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Children, Families, Health, and Human Services Interim Committee
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HJR 24 STUDY: APPROACHES IN OTHER STATES

Background

Providers who serve people with developmental disabilities told the Children, Families, Health, and Human Services Interim Committee in January about their concerns with the rate structure used to reimburse them for the services they provide. They also discussed the direct care worker wage built into that rate structure. Providers said low pay was leading to high staff turnover, making it more difficult to provide services.

This briefing summarizes some common themes that emerged through a review of DD rate structures in other states.

Most States Use Daily Rates

At the January meeting, providers said they often cannot draw down all the funding allocated to a client because the state reimburses for most services at an hourly rate. In addition, the providers can only bill for services provided by direct care staff or a qualified non-direct care worker. This often requires them to pay overtime if a staff member doesn't show up for work as scheduled. The providers suggested that paying for services through a daily rate, rather than an hourly rate, would provide more flexibility in staffing and allow them to better draw down the reimbursement allocated in a client's individual cost plan.

A review of waiver information for 42 states showed that nearly all of them use daily rates for their residential services, such as group homes, and often for day services as well. At least two states, Florida and New York, pay a monthly rate for some intensive residential services. Wyoming recently finished a rate analysis that included a review of rates in other states; Montana was one of the few states reimbursing residential services at an hourly rate.[i]

Reimbursement Tier 1	1 LEVEL	**Mild Support Needs** Individuals have some need for support, including little to no support need for medical and behavioral challenges. They can manage many aspects of their lives independently or with little assistance.
Reimbursement Tier 2	2 LEVEL	**Moderate Support Needs** Individuals have modest or moderate support needs, but little to no need for medical and behavioral supports. They need more support than those in Level 1, but may have minimal needs in some life areas.
Reimbursement Tier 3	3 LEVEL	**Mild/Moderate Support Needs with Some Behavioral Support Needs** Individuals have little to moderate support needs as in Levels 1 and 2. They also have an increased, but not significant, support needed due to behavioral challenges.
	4 LEVEL	**Moderate to High Support Needs** Individuals have moderate to high need for support. They may have behavioral support needs that are not significant but range from none to above average.
Reimbursement Tier 4	5 LEVEL	**Maximum Support Needs** Individuals have high to maximum personal care and/or medical support needs. They may have behavioral support needs that are not significant but range from none to above average.
	6 LEVEL	**Intensive Medical Support Needs** Individuals have intensive need for medical support but also may have similar support needs to individuals in Level 5. They may have some need for support due to behavior that is not significant.
	7 LEVEL	**Intensive Behavioral Support Needs** Individuals have intensive behavioral challenges, regardless of their support needs to complete daily activities or for medical conditions. These adults typically need significantly enhanced supports due to behavior.

Source: Virginia Department of Behavioral Health and Developmental Services

Tiered Rates Reflect Acuity

Many states have started to use tiered rates to account for the level of needs of the people being served, with higher payments made for people who have more complicated medical or behavioral conditions. For example, Virginia has just gone to a rate system that has four tiers and seven levels within those tiers. The daily rate for a group home with up to four people ranges from $240 a day at the lowest-acuity tier to $373 a day for the highest tier.

States that use a tiered rate also usually use one of two nationally recognized assessment tools to determine a person's level of need -- the Supports Intensity Scale (SIS), developed by the American Association on Intellectual and Developmental Disabilities, and the Inventory for Client and Agency Planning (ICAP).

In Montana, an individual's cost plan is based on an assessment known as the Montana Resource Allocation Protocol, or MONA. The tool was developed by the state.

Rate Studies Are Common

Many states have undertaken rate studies to revamp their payment methodology and levels. The rate studies typically:

- review the services offered and the requirements for providing each service;
- look at the various costs involved in providing services, including the appropriate wage for direct care workers;
- gather comments from providers and other stakeholders;
- review the current practices for setting rates and evaluating client needs; and
- recommend changes to payment methods and to rates.

The studies can take anywhere from several months to up to 2 years to complete, depending on the scope of the review.

Legislatures Sometimes Direct Action

The review found examples of state legislative action on DD services and rates in the states listed below.

- **Maryland**: The Legislature passed House Bill 1238 in 2014, requiring the Developmental Disabilities Administration to undertake a rate study. The fiscal note for the bill said the rate study would cost $300,000 in general fund money.

- **Nebraska**: Legislative Resolution 156 in 2008 required the state to create a working group of state officials and stakeholders to create a plan for reducing the waiting list and make recommendations on rate methodologies. That led to the 2009 Legislature appropriating $150,000 for a formal rate study.[ii] Also in 2009, lawmakers passed Legislative Bill 288, requiring a daily rate for DD services, subject to approval by the federal government.

- **Nevada**: The 2017 Legislature passed Assembly Bill 108, requiring the Medicaid program to conduct a comprehensive rate review for each provider type at least once every 4 years to determine if the rates reflect actual cost. If they do not, the program is to recommend an appropriate rate for the service. The fiscal impact of conducting the review was estimated to be $0.

- **North Dakota**: Senate Bill 2043 in 2011 required the state human services agency and DD providers to develop a new rate system. The bill also required the state to contract with a consultant to develop the payment system and to contract with people who could use the SIS to assess the needs of clients. The fiscal note estimated the cost of the efforts at $1.8 million in the first biennium and nearly $2 million in the second biennium, split evenly between state and federal funds.

- **Wyoming**: House Bill 52 in 2008 required the Department of Health to establish a cost-based reimbursement system for providers and to recalculate rates every 2 to 4 years.

[i] Interview with Lee Grossman, Developmental Disabilities Section Administrator, Behavioral Health Division, Wyoming Department of Health, Feb. 7, 2018.
[ii] "Nebraska Legislative Resolution 156: Addressing the Waiting Lists for Persons with Developmental Disabilities and Rate Methodology," Nebraska Department of Health and Human Services, December 2008.