Department of Mental Health

Division of Developmental Disabilities

Report to the Senate Select Committee on MO HealthNet Provider Rate Equalization

June 1, 2009

Overview

The Senate Select Committee on MO HealthNet Provider Rate Equalization held public hearings, established workgroups and prepared a final report with recommendations in December 2008. The committee after hearing testimony and gathering information identified a concern with Department of Mental Health – Division of Developmental Disabilities long term contract provider rates.

The committee requested DMH prepare a report on this issue and submit to the committee by June 1, 2009. The committee's request is listed below;

> *A plan from the Department of Mental Health (DMH) that provides for the periodic reassessment of the adequacy of the remuneration provided to its long-term contractors.*

Background and Issue Overview

The Division of Developmental Disabilities (DD) currently spends over $441 million annually to purchase support services to assist over 28,000 individuals to live successfully in their community. The funding is used to purchase a wide array of community support services including in-home services, therapies, residential services, etc. DD has over 900 contracts with private providers to deliver these services. DD establishes contract provider rates based on the actual cost of the support services when the original contract is developed. Provider rates are adjusted based on additional appropriations requested by DMH during the annual budget process and appropriated by the General Assembly. Because each consumer's plan of care is cost based and established at the point of entry into the system, long-term contract provider rates for a consumer who entered the system in years past can be significantly less than a new provider rate for a consumer currently entering the system if adequate cost of living adjustments have not been occurring on an annual basis.

Issue Detailed

Long-term contract provider rates are based on cost information developed when the original contracts were created. This type of rate system, to remain effective in future years, requires additional appropriation annually for cost of living increases to keep pace with the rising cost of doing business. Contract providers in our system have rates that are subject to adjustment only when DMH receives a cost of living increase. A new contract provider that has recently developed a contract based on current cost of delivering services could be providing the same service to similar individuals at a rate significantly higher rate than the long-term contract provider, when cost of living increases have not been provided on an annual basis.
The Division establishes new contract provider rates based on the actual current costs of doing business for the new service provider. If the Division has been successful in obtaining annual cost of living increases this issue should not be a

concern. However, every year long-term contract providers do not receive a cost of living increase; the gap between long-term contract provider rates and new contract provider rates continues to grow. When the Division is successful in obtaining periodic annual appropriations for a provider cost of living increase, the gap between long-term providers and new providers does not grow but the gap also does not narrow because the COLA is always based on a single-year inflation rebase and does not address the historical rebase problem.

The information presented in Table 1 shows the DD contract provider cost of living adjustments for the past twenty years compared to Social Security Administration cost of living increases and Consumer Price Index data.

Table 1 - Comparison of DD COLA to Social Security and CPI Data

Fiscal Year	**DD Provider COLA**	**Funded New Decision Items**	**Social Security COLA** (1)	**Consumer Price Index** (2)
2009	3.00%	DMH Rate Increase	5.80%	-1.58%
2008	2.00%	DD Rate Increase	2.30%	6.09%
2007	7.00%	DD Rate Increase	3.30%	4.39%
2006	2.50%	DD Rate Increase	4.10%	4.82%
2005	0.00%	*No Increase*	2.70%	4.90%
2004	0.00%	*No Increase*	2.10%	3.75%
2003	0.00%	*No Increase*	1.40%	3.11%
2002	9.50%	DD Direct Care Staff Recruitment and Retention	2.60%	2.17%
2001	3.00%	DMH Community Provider Increase	3.50%	3.75%
2000	3.00%	DD Direct Care Staff Recruitment and Retention	2.50%	4.28%
1999	3.00%	DMH Provider Stabilization	1.30%	2.76%
1998	0.00%	*No Increase*	2.10%	1.91%
1997	0.00%	*No Increase*	2.90%	2.75%
1996	0.00%	*No Increase*	2.60%	3.45%
1995	0.00%	*No Increase*	2.80%	3.21%
1994	0.00%	*No Increase*	2.60%	2.83%
1993	0.00%	*No Increase*	3.00%	3.21%
1992	0.00%	*No Increase*	3.70%	3.14%
1991	1.00%	DMH Inflation Increase - Provider COLA	5.40%	4.21%
Total	34.00%		56.70%	63.15%

(1) Source: http://www.socialsecurity.gov/OACT/COLA/colaseries.html
(2) Source: Base Year 1990 http://www.bls.gov/data/inflation_calculator.htm

The twenty year comparison shown in Table 1 indicates DD contract provider cost of living adjustments are well below the cost of living adjustments provided by Social Security Administration and the Consumer Price Index data for the same time period. Table 2 displays the cumulative variance compared to the DD contract provider cost of living adjustments.

Table 2 – DD COLA Variance Compared to Social Security and CPI

	Cumulative Increase From 1991 to 2009	Variance Compared to DD COLA Information
DD Contract Provider COLA	34.00%	-
Social Security COLA	56.70%	(22.70%)
Consumer Price Index	63.15%	(29.15%)

The Division currently spends over $441 million to purchase community support services from contract providers. Division estimates over 95% of this funding is used to purchase support services from DD long-term contract providers with over twenty years experience contracting with the Division.

The Division has calculated the estimated amount of funding necessary to rebase or equalize long-term DD contract provider rates in Table 3.

Table 3 - Amount of Funding to Rebase DD Contract Provider Rates

Community Program Funding Subject to Rebasing Rates ($441,769,675 x 95% = $419,681,191)	$419,681,191
Estimate to rebase rates based on CPI variance - 29.15%	$122,337,067
Estimate to rebase rates based on SSA variance - 22.70%	$95,267,630

The Division estimates the total amount of funding necessary to rebase DD long-term contract provider rates to be in a range from $95.3 million to $122.3 million depending on which COLA standards are applied. The amount of General Revenue funds necessary to achieve this historical rebase, using the current state share rate of 36.81%, is from $35.1 million to $45.0 million.

Process to Rebase Contract Provider Rates

The Legislature should establish a process to rebase rates on an annual basis to keep the community contract provider system healthy. The DD contract provider system serves over 98% of the individuals receiving Division funded services. The other 2% are served in state operated habilitation centers.

Regarding rebasing for historical inequities, the Legislature may need to address the problem incrementally, subject to availability of appropriations. The Division process to historically rebase contract provider rates could include analyzing long-term contract provider rates and identifying the oldest and lowest rates currently being paid by DD. The Division, subject to appropriation or redirection of DMH funds, would address the oldest and lowest contract provider rates first and continue with the process until all long-term contract provider rates have been rebased to the current cost of providing services.

Possible Solutions

The Division over the past several years has been able to generate additional Federal earnings as a result of the Upper Payment Limit, ICF/MR Provider Tax, and Community Provider Certification Fee. The Division was also able to produce a $7.4 million General Revenue savings by converting state operated ICF/MR services at Marshall Habilitation Center and St. Louis DDTC to state operated waiver services. Most of the new funding generated by the strategies listed above was used to offset a General Revenue core reduction. Some of the funding was appropriated to the Division to fund a new decision item. Upon direction of the Governor and Legislature, the Division could continue to explore opportunities to generate additional Federal earnings and pursue General Revenue savings by converting ICF/MR services to support the rebasing of long-term contract provider rates.

Division recommends a multi-year strategy to rebase long-term contract provider rates over the next five years. A multi-year strategy would allow the Division to;

1. Continue identifying other Federal earning opportunities to reduce the level of General Revenue needed to fund the rebasing effort.

2. Redirect DMH General Revenue savings generated by converting state operated ICF/MR services to state operated waiver services.

3. Identify other funding solutions or strategies to redirect General Revenue funding to help support the rebasing effort.

4. Request additional General Revenue to fully fund the remainder of the funds needed to rebase long-term contract provider rates.

The Division could propose to dedicate any new funding generated in items #1- #3 to help support the long-term contract provider rate rebasing process. The Division will need the General Assembly's support to maintain those funds during the annual budget process.

Impact to Consumers if No Solution is Provided to Rebase DD Contract Rates

The failure of long-term contract provider rates to keep pace with inflationary costs will cause some providers to reach a "tipping point" that could cause them to go out of business and create a dramatic crisis for the consumers they serve. If a large provider goes out of business, the Division would immediately be forced to address the historical inequities in the rates paid for the defaulting agency's consumers because it would otherwise be impossible to place the consumers under current provider rates.

In fact, the Department was recently contacted by a large long-term contract provider who has been providing services to consumers with developmental disabilities for over 100 years and currently serves over 285 individuals in residential settings. This provider has requested a significant rate increase to address their historical rate inequities and has indicated that the rate increase is necessary for them to continue operations in Fiscal Year 2010. In April 2009 their current average residential rate based on the Division's historical contract rates is $153.37 per day. They have requested an increase to $190.76 per day. This represents a rate increase of over $37 per day or 24% over their current average daily rate, and it would still not fully address the historical rebasing inequity for the consumers served by that provider.

The Department met with the provider's Executive Director and several Board Members to discuss possible solutions. Their original request would have required over $960,000 in additional General Revenue funding.

After much discussion with the provider, the Department offered to do the following to provide some assistance to this agency;

1. The Division would adjust some of the historical group home rates to reflect 50% of their original rate request for twelve months. (Total General Revenue annual cost of this increase would be $402,000. Division would fund this increase with one-time cash).

2. Over the next twelve months Department staff would conduct a review of the provider's operation both financial and programmatic to determine if any operating efficiencies could be identified to produce a cost savings. Recommendations would be shared with the provider and used to adjust contract provider rates at the end of the twelve month period.

3. The provider would discontinue some of the residential services that were contributing a sizable loss to the organization. The Division would assist in transitioning nineteen individuals to other providers.

This information was provided to Board Members in late May. Division expects a response from the provider after their Board meeting scheduled in early June. If they accept the rate increase, the Department will adjust their rates and begin the programmatic and financial reviews very quickly to assist in identifying any potential cost savings. If the Board rejects this proposal, Division anticipates all 285 individuals will be forced to move out of their homes to other contract providers at a substantial cost increase to the state. The timeframe to achieve this may be very limited 30 - 90 days based on the provider's ability to stay financially solvent. We will continue to work with the provider on this issue and provide additional information to the committee, if requested.

This difficult situation appears to be what other DD long-term contract providers will be experiencing if the Division does not start rebasing long-term contract provider rates.