

MEMO

To: Joint Finance Committee
From: Brian J. Hartman, on behalf of the following organizations:
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens
State Council for Persons with Disabilities
Subject: Division of Developmental Disabilities Services FY 16 Budget
Date: March 26, 2015

Please consider this memo a summary of the oral presentation of Brian J. Hartman, Esq. on behalf of the Developmental Disabilities Council ("DDC"), Governor's Advisory Council for Exceptional Citizens ("GACEC"), and the State Council for Persons with Disabilities ("SCPD"). We are addressing one (1) component of the DDDS budget, i.e., its proposed family support waiver.

As you know, the FY15 budget bill (§175) directs the Division to "move forward with developing and establishing a Family Support Waiver to begin in Fiscal Year 2016". The budget bill also requires Controller General and OMB approval of the waiver application prior to submission to CMS. *Id.* Although the Governor's proposed FY16 budget bill (§168) contains the identical authorization to establish the waiver, necessary funding is omitted. The lack of funding for the waiver is disheartening to the Division's constituents and advocacy agencies.

BACKGROUND

As background, the Division first proposed a family support waiver ten years ago (2005) and start-up funds were included in the FY09 budget.¹ The initiative was deferred given the economic downturn at that time.

Recognizing the potential fiscal and societal benefits of a waiver, the FY14 budget bill (H.B. No. 400, §169) directed the Department to submit a report outlining options. On April 29, 2014, the Department shared its favorable "Family Support Waiver Report" with the Legislature. It included cost estimates.² In her Fall FY16 budget request, the Department Secretary unsuccessfully requested \$944,200 to cover the state share of personnel (\$379,000) and dental services (\$565,200) for 980 participants.³

JUSTIFICATION

¹Historical materials describing the waiver and planned implementation are compiled in Attachment "A".

²The Report is published at <http://dhss.delaware.gov/dhss/ddds/fsw.html>. An excerpt is included for facilitated reference. [Attachment "B"]

³The relevant excerpt from the November 20, 2014 presentation is included as Attachment "C". Based on a revised estimate of federal match, we understand the projected personnel costs were subsequently reduced to \$312,500.

The justification for a waiver is compelling. More than 70% of the Division's clients live at home with their family.⁴ In raw numbers, this equates to 2,894 clients living at home out of a total census of 4,066 individuals. Consistent with national trends, many of the Delaware caregivers in those families are aging as the "boomers" progress into old age.⁵ Given declines in health and resiliency attributable to aging, such caregivers will predictably need an increasing level of supports to continue in their role.⁶

Almost all states offer family support programs for caregivers of individuals with developmental disabilities. The national average of spending per family is \$8,931. Unfortunately, although DDDS is adept at identifying families needing support, it spends less than 10% of the national average in per-family supports (ranking 48th).⁷ In recent years, the Delaware rate (6.6%) of increases in public spending for community services for individuals with developmental disabilities has been significantly less than the rate in neighboring states (PA - 25.7%); MD - 13.2%; N.J. - 11.8%).⁸

Economics and federal law also buttress the worth of a robust family support system.

First, subsidizing families providing in-home support obviates the necessity of providing more costly residential services. This includes diversion from disfavored institutional and non-integrated placements which risk federal scrutiny based on potential violation of the ADA. Increasing the State's capacity to offer community-based services enhances the ability of the State to fulfill CMS regulations promoting community options.⁹

⁴The latest (January, 2015) DDDS census report is included as Attachment "D".

⁵See prepublication proof, D. Braddock, "The State of the States in Intellectual and Developmental Disabilities: Emerging from the Great Recession (January, 2015) at pp. 59-62. [Attachment "E"]

⁶See CDC, "Family Caregiving: The Facts" and The Arc, "Position Statement: Family Support" (April 6, 2014). [Attachment "F"]

⁷See Braddock, pp. 57 - 58. [Attachment "E"]

⁸See Braddock, p. 8 [Attachment "E"]

⁹DHSS recently submitted its March 17, 2015 plan to CMS outlining steps it will undertake to ensure that HCBS funds are devoted exclusively to conforming integrated, community settings. See <http://www.dhss.delaware.gov/dhss/dmma/> .

Second, nationwide, Medicaid waivers finance 82% of all family support services.¹⁰ This represents a tremendous leveraging of federal funds to assist state residents. Conversely, Delaware's lack of a family support Medicaid waiver results in unnecessary reliance on unmatched State funds and few resources for Delaware families. Delaware is essentially "leaving money on the table" by eschewing available Medicaid funding. Delaware ranks 8th among the states in the percentage of unmatched funding devoted to individuals with developmental disabilities.¹¹

RECOMMENDATIONS

We highly recommend that the requisite funding to implement the family support waiver be included in the FY16 budget. Ten years have passed since the waiver was originally proposed and the Department has already invested significant time, energy, and resources in developing its waiver plan. If full funding is not possible, we recommend consideration of practical options, including delayed implementation to the end of FY16, a reduced cap on number of participants, and adoption of a restrained services menu.¹² If the waiver application is submitted and approved, the State enjoys the advantages of an approved waiver which can be amended over time to adjust slots or services. The infrastructure for the waiver will be in place and future planning will be enhanced by generating data based on actual costs and experience. Moreover, while the current federal Administration favors waivers, that may not be the case in coming years when applications could face additional hurdles. The timing of filing a waiver application is currently favorable.

Thank you for your consideration.

Attachments

F:pub;bjh/legis/bud/2015/dddsjfc
E:legis/dddsfy16jfc

¹⁰See Braddock, p. 56. [Attachment "E"]

¹¹See Braddock, p. 202. [Attachment "E"]

¹²Such options are discussed in the Department's April 2014 report at pp. 5-6 [Attachment "B"].