

July 17, 2020

Governor Andrew M. Cuomo
Executive Chamber
The Capitol
Albany, NY 12224

Governor Cuomo:

On behalf of the voluntary providers of supports and services for individuals with intellectual and developmental disabilities (I/DD), we wish to voice our growing concern regarding actions and lack thereof by the Office for People with Developmental Disabilities (OPWDD) throughout the COVID-19 pandemic. Specifically, there are several pressing matters which require swift action by the State, to prevent significant disruption to the service delivery system for individuals with I/DD.

First, the recent announcement by the Centers for Medicare and Medicaid Services (CMS) to limit “retainer day payments” to providers, ending the program on July 21st. This action will cause significant fiscal harm to provider agencies across the state and will lead to a loss of services for individuals with I/DD and their families. While this announcement was a surprise to all in NYS, including OPWDD, we are very concerned that a failure to plan to prevent a substantial loss of revenue, which will occur in less than one week. The provider associations have developed and presented OPWDD with a number of recommendations and strategies to avoid this fiscal cliff, but without action by the State on this issue, providers will be forced to immediately furlough thousands of staff to prevent massive fiscal losses, which will undoubtedly disrupt the critical delivery of supports and services to the individuals that are in our care.

This potential loss in funding, is further compounded by the absence of any financial assistance from OPWDD to provider agencies to address the increased cost of operating throughout the pandemic. In the most recent survey conducted by the New York Disability Advocates (“NYDA”), for the period of March 1, 2020 through May 31, 2020, not-for-profit providers statewide have incurred \$74 million in additional COVID-19 payroll costs to ensure adequate and critical staffing, \$16 million to procure personal protective equipment (“PPE”) and close to \$10 million in other expenses directly related to the pandemic. These added expenses combined with lost program revenue in excess of \$81 million, has resulted in a 40% increase in providers with less than 30 days of cash on hand, since December 2019.

Further, while the State received a 6.2% increase in FMAP, of which OPWDD received an allocation for COVID-19 related expenses, no funding has been or is expected to be made available to the not-for-profit providers which support 85% of the individuals with I/DD in New York State.

Additionally, as you are aware, provider agencies have yet to receive funding for the statutorily mandated January 1, 2020 and April 1, 2020 – 2% direct care and clinical staff wage increases. While we understand the fiscal realities that the State of New York is facing, these increases were enacted as part of the SFY 2019-20 Budget, providers have implemented these wage increases, without the necessary funding. The longer they wait to receive funding to support these wage increases, the further the fiscal condition of provider agencies will deteriorate.

Alliance of Long Island Agencies, Inc.
Seth Stein, Esq.
Executive Director & General Counsel

**Cerebral Palsy Associations
of New York State**
Susan Constantino, *President & CEO*

Developmental Disabilities Alliance of WNY
Rhonda Frederick, *President*

**InterAgency Council of Developmental
Disabilities, Inc.**
Tom McAlvanah, *Executive Director*

**New York Alliance for Inclusion &
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Michael Seereiter, *President & CEO*

**New York Association of Emerging &
Multicultural Providers, Inc.**
Yvette Watts, *Executive Director*

The Arc New York
Mark van Voorst, *Executive Director*

Furthermore, OPWDD disseminated a CFR-2A to “better understand the current financial position of [agencies].” This data request does not seek to collect any data from providers on their COVID-19 related expenses and lost program revenue. Yet, the CFR-2A does ask agencies to provide OPWDD with the amount of funding that they received from the Federal stimulus package, which we have been made aware is likely to be subject to reconciliation by OPWDD. Without recognition of the significant expenses that providers have incurred as a result of the pandemic, the possible reconciliation of these stimulus funds is appalling.

Finally, as we have collectively voiced to OPWDD and others, it is unconscionable that on May 27th, OPWDD put forth cuts to the IRA and ICF residential programs by eliminating the occupancy adjustment resulting from vacancies and slashing reimbursement by 50% for vacancy days when residents are in the hospital or are taking therapeutic leave days for family visits as well as imposing an annual “cap” of 96 days of therapeutic leave days, after which reimbursement would be reduced to zero.

These cuts collectively remove more than \$265 million annually from services for individuals with I/DD and was implemented without any prior notification or consultation with the provider community. These actions signify a major shift in the future of the service delivery system, which should not be effectuated through a cut, but rather through a transparent and data driven process involving provider agencies, families and the individuals who are impacted by a downsizing of the certified residential system.

With the COVID-19 pandemic far from over, the agencies and individuals who provide the daily supports and services to individuals with I/DD are in need of your leadership to provide stability and guidance through the pandemic. Furthermore, we request that a moratorium be placed on all cuts that have been proposed and that a working group be convened to openly discuss and identify how resources can best be deployed to minimize further harm to the field.

Sincerely,



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cc: Robert Mujica
Paul Francis
Commissioner Theodore Kastner
Senator David Carlucci
Assemblywoman Aileen Gunther