

Summary of Public Comments Received and ODP Responses Regarding the Proposed Department-Established AAW Fees and Fee Schedule Rates for Services Funded Through the Adult Autism Waiver

The Department published public notice at **52 Pa.B 98** (January 1, 2022) which included the proposed department-established fees and fee schedule rates effective July 1, 2021. The Department received comments regarding the Adult Autism Waiver (AAW) proposed fees and fee schedule rates from 10 people and organizations.

After reviewing the comments on the proposed rates, the Department determined that there would be no changes to the proposed fees and fee schedule rates. The following is a general summary of comments received and ODP's responses to those comments.

Rate-Setting Methodology for the Proposed Department-Established Fees and Fee Schedule Rates for Services Funded Through the AAW

- 14 comments were received regarding the need to increase wage assumptions. Comments supported using a Cost-Of-Living Adjustment (COLA) or market-based index (inflationary plus catch-up modifier) adjustment. Further, comments indicated the proposed assumptions will not support recruitment or a living wage.

ODP Response: The proposed Fee Schedule Rate assumptions use a market-based approach so that payments account for adequate staff wages. The Department will update the data for the factors described in 55 Pa. Code §6100.571(b) to establish fee schedule rates at least every 3 years in accordance with regulatory requirements.

- 2 comments were received regarding the need for changes to assumption rates for full-time and part-time staff ratios. Comments further indicated FT/PT assumptions were not aligned with provider experience.

ODP Response: The proposed Fee Schedule Rates and Department-Established Fees were developed using a market-based approach. ODP used information collected from a provider survey released in September 2021 to develop staffing ratio assumptions. The staffing ratio assumptions will be implemented as proposed.

- 6 comments were received supporting the need to increase assumption rates for Employee-Related Expenses. In addition, comments indicated the support for increasing retirement contribution.

ODP Response: The fee schedule rate assumptions use a market-based approach so that payments account for adequate Employee-Related Expenses. The assumption rates for Employee-Related Expenses will be implemented as proposed.

- 6 comments were received regarding the need to adjust the assumptions of Productivity to account for unavoidable nonbillable paid time, such as that for training, compliance, absentee factor, and travel between locations to serve individuals.

ODP Response: The Productivity assumption does account for nonbillable paid time. The Productivity rate assumptions will be implemented as proposed.

- 9 comments were received supporting an increase to the assumptions for administrative or operational costs. Additionally, comments indicated costs have risen from inflation, compliance and mandated training requirements, technology, billing/accounting, and the need for additional staffing to perform expanded tasks. Comments further indicated facility operations experienced cost increases.

ODP Response: The fee schedule rate methodology explains that the Department evaluates and uses various independent data sources such as a Pennsylvania-specific compensation study to ensure the rates reflect the expected expenses for the delivery of services under the waivers for the major allowable cost categories including occupancy, staff-related expenses, administration-related, and operational expenses for facility and non-facility supports. No changes to assumptions or rates were made as a result of these comments.

- 2 comments were received opposing the reduction of the healthcare insurance assumption rate. In addition, commenters indicated the actual healthcare costs had increased and are projected to continue increasing annually. Commenters further expressed the need for healthcare costs to be covered for staff and supported comprehensive healthcare to include vision, dental, and dependents.

ODP Response: The healthcare insurance rate assumptions are set from market-based research inclusive of the Bureau of Labor Statistics data from March 2021, which indicated higher health insurance cost than the more recent September 2021 release. Additionally, the Department used Pennsylvania data from the Kaiser Family Foundation. The assumption of healthcare insurance costs for full-time staff only is compliant with laws on staff healthcare insurance coverage. The BLS data can be found here: https://www.bls.gov/news.release/archives/ecec_06172021.pdf.

- 1 comment was received regarding the need to include occupancy costs in the Job Coaching proposed rates.

ODP Response: The proposed rates include the expected expenses for the delivery of services under the waivers for the major allowable cost categories. The Job Coaching rates will be implemented as proposed.

- 4 comments were received expressing the need for an annual rate review and increase instead of every 3 years.

ODP Response: Pursuant to 55 Pa. Code § 6100.571 (relating to fee schedule rates), which was effective October 5, 2019, the Department is required to update the data used in establishing the fee schedule rates at least every 3 years. The Department has reviewed and revised its rates for services funded

through the Consolidated, Community Living, P/FDS, and Adult Autism Waivers and the Base-funded program to comply with this requirement.

- 3 comments were received regarding the need for transparency and compliance with 55 Pa. Code Chapter 6100 regulations to set rates. Comments further indicated a desire to see specific sources of data.

ODP Response: In developing the proposed Fee Schedule Rates and Department-Established fees for each service, the Department evaluated and used various independent data sources, such as a Commonwealth-specific compensation study, to ensure the rates reflect the expected expenses for the delivery of the service under the AAW. As required by 55 Pa. Code § 6100.571(b), the Department examined and used data relating to the required factors to establish the Fee Schedule Rates.

No specific data source is identified in the methodology for any of these categories. ODP did, however, release the assumption logs applicable to the proposed rate increases (<https://www.dhs.pa.gov/Services/Disabilities-Aging/Pages/Adult-Autism-Waiver-Renewal.aspx>).

- 1 comment was received supporting an increase for mileage caps for Job Coaches.

ODP Response: The mileage cap component includes consideration for the average mileage seen for staff travel distance. Ranges include consideration for mileage costs and non-billable travel time. The mileage caps will be implemented as proposed.

- 1 comment was received supporting a retroactive start date of April 1, 2021 for the proposed rates.

ODP Response: The retroactive start date of July 1, 2021 remains unchanged for AAW rates.

- 1 comment was received opposing the use of a \$35,568 annual salary cap to calculate Overtime rate assumptions. Commenters further expressed concern that the assumptions related to OT did not meet the requirements of the FLSA test.

ODP Response: The staffing wage assumptions and overtime adjustments will be implemented as proposed.

- 1 comment was received expressing concern that the fee assumptions do not include a supervisor or director salary for Community Support.

ODP Response: The assumptions include wages for direct service professionals and supervisors. Any additional positions would be covered under the Administration assumption. No changes to assumptions were made from these comments.

Department-Established Fees and Fee Schedule Rates for Services Funded Through the AAW

- 4 comments were received in support of proposed rate increases, the rate refresh processes, or the rate setting methodology for services funded through the AAW.

ODP Response: ODP received the approval comments submitted and is appreciative of the support.

- 6 comments were received regarding the proposed rates being too low to sustain operational costs to existing providers or to attract new qualified providers. Additionally, commenters expressed concern the rates would not attract therapy and career specialists as employees or as providers and would not allow for providers to expand services to support more individuals.

ODP Response: The proposed Fee Schedule Rates and Department-Established Fees were developed using a market-based approach. The process for the development of the Fee Schedule Rates and Department-Established Fees included a review of the waiver service definitions and a determination of allowable cost components which reflected costs that are reasonable, necessary, and related to the service, as defined in the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (OMB Circular Uniform Guidance, December 26, 2014). The rates will be implemented as proposed.

- 1 comment was received regarding the need to adjust the mileage reimbursement amount to match the 2022 IRS mileage reimbursement amount.

ODP Response: The IRS mileage reimbursement rate in effect at the time of rate development was appropriately utilized.

- 3 comments were received regarding the need for higher, more equitable rate increases for Supported Employment, Career Planning, Behavioral Supports Services (Direct and Consult), and Respite to accommodate the highest range of salary assumptions for staff without resulting in a deficit. Additionally, comments indicated a higher proposed rates would show more commitment to employment initiatives.

ODP Response: The Department evaluates and uses various independent data sources to ensure the rates reflect the expected expenses for the delivery of services under the waivers for the major allowable cost categories. The rates for these services will be implemented as proposed.

- 5 comments were received supporting an alignment of rates across ID/A and AAW waivers and increasing AAW rates to match higher comparable ID/A waiver rates.

ODP Response: The rates for the AAW services will be implemented as proposed.

- 1 comment was received supporting a higher proposed rate increase to W7274 and W7275.

ODP Response: The rates for these services will be implemented as proposed.

The following 3 comments were received that were outside the scope of the public notice and are thus not addressed in this bulletin:

- 1 comment was received in support of changing the AAW Small Group Employment from 1:3.5 staff to participant ratio to 1:1 staff to participant ratio.
- 1 comment was received in support of matching AAW Behavior Support Services staffing qualification requirements to those for ID/A waivers.
- 1 comment was received regarding the requirement of 5 years' experience as a House Manager as a significant barrier to licensing.