ADDCP

ASSOCIATION OF DEVELOPMENTAL DISABILITIES COMMUNITY PROVIDERS

Good afternoon, Madam Chair, and members of the Committee. I am Jim Copeland, Executive Director of the Association of Developmental Disabilities Community Providers. Thank you for your time this afternoon. I will try to be brief and give you an update on the status of services for New Mexicans with Intellectual and Developmental Disabilities and their families.

As of September 22, 2025, there are 8,724 New Mexicans receiving services under the 3 Home and Community Based Services waivers and the State General Fund program. The Traditional DD Waiver supports 4,609. The Mi Via Self Directed Waiver supports 3,697 and the Medically Fragile Waiver supports 187. The State General Fund (SGF) program supports 180 children and 51 adults who do not meet the eligibility criteria for either Medicaid or the HCBS waivers. The SGF program has a limited service menu – Respite, Day Habilitation, Employment, Supported Living and Independent Living. Each waiver and the State General Fund program have varying requirements and specifications. Changes in any of these programs typically bring additional administrative requirements with additional associated costs to agencies that support these participants and their families. Changes will come from increased requirements from the Centers for Medicare and Medicaid Services (CMS), the New Mexico Legislature, the Health Care Authority or some other government entity. As an example, there was a change requiring all residential providers to comply with the following language. ***The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.*** This change requires significant administrative time to produce the appropriate agreement, explain the process to the participants/families/guardians and secure the necessary signatures or other forms of proof of compliance. Some families expressed issues with the requirement. Family Living providers expressed some concerns about the possibility of their homes now being subject to possible zoning restrictions regarding rental properties and having to report the room and board income as taxable. This is just one of the many issues that providers face in providing HCBS supports. As an aside, this administrative time and the associated costs for this and other changes are not included in the reimbursement rates.

New Mexico is currently conducting a rate study for its three waivers. HB 395, unanimously passed by the Legislature in 2023, requires rate studies, pending available funding, to be conducted every two years. The results of the current rate study should be available by the end of December. Those recommended rates, pending available funding, would be implemented effective July 1, 2026 (FY 27). This is where it becomes concerning. Rate studies are retrospective. The current rate study is based on FY 24 and 25 costs. The providers of DD Waiver services are contractors of the State of New Mexico. Most if not all contractors of the State respond to Requests for Proposals (RFPs) to get work completed. Those responses are based on the current costs of providing whatever services are requested. I have used this example in the past. If the Department of Transportation issued RFPs to build roads and bridges in New Mexico and announced in the RFP that contractors would be reimbursed at their 2019 costs, I doubt we would get many roads and bridges built. That is what contractors for DD Waiver services are getting reimbursed for some of the most expensive and important services in the traditional waiver. Residential and day habilitation services are currently receiving their 2019 rates plus a 5.32% cost of living adjustment in FY 2023. I will not address the confusion with the HB 2 language in 2025 for the Health Care Authority's budget and the tabling of HB 42.

Sticking with HB 395, I hope you received the 2024 HB 395 Report on September 1, 2025. There is an annual workforce survey report required in HB 395. The report contained some good information. It also contained some information that should have, in my never to be considered humble opinion, provided some additional explanation. The report is based on the information provided by the provider agencies. There was a 100% response rate from the 91 provider agencies providing services utilizing direct support professionals (DSPs). The disaggregated employee type was split 50-50 between employees and independent contractors. This, in and of itself, causes concern for the provider community. Providers are on their own to appropriately classify their staff. You may remember the Department of Labor audit last year and the $1.5 million settlement over a lawsuit against a provider not paying overtime because they had classified the staff as independent contractors. The major concern with the report was the disaggregated hourly wage chart. Again, this report was based on the information submitted by the providers. For all three waivers, DD, Mi Via, and Med Frag, the average hourly wages reported ranged from $2.82 to $552.32 per hour. This range for the 11,602 reported direct support professionals, created an overall average hourly wage of $22.22. The total payment to DSPs for 2024 was $296,760,643. This represents an increase of $48,178,985 from the 2023 report also with a reported increase of 1,040 in the number of DSPs. This is both full-time and part-time DSPs. It is also a sign of the commitment and support from the provider agencies to increase the hourly wage of direct care staff.

We appreciate the HCA stating there is no impact of the big, beautiful bill on HCBS services. We believe there is no direct impact. It is the indirect impacts that are unknown currently. The

HCA has asked for a $47 million expansion request in the FY 27 budget to fund the recommended rate increases from the current rate study. Please remember these potential recommended rate increases are retrospective. They will not include any impacts on providers from the expiring ACA credits. Providers may have staff that are accessing the ACA plans who will be coming to the providers for health care if the ACA premiums increase as currently projected. These costs will not be reflected in whatever rates are available for FY 27. In a survey to ADDCP member agencies, projected Health Insurance increases from 5 – 54% have been received for FY 27. A few agencies have reduced their health insurance premiums by decreasing the level of health care coverage. These is also the "what if" around needing to backfill other programs or services. According to LFC reports, there are a substantial number of increased department budgets that may or may not be funded. If the expansion request for the revised rate reimbursements is not granted and rates are not increased, the most labor-intensive services, residential and day services, will continue to be reimbursed at the 2019 rates plus the 5.32% COLA until FY 28. According to DDSD-DDW Memo 2025-09, the No Wait List policy began in August. 245 individuals received allocation letters. After August, allocations will become a monthly process. Monthly allocation offer letters will be sent on the 15th of each month with an expected volume of 50 – 60 offer letters per month, based on historical data regarding application rates. Most of those folks will historically be children. It is our feeling that the current provider network cannot support this level of growth without consistent, sustainable funding. Consistent funding will allow providers to recruit, train, and retain a qualified workforce. I must remind the committee that the providers for residential and day services must deal with the same inflation factors as every other household in New Mexico, utilities, groceries, insurance, vehicle expenses, etc. Their expenses are fixed in terms of the number of staff required to provide for the health and safety of the participants in their care. Their revenue is controlled by CMS and the State of New Mexico. The services are 100% Medicaid reimbursed. The 2025 Federal Medical Assistance Percentage (FMAP) for New Mexico is 71.68%. As I understand it, that means for every dollar New Mexico spends in these services, the federal government reimburses us 71.68 cents. Currently, there is no impact on funding for Home and Community Based Services. Until there is a direct federal impact on these services, every dollar spent by New Mexico will bring substantial federal dollars to provide these services to New Mexicans with IDD and their families. These services provide opportunities for community inclusion, and quality lives for the participants and significant economic development for every county in the state.

I would be happy to meet individually with any member of the committee to further the discuss the "what ifs" and other concerns of the provider community. I may be reached via email at addcpjim@gmail.com or phone at 505-263-0512. Thanks for your time.