and training programs, and

socialization and recreation activities. These services are provided to individuals who live at home, as well as those who live in a residential setting.

- Family support services help families who care for a family member with intellectual disabilities. Services include respite care and adult day care.

The county MH/ID office verifies a person's eligibility for services and assigns a supports coordinator to each eligible person. Supports coordinators assist individuals in planning, choosing, locating, coordinating and monitoring supports and services.

Community services are funded through two separate appropriations in the state budget: ID Community Waiver Program and ID Community Base Program. The ID Community Waiver Program provides home and community-based services to individuals who are eligible for Medicaid. The ID Community Base Program serves individuals of all ages who are not eligible for the waiver program, as well as those Medicaid eligible individuals who are not yet enrolled in the waiver program. Services in the waiver programs are a Medicaid entitlement for individuals enrolled in these programs; consequently, ID Community Waiver Programs consume the vast majority of total funding appropriated for community ID services.

Community Waiver Programs

Pennsylvania operates two Home and Community-Based Services waiver programs for intellectual disabilities services: the Consolidated Waiver and the Person/Family Directed Support (PFDS) Waiver. These programs are available to individuals at least 3 years of age and who, based on a medical evaluation, meet the functional criteria for ICF/ID eligibility (i.e., would otherwise require the level of care provided in an institution for persons with intellectual disabilities). Income eligibility is 300 percent of the Supplemental Security Income (SSI) federal benefit rate – for 2014, this was \$2,163 per month. Adults are also subject to a resource limit of \$2,000 – this limit does not apply to dependent children under age 21.

- **Consolidated Waiver provides residential and non-residential services for individuals who require high levels of support and monitoring.** Most participants receive residential services, often in

Home and Community-Based (HCBS) Waivers

HCBS Waivers are programs that use federal Medicaid funds to pay for community services as an alternative to institutional care. The name “waiver” comes from the fact that the federal government waives or sets aside its Medicaid rules so states can receive federal Medicaid matching funds for expenditures that would otherwise not qualify for federal participation.

To obtain federal approval for a waiver, the state must ensure that waiver services are cost effective compared to the cost of institutional care and must also demonstrate that it has safeguards to protect the health and welfare of people served in the waiver program.

small group homes. During 2013/14, approximately 17,600 individuals received Consolidated Waiver services at an average cost of \$105,000 per person.

- **PFDS Waiver only serves people who live in their own home or their family's home.** The waiver provides non-residential services and caps individual expenditures at \$30,000 per year. During 2013/14, approximately 12,600 individuals received PFDS Waiver services at an average cost of \$18,100 per person.

Services provided under the waiver programs include: specialized therapy services (i.e., physical, speech, hearing and behavioral); home and community habilitation; educational support services; supported employment services; assistive technology; home accessibility adaptations (i.e., ramps, widening of doorways and bathroom modifications); homemaker/chore services; nursing services; respite and transportation.

State and federal funds appropriated through the Community ID Waiver Program are used to reimburse providers that furnish services to individuals enrolled in the two waiver programs. Providers are paid for each service in accordance with established rates.

Individuals who are eligible for the waiver programs receive services, provided there is sufficient funding and capacity. Otherwise, they are placed on a county waiting list. Counties use the Prioritization of

Urgency of Need for Services (PUNS) process to collect information on individuals who are waiting for services, including the types of services they need and the urgency of their need. Information on the PUNS form is updated at least annually for each individual, to reflect changing needs. **November 2014 PUNS data indicated 14,024 Pennsylvanians were on county waiting lists.** This included:

- **4,463 individuals on the Emergency Waiting List** who are in need of services immediately.
- **5,877 individuals on the Critical Waiting List** who will be in need of services within two years.
- **3,684 individuals on the Planning Waiting List** who will be in need of services within the next five years.

Initiatives to reduce the waiting list have been included in recent budgets, as funding permits. These initiatives often focused on serving adult children of aging parents (or other family caregivers) and graduates from special education programs. The first year costs for these initiatives are relatively low because individuals are removed from the list on a monthly basis and provided less than a full year of services. However, costs in year two and thereafter increase dramatically when the state must pay for a full 12 months of services for each individual and make additional investments to account for individuals' changing needs.

Because waiver services are an entitlement, DHS must allocate sufficient funds to fully serve waiver participants in order to comply with federal Medicaid requirements and avoid the loss of matching federal Medicaid funds, which account for more than half of all waiver funding. Pennsylvania receives federal Medicaid matching funds for waiver services based on its federal medical assistance percentage (FMAP). Historically, the federal government pays between 52 percent and 55 percent of waiver service expenditures.

Community Base Program

The base program provides services to individuals of all ages who are not eligible for the waiver program (i.e., they do not require the level of care provided in an institution) and to those Medicaid eligible individuals who are not yet enrolled in the

waiver program. Base program services include: recreational therapy and recreation/leisure time activities; employment training; home modification; family aide; family education training and supports coordination to assist individuals in accessing services.

The base program also covers the administrative costs associated with the community ID programs (waiver and non-waiver), including funding for the local independent monitoring teams and the Health Care Quality Units that serve the counties. Local independent monitoring teams assist the counties in improving the quality of community ID services, while the Regional Health Care Quality Units assist with improving the physical and behavioral health of individuals receiving community ID services.

The base program is funded primarily with state and federal funds, with counties required to contribute a 10 percent county match for the cost of non-residential services.

- State General Funds account for approximately 70 percent of funds allocated to counties.
- Federal Medicaid funds account for approximately 27 percent of county allocations.
- Federal Social Services Block Grant funds account for 3 percent of county allocations.

Beginning in 2012/13, most of the grants allocated to counties for community ID base programs are eligible for inclusion in the Human Services Block Grant Pilot Program established by Act 80 of 2012 – excluded from block granting are those funds distributed to counties for support services provided to Medicaid eligible persons not yet enrolled in the ID Waiver program. Counties that participate in the pilot program (currently limited to 30 counties) have flexibility to spend block granted funds for human services other than those that are supported under the categorical appropriation. That is, a pilot county could (subject to the requirements and restrictions established in Act 80) use a portion of its allocation for the ID community base program to support the following human services: community mental health programs, child welfare services, behavioral health services, homeless assistance and drug and alcohol treatment and prevention services.

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