

Testimony to Assembly Bi-Partisan Leadership Committee February 2, 2010

I want to thank Speaker Oliver and Assembly Republican Leader DeCroce and the rest of the Bi-Partisan Leadership Committee for calling this hearing today to listen to ideas on how to fix and improve the State's operations. I am Lowell Arye, Executive Director of the Alliance for the Betterment of Citizens with Disabilities (ABCD). ABCD is a statewide organization representing member agencies that provide a broad array of community-based services to more than 10,000 people with complex developmental disabilities and their families. ABCD member agencies provide services to a range of individuals with multiple physical disabilities and neurological disabilities.

ABCD clearly recognizes the fiscal crisis faced by the State. Revenues are down and service needs keep rising. We look forward to working with the Governor Christie and the Legislature to ensure that quality services are maintained for people with developmental disabilities while ensuring fiscal accountability.

Maintain Comprehensive Benefits

New Jersey has a long-standing history of supporting preventative health care and ensuring that individuals, particularly the most vulnerable, receive quality health care services. New Jersey must be commended for providing a comprehensive and expansive benefits package to individuals with significant disabilities.

We are concerned that in an effort to balance the budget, some of the so called optional services and optional populations, minimally required by the federal government under Medicaid, will be cut. Services such as prescription drugs, dental benefits, durable medical equipment, prosthetics and orthotics, and therapies, are not optional for people with complex physical and neurological developmental disabilities. These services are critical to the health care needs of individuals with significant disabilities and others and cannot be cut.

We are concerned that Medicaid co-pays will be included in the budget. For the past seven years, the health and human services community has successfully joined together to fight proposals to implement Medicaid co-pays. The Coalition for a Moral Budget has documented that dozens of national health services research studies show that co-pays would force our neediest citizens to make a choice between paying for health care and other necessities. Medicaid co-pays would result in individuals with significant disabilities and those living in poverty not seeking care, exacerbating their illnesses, and costing the State even more in hospitalizations and Emergency Room visits. During this time of economic crisis, it is important that the poor, including people with developmental disabilities, not have the additional imposition of Medicaid co-pays which are clearly a barrier to needed health services.

Supplemental Rebates

New Jersey can receive significant additional funds to Medicaid by instituting preferred drug lists (PDL) that enable them to receive supplemental manufacturing rebates on top of those that federal law requires them to receive.

Many States have developed Preferred Drug Lists (PDLs) to control spending. A PDL controls spending growth by increasing the use of preferred drugs, which are selected prescription drugs that are safe, clinically efficacious, and cost-effective compared to other similar drugs on the market. In most states, non-preferred drugs require prior authorization (PA), but are still available through the Medicaid Program.

Currently, 25 states participate in one of three multi-state pools and several others have instituted their own programs to negotiate supplemental rebates. These states join the pools that negotiate supplemental rebates from drug manufacturers in exchange for putting their drugs on Medicaid PDLs.

Some advocates, particularly some in the mental health, developmental disabilities and HIV/AIDS communities have raised issues in the past about developing a PDL. Their concerns are that a PDL limits individuals from receiving drugs that have been determined to work for specific clients, explaining that no single drug is effective for all individuals. (Generally concerns relate to anti-convulsants, atypical anti-psychotics, and mood stabilizers). Other states have worked out these concerns by ensuring that all these types of drugs being listed on the PDL as preferred drugs, allowing for prior authorization for drugs that are not included in the PDL, and other options to ensure that specific prescriptions are available for individuals who need them.

For example, in Virginia 72% of prior authorizations for non-preferred drugs were approved, 27% were changed to a preferred drug and less than 1% of requests were denied. In Washington State the authorization criteria is that the client must have tried and failed, or is intolerant to, at least one preferred drug.

Conservatively, if New Jersey were to institute a PDL by the middle of the fiscal year savings could be \$60 million or more in the first year with annualization much higher. This estimate is based upon other states' savings. For example, New York in 2007 received more than \$390 million in savings through a PDL.

Consolidation of Multiple Programs

Consolidate multiple state programs in prescription drug costs as well as other medical costs such as medical supplies and durable medical equipment and negotiate for the best price based upon the State's purchasing power. These programs are across divisions and other Departments including Corrections (approximately one-half of all prisoners are mentally ill and receive prescriptions); Department of Health and Senior Services (PAAD and Senior Gold); and the Division of Addiction Services. Other savings include continuing and expanding the poly-pharmacy program which determines if beneficiaries are receiving more prescription drugs than needed.

Maximize Federal Revenues

In addition, more is needed to maximize federal revenues. New Jersey ranks in the lowest quartile in the nation for funding provided to individuals living at home with their family. The Division of Developmental Disabilities is now considering a new Home and Community-based Services Waiver. Currently, approximately \$49 million in State-only funds are used for Family Support. New Jersey is one of only a dozen states which receive NO federal family support dollars. We are supportive of DDD's idea of maximizing federal revenues by applying for a Federal Home and Community-Based Services Waiver (HCBS) for family support and in-home services. Any additional federal funds from this new waiver must be re-invested in family support services to expand services to other families. In addition, some of the funds that are currently used for Family Support are not eligible for federal match. For example, the federal government does not allow cash subsidies to families to be Medicaid reimbursable. The funds for cash subsidies and other services not reimbursable from the federal government must be set aside as State-only funds. We are also supportive of maintaining people in the state rather than sending them out-of state. New Jersey in the past has sent significant numbers of individuals out of state for services and because of this the State does not receive federal reimbursement. The Division's initiatives for Children's Placement Enhancement Project (C-PEP) and Return Home New Jersey supports individuals and families as well as allowing the state to receive federal reimbursement for services.

Future of Developmental Centers

New Jersey continues to serve more people with developmental disabilities in state institutions than almost every other state in the country. According to studies, proportionate to its population, New Jersey serves more individuals with developmental disabilities in large, state institutions than all but three states. Approximately 2,800 individuals with developmental disabilities live in seven Developmental Centers in New Jersey. New Jersey needs to move forward on ensuring the rights of individuals to live in the most integrated setting appropriate to their needs. The Department's initial plan, A Path To Progress, did provide for moving 250 people a year from the Developmental Centers. Unfortunately, due to budgetary pressure there was only funding for 125 people to move in FY'09 and 62 people to move in FY'10.

ABCD fully supports the concept to close most of the Developmental Centers over a relatively short period of time. A number of specifics still need to be incorporated before moving forward. For example, there is a dual cost that exists prior to the actual closing of a Developmental Center. It is important to include a bridge fund from the outset to cover the costs of maintaining an institution while people are moving into the community. These costs include staffing, capital costs, etc. Once the initial Developmental Centers are closed, savings from those closures must be reinvested into the bridge funds to continue to cover the dual costs of closing other Developmental Centers. In addition, we must learn from other states which have recently closed their Developmental Centers. Most states have moved 120-160 people over an 18 month period into the community. We want to ensure the health and safety of individuals as they are moved into the community. We are concerned about a short time frame for closing New Jersey's Developmental Centers with 400-500 residents compared to other states with a smaller number of residents.

We urge the new Administration and Legislature to work with the developmental disabilities community to adequately fund a plan to close/consolidate the Developmental Centers, build the necessary community infrastructure, and fully utilize all federal funds to ensure that people are able to move into the community.

Providers are Hurting In Recession

The State does not cover the full costs of providing services to people with developmental disabilities in their contracts with providers. In addition, over the years cost increases have not kept up with inflation. Since Fiscal Year 2003, Human Services providers have received a cumulative increase of 7.5% when from 2003-2008 the Consumer Price Index has been 20.1%. Staff at provider agencies need an adequate standard of living. Most staff have not received salary increases and their health insurance premiums and out-of-pocket costs have increased. Due to no increases over the past few years, staff are being driven into poverty and being forced to use government sponsored programs such as FamilyCare and Food Stamps.

The economic downturn is impacting agencies' ability to get lines of credit as well as their ability to receive funds from philanthropy and other fundraising measures, which in the past have been funding the gap between actual costs and contracts.

We are concerned that proposals to replenish the Unemployment Fund by allowing a tax increase to go into effect that will increase the tax for employers of as much as \$1,000 per employee will have a devastating impact on non-profit providers of community services. An agency with a staff of 500 employees will need to come up with an additional \$500,000 for Unemployment as they are seeing their health insurance increase by 20% or more.

The State needs to find innovative ways to do business with providers. We suggest that a thorough review and analysis be performed on the Department's contracting system. Approximately six years ago, the Department, working with providers, developed plans for a less cumbersome, more flexible and accountable contracting system. Unfortunately, those plans were never implemented. We recommend that the new administration review, with stakeholder involvement, and implement those plans. We believe that changing the contracting system will promote efficiencies for the Department and providers. Another way to support providers is to allow them to fill up their vehicles that transport clients with gas from State and county gas stations which have lower prices than commercial gas stations. This proposal and others have been discussed in the past with the State but have not been implemented. The State needs to work with providers to find innovative ways to support providers.

Another way to assist providers is to eliminate duplication of finger-printing and background checks from numerous Departments. Currently, each Department is required by statute to perform finger-printing and background checks. Individuals working at agencies with multiple funding streams must finger-print and have background checks completed differently based upon the different Departments. Elimination of this duplication will save the State government and provider agencies significant funds.

Contracts for residential services for people with developmental disabilities include funds for food for their clients. Most of these individuals receive SSI and are poor. The Department of Human Services is exploring applying for Food Stamps for these individuals. This is an important additional source of Federal funds which could be used to supplement agencies' low contract dollars from the State.