

TALKING POINTS

OPWDD #1

New York State must continue its investment in a living wage for Direct Support Professionals (DSPs)

BACKGROUND

- We are grateful for the Legislators' and Governor's past support for the #bFair2DirectCare campaign. In March 2017, Governor Cuomo promised not to sign a budget without including the first two of six installments to create a "living wage" for our DSPs and other low wage workers. The living wage is calculated as \$17.72 downstate and \$15.54 for the rest of the state.
- In New York State increases in Minimum Wage began December 2016, again in 2017 and finally this past December 2018.
- People with I/DD and their families rely daily on this dedicated workforce to provide services and supports that promote a life of their choosing in the environment that best suits their desires and needs. They are the lynchpin of support for the more than 130,000 people with developmental disabilities in NYS.
- Per each person's choice and plan, DSPs carry out varied and essential responsibilities such as activities of daily living, medication administration, the delivery of physical and behavioral health services, lifting and moving of individuals with physical challenges, forming close and trusted relationships with the individuals with disabilities and their families, teaching personal care skills, money management and other travel and social skills.

LANDSCAPE

- While the 2017/18 budget contained the first two phases toward a living wage, four additional installments are necessary to properly compensate this workforce.
- Nonprofit OPWDD providers deliver nearly 85% of the services to New Yorkers with I/DD, but years of no COLA/Medicaid Trend have resulted in DSPs not earning a living wage.
- The **Turnover Rate for staff is 26.4% in the 2018** survey, no improvement over the 2017 survey. That is a 42% increase in the turnover since 2014 when the rate was 19%.
- The **Vacancy Rate of 14.3%** is virtually unchanged from last year, but an increase of 80% since 2014 when the vacancy rate was 8%.
- Both the Turnover and Vacancy rates are unchanged from the previous year which maybe the result of the first two downpayments toward a living wage.

THE RESULT

- With the increases in Minimum Wage to sectors across the state, nonprofit providers are falling behind the competition of fast food restaurants and big box stores. **The results is a crisis in attracting and retaining staff that threatens the ability of providers to**

sustain quality supports and services that people with disabilities and their families require!

- We are now logging more than 12 Million hours of Overtime annually to compensate for the vacancies that must be filled to provide vital services and supports, an increase of 17% from one year ago. Increased overtime puts extreme pressure on the DSPs to give their best at every moment, something more difficult to achieve as the hours increase each week, each year. It is people with developmental disabilities and the families who see the strain and bear the consequences of an over-worked and under paid staff.
- With low pay, mandatory overtime and the increased costs of living for them and their families, many DSPs must seek employment elsewhere with better pay and better benefits.

THE ASK

- **We strongly urge the Legislature and Governor to commit to years three and four of the living wage funding in the NYS Budget.**
- The third installment would commit approximately \$60 Million beginning 4/1/19. The fourth installment would commit an additional \$15 Million, effective on 1/1/20 for a total commitment of \$75 Million in the 2019/2020 budget.
- Our workforce deserves the support of New York State's leaders, and we ask them to **#bFair2DirectCare.**

TALKING POINTS

OPWDD #2

COPA has joined Strong Nonprofits for a Better New York Campaign to provide a 2.9% Human Services COLA/Medicaid Trend in this and future budgets.

BACKGROUND

- Each year the costs of doing business for our mission-focused nonprofit providers increase. The expenditures for utilities, rent, health insurance, workers compensation, liability insurance, pension plans among other costs increase.
- Prior to 2011, Medicaid funded OPWDD supports and services received yearly increases to cover these budget realities, called “Medicaid Trends,” similar to a COLA for non-Medicaid expenses. In 2010, a COLA/Medicaid Trend of 2.08% was given to both state and nonprofit operated programs. Each year since 2010, with the exception of 0.2% given in 2017, nonprofit OPWDD providers have been denied any COLA/Trend to support agency operations.

THE RESULT

- OPWDD providers have had to absorb cuts, other efficiencies and rate restructuring which created a massive and impractical struggle to keep up with the rising costs of doing business and staying on mission.
- Staff salaries for organizations have stagnated, leading to an exodus of talented and dedicated workers.
- The lack of the COLA was the primary contributor to the staffing emergency that the bFAir2DirectCare campaign has been seeking to address.
- The OPWDD funded nonprofit provider network is in jeopardy of losing many of its longtime and valued community agencies that helped build this vital, admired system of service in New York State.

THE ASK

- Only a strong nonprofit provider community can provide quality services.
- **To insure quality services, the budget must include the 2.9% Human Services COLA/Medicaid Trend in the FY 2020 budget, at a cost of \$140 Million (State share).**

TALKING POINTS

OPWDD #3

Fund the necessary services and supports for individuals with High Needs currently receiving services

BACKGROUND

- Over the past several years, providers have been asked to provide residential, day vocational and other supports to individuals who were transitioning from out of state residential schools as they age out, and institutional environments. Many providers answered the requests for placements and are currently supporting those individuals in residences and day services.
- Many of these individuals present with complex medical or behavioral needs. Others due to advanced age, traumatic incident or a dramatic decline in functioning, require additional staffing and other supports that must be delivered by providers within their current rate structure.

THE RESULT

- As many of the people we serve and support age and experience age-related declines in physical and behavioral health, there is an increasing need for additional staff resources.
- While providers must insure that sufficient staffing is present, the costs associated are not available through the existing rate structure, resulting in revenue losses for these providers.
- Continued failure to recognize the higher level of needs for individuals with complex and behavioral needs in the current methodologies will further erode the financial health of agencies who answered the call from OPWDD to serve this population. In the future, continued lack of adequate funding will drive providers away from opening opportunities for people with complex needs waiting for services.

THE ASK

- **We strongly urge that \$10 Million be added to the NYS budget for OPWDD providers to support people with complex needs currently receiving services, and fund these costs that exceed the existing rate reimbursements.**

TALKING POINTS

OPWDD #4

Insure adequate funding for the development of Out of Home Residential Opportunities

BACKGROUND

- The commitment of New York State and OPWDD to fund new residential opportunities for thousands of New Yorkers with I/DD has been there since the signing of Willowbrook Consent Decree in 1975.
- For the fifth consecutive year, the Executive Budget proposed \$120 Million in new funding for all supports including housing.
- Despite its best intentions, there are many more thousands who do not have access to the housing supports they need. Many will remain on request lists for years to come for housing and other community based services as only minimal allocations are provided.

THE RESULT

- According to the OPWDDs 2016 Residential Request List, 46% of those on the list live with caregivers over the age of 60; 53% have only one caregiver at home; 48% need help with almost all of their daily living activities.
- While we recognize and appreciate the \$120 Million in the Governor's proposal that include new residential opportunities, the needs of these individuals and families on those OPWDD requests lists far surpass this proposed allocation.
- The Executive Budget also includes \$15 Million, as it did last year, to expand affordable housing supports. The chances for providers to capture any of this allocation is slim to none as the dollars are mostly spoken for prior to its availability, and OPWDD providers have experienced great difficulties in accessing this pool of funds under the Division of Housing and Community Renewal (DHCR).

THE ASK

- **We ask that \$20 Million of the \$120 Million in development funds be “set-aside” for those individuals who can no longer safely live at home with their families.**
- **We strongly request that an additional \$15 Million be added for the capital costs of developing affordable housing opportunities to insure participation for more of the OPWDD provider community and the people who need those opportunities.**

TALKING POINTS

SED #1

New York State must insure that every student in a 4410 or 853 school has a certified special education teacher by providing an additional \$15 million for special education schools to narrow the teacher compensation gap:

BACKGROUND

- **4410 and 853 nonprofit schools are required by Part 200 of the SED Commissioner's Regulations to have certified special education teachers in all of their classrooms - Only a certified special education teacher can implement a student's Individualized Education Program (IEP) and insure that children receive a free and appropriate public education FAPE --- the lack of adequate funding has made this almost impossible in our programs.**
- Our 853s and 4410s are unable to pay our teachers anywhere near what a local school district pays. The salary differential is significantly higher in certain regions of the state. Public School teachers work a 10 month school year. Our teachers work a 12 month school year. **Public School Districts across New York State pay their teachers on average \$36,000 dollars more than our 4410 and 853 schools with a benefits package worth 63.89% of the annual salary (from SED data). The average fringe benefits package for teachers in our schools averages just 23% of annual salary!**
- The gap has grown to the point that the goal of hiring and retaining qualified teachers is unattainable for our schools. This salary gap increased significantly due to years of zero tuition growth and the limited tuition increases granted the last few years.

THE LANDSCAPE

- Our schools are experiencing a staffing crisis because they no longer have the ability to attract and retain certified special education teachers and certified teacher assistants
- **Children with the highest levels of special education needs are being taught by inexperienced/brand new special education teachers.** Any remaining experienced special educators are being aggressively recruited by the local school districts. Our 4410 and 853 programs now operate with a sense of insecurity fearing that on any given day they may lose more teachers or teacher assistants.

- Many of our 4410 and 853 programs are currently operating classrooms utilizing program administrators and supervising teachers who have teaching certifications but should be performing administrative roles at the schools. This means that there are no experienced educators to supervise and mentor the new teachers.
- Vacancy rates for certified special education teachers have risen by more than 65% in the past two years. Currently in both our 4410 and 853 schools **the Vacancy rate is 28%. Teacher Turnover rates for the 2017-2018 school year for 853 programs was 31% and for 4410 Preschools was 26%.** Refer to Color Slides

THE RESULT

- **“A Tale of Two Teachers”** Show last Color Slide
- **We fear that 4410 and 853 programs have been left with two untenable alternatives: allow uncertified non teachers in the role of teacher in their classrooms, or close classrooms and schools and send the children back to the District. We can no longer assure FAPE without immediate action!**

THE ASK

- **An additional \$15 million would allow 853 and 4410 schools to begin to narrow the increasing gap between their teacher compensation and public school teacher compensation** so that they can continue to provide a Free and Appropriate Public Education for NY’s students with the most significant needs. \$15 M, added to the current \$8M for teacher recruitment and retention for a total of \$23M is just 15% of the state-wide aggregate gap that currently exists between public school special education teachers and teachers in our nonprofit schools!
- These additional funds will only address the vacancy crisis for certified teachers, not certified teacher assistants, which is just as critical. We need adequate tuition increases to cover the salary disparities for teacher assistants and other staff.
- The continued viability of our schools is at stake. **We must act NOW and invest in 853 and 4410 schools before it’s too late!**

TALKING POINTS

SED #2

Provide 4410 and 853 Schools with a Tuition Increase Comparable with General Education

Why don't our 4410 and 853 schools which educate children that the school district has determined that they can't, receive the same increase that general education receives in the yearly enacted state budget? **Our Kids are YOUR Kids!**

BACKGROUND

- **The children in our classrooms are public school children** placed there by the Committee on Special Education or the Committee on Preschool Special Education only after they considered all other public school options and determined none of them could provide an appropriate education to the student.

4410 Classroom Based Preschools

- ***4410 providers were subject to a six-year tuition freeze that had a significant financial impact on their programs.***
- Preschool special education classroom based programs have received only an 8% increase in tuition since 2012. During that same time period school districts have received a 42% increase in state aid. Last year's increase was only 2% despite NYSED recommending a 4 % increase. This lack of support has placed many programs in financial and programmatic jeopardy.
- A big issue with the actuality of a 4% increase in tuition is in the funding methodology itself. The counties pay 40.5% of 4410 preschool costs and with their annual tax cap, a 4% increase would comprise almost all of their allowable growth. County responsibility for preschool education expenses should be capped at current levels to remove this barrier to adequate tuition increases.
- **Preschool Special Education Programs are closing their doors.** Based on data provided by NYSED in the past four years 61 preschool special education programs have closed across New York State. (For New York City providers---Thirty-one of them in New York City alone. Just recently, SED posted the New York City Regional Need for nearly 800 classroom seats!

- If a large preschool provider closed, how would the school district accommodate hundreds of preschool children with developmental disabilities in an appropriate educational setting?
- Due to the lack of financial support preschool programs are having difficulty maintaining a quality workforce. Many 4410 Preschool and School Age 853 Special Education Providers across the state have high vacancy rates for certified teacher and certified teacher assistants

853 School Age Providers

- 853 providers were subject to a four-year tuition freeze that had a significant financial impact on their programs.
- While the impact on 853 providers has been lessened in the past six years by annual increases, they are still recovering from a four year period of flat tuition and additional challenges like skyrocketing property costs and a student body with increasing needs for additional support. 853's have also been subjected to aggressive recruiting of their teaching staff by school districts because of their expertise.
- 853 school-age programs serve 5-21 year olds who have been determined (by their local school districts) to need more support than available through the school districts
- Due to the lack of adequate financial support 853 programs are having difficulty maintaining a quality workforce. Many school Age 853 Special Education Providers across the state have high vacancy rates for certified teacher and certified teacher assistants for the first time. (Refer to slide "Is This Equity For Our Kids")

THE ASK

- **All children in New York State deserve an appropriately funded, quality education. 4410 and 853 schools must be provided with a tuition increase comparable to that of all public school districts!**
- **Because Our Kids are YOUR Kids!**

TALKING POINTS

SED #3

Authorize Interim-Plus Rates for 4410 and 853 Special Education Schools

BACKGROUND

- The New York State Education Department is required by the SED Commissioner's Regulations to establish yearly certified tuition rates for 4410 and 853 schools.
- Many schools that have filed tuition waiver appeals are operating with "interim rates" which makes them temporarily ineligible to receive approved tuition increases while the rate determination is pending.

THE LANDSCAPE

- In the past few years SED's rate setting processing has become significantly delayed, with some providers waiting years for their rates to be approved. This means that even though DOB has approved 2% increases in each of the last four years, these schools have received none. They also have not received the Teacher Recruitment and Retention funding or Minimum Wage increases they are due. In fact, no Minimum Wage funding has been distributed to any of our schools who have had to raise wages without this promised funding.
- Currently all 4410 and 853 schools are still waiting for their final certified rates for 2017-2018. As a result no provider has received the most recent approved 2% tuition increase.
- We understand that there are a variety of reasons for the SED backlog but our schools, which are in precarious financial positions, should not suffer because of these processing delays.

THE ASK

- The State must meet its obligation to reimburse these schools properly for educating children. The 4410 and 853 schools should receive the approved tuition increases on their existing certified rate while they await SED's review of their tuition waiver requests.
- **Include language in the one House Budget Bills requiring "Interim-Plus Rates" so 4410 and 853 providers can get the tuition increases that have been already approved over the past four years.**

TALKING POINTS

DOH #1

Provide an across the board 5% EI rate increase

BACKGROUND

- The Early Intervention Program began in 1994 and has been proven effective in reducing the need for intensive life-long services for infants and toddlers with significant developmental delays.
- The period between birth and three years of age, when the brain is rapidly developing is the most opportune time to create lasting improvements in development.
- Over the past 25 years, rate adjustments have resulted in millions in savings and providers are being paid less today than when the program started.

THE LANDSCAPE

- The lack of investment in Early Intervention has led to the closure of many programs and even individual practitioners have discontinued providing Early Intervention services.
- New York State has acknowledged the lack of services available and in response, the Governor has proposed a 5% increase in rates but only on PT, OT and Speech.
- These therapies constitute approximately 60% of all EI services, the balance consists of specialized instructional services like ABA (Applied Behavioral Analysis). There is a similar shortage of teachers providing these EI services so the therapies should not be singled out.

THE ASK

- **Include a 5% rate increase on all Early Intervention Program services so that New York's youngest children with significant developmental delays will be able to benefit from this life changing service!**

TALKING POINTS

DOH #2

Oppose changes to the Consumer Directed Personal Assistance Program (CDPAP)

BACKGROUND

- The CDPAP began in the 1990's and has been proven effective in:
 - Reducing institutional placements
 - Improving physical and mental health of program participants
 - Reducing cost of care
 - Increasing participant independence and satisfaction
- Personal Assistants help program participants with:
 - Dressing
 - Bathing and toileting
 - Medication administration and injections
 - Meal prep
 - Light housework
 - Transportation to Dr.'s appointments
- Currently, approximately 500 Fiscal Intermediaries (FI's) administer the CDPAP program for an administrative percentage, so FI's that support participants who are more complex and utilize more hours are compensated for the additional complexity.
- FI's perform the following services:
 - Orientation for new hires
 - Annual in-person visits with participants
 - Referrals to other community based programs & services
 - Deliver medical equipment
 - TB screening of staff
 - Assist participants with staff recruitment
 - Audit services to promote quality
 - Manage payroll for staff
 - And more
- The 2017 State budget established a new authorization process for FI's requiring application to the Commissioner of DOH for FI authorization. Applications have been filed and DOH should use the process to review FI's for efficiency and effectiveness, and deny authorization to any underperformers.

THE LANDSCAPE

- The Governor's Budget Proposal contains two changes to the CDPAP program for FI's:
 - It replaces the % payment with a flat per member per month payment of \$100.00

- It eliminate 90% of the current FI's by only allowing those which were continuously operational prior to 1/1/12 unless the FI is an Independent Living Center, and eventually eliminates all but one or two fiscal intermediaries for the entire State.
- These proposals don't reflect the work actually performed by FI's and arbitrarily cuts out Fiscal Intermediaries without regard to efficiency and effectiveness.
- The drastic cut in payments will force some FI's out of business and the reduction in the number of FI's will have a direct negative impact on CDPAP participants' ability to remain independent in the community.

THE ASK

- **Reject the Governor's proposed changes to the CDPAP program and preserve this cost effective and successful program which helps people with significant physical disabilities to live independently in their communities.**

TALKING POINTS

DOH #3

Invest in and provide financial stability for clinics that serve people with I/DD

BACKGROUND

- For almost 40 years, our Article 16 and 28 clinics have provided specialty care for people with I/DD, including dentistry, allowing them the person centered approach required for them to receive the primary care services that prevent unnecessary and costly hospitalizations, procedures and suffering.
- Our clinics operate at an approximate 20% loss even with enhanced rates for Article 28 clinics, due to the extra time and staffing it takes for each visit.
- Previously, clinics could be subsidized with surpluses from other programs but, because of rate rationalization, surpluses have been removed and now the inadequacy of clinic funding threatens our clinics' existence.
- In addition, the Medicaid Redesign Team (MRT) implemented MRT#26 which imposed a cut on Article 16 clinics which provided more services per patient than the average, regardless of the nature or severity of the person's disability. This cut clearly discriminates against clinics serving the people with the most complex physical and behavioral needs.
- In March of 2018, DOH & OPWDD jointly established the Clinic/APG Base Rates Workgroup to address our concerns and this workgroup made some good recommendations.

THE LANDSCAPE

- The Governor's Budget Proposal fails to address our clinics' financial concerns despite the fact that DOH and OPWDD recognize that our costs exceed our income.
- Failing to address our shortfall will cause our specialty clinics to close which will cost the State more money in unnecessary procedures and hospitalizations.
- Reducing the availability of Primary Care to people with I/DD is the opposite of the direction that State has been moving in for the last few years.

THE ASK

- **Increase the Article 28 APG add on for patients with I/DD or TBI from 20% to 30% to cover the true cost of providing services**
- **Repeal MRT#26 cut on Article 16 clinics**
- **Require MCO's to reimburse Article 16 & 28 clinics and IPSIDD providers the full Medicaid fee for service rates for people with I/DD or TBI and continue this full payment for 36 months after mandatory enrollment in Managed Care is implemented.**