

The comments provided by the Delaware Health Care Facilities Association (DHCFA) in the May 27, 2011 article in The News Journal entitled *Surplus Spending Choices on Pause* are misleading. DHCFA reported that its members (i.e. private nursing home industry) deserve an increase in their Medicaid reimbursement rates because publicly owned facilities have seen increases in recent years and the Joint Finance Committee (JFC) voted to give home and community-based service providers a 2 percent increase in funding. While the statement contains sections of fact, as a whole, it is somewhat deceptive. State facilities may receive a higher reimbursement rate than privately owned nursing homes, but that is because the state-operated facilities have ancillary services included in their per diem rate which include physical therapy, occupational therapy, speech therapy and oxygen. The state reimburses private nursing homes separately for ancillary services. In addition, the publicly owned facility residents generally have more complex needs and require a higher level of care. DHCFA members may still be at a 2008 reimbursement rate level; however, home and community-based service providers who afford care to persons with disabilities and the elderly have not received a reimbursement rate increase in over 8 years. Therefore, the comparison is not equitable.

It is common knowledge that persons with disabilities and the elderly want to age in place and/or live in the community. In addition, there are federal initiatives to transition people out of nursing homes and provide services in our homes and communities. In May 2007, Delaware was awarded nearly 5.5 million dollars under the Money Follows the Person (MFP) Rebalancing Demonstration by the Centers for Medicare & Medicaid Services (CMS). There is still approximately 3.4 million dollars remaining in that program. MFP is intended to assist States in their efforts to realign their long term care systems in order to better support less costly home and community-based services (HCBS) as well as support States to meet their obligations under the Americans with Disabilities Act (ADA) and the Supreme Court's Olmstead Decision to provide services for persons with disabilities in the least restrictive setting appropriate to their needs. Given that the State was awarded this amount of money, CMS has expectations that Delaware will comply with the requirements of the grant and attempt to rebalance its Medicaid long-term care funding which is currently disproportionately spent on institutions and has expressed concerns that Delaware is not doing an adequate job of rebalancing its long-term care dollars. Indeed, 87 percent of Delaware's long-term care dollars for persons with physical disabilities and the elderly are spent for facility-based services with only 13 percent going to HCBS. As a result, the Department of Health and Social Services (DHSS) is currently administering many positive programs and activities to rectify the CMS concerns. For example, DHSS is conducting assessments of residents in its 5 long-term care facilities for the purpose of determining who can live in the community; diverting people from institutions by offering appropriate HCBS; operating a more effective MFP program; collaborating with housing agencies and authorities to provide better residential opportunities in the community for persons with disabilities; leveraging federal dollars to provide greater HCBS; and supporting the JFC's recommendation for a 2 percent increase in reimbursement rates for HCBS providers.

DHCFA and the nursing home industry provide a valuable option to those who choose to live in, or send a loved one to, such a level of care. However, that is not the preferred choice of persons with disabilities and the elderly. Providing a 2 percent increase in the reimbursement rate to nursing homes will severely hamper the State's effort to demonstrate to CMS that it is attempting to shift funds from institutional care to HCBS. Such an increase to nursing homes

would be counterproductive given Delaware's recent efforts, may have negative financial and/or legal consequences given CMS expectations, and is a step backward in attempting to rebalance the state's spending of Medicaid long-term care dollars which is disproportionately spent on institutional care.

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

Harlene Dennison, Chairperson
Developmental Disabilities Council

Terri Hancharick, Chairperson
Governor's Advisory Council for Exceptional Citizens