



I/DD WORKFORCE EMERGENCY

**New York Disability Advocates Report
JULY 2021**

NEW YORK
**DISABILITY
ADVOCATES**
Life. Supported.

The New York Disability Advocates recently conducted a statewide workforce survey to quantify the reports from provider agencies highlighting increasing and significant staff vacancies among their Direct Support Professionals (DSPs).

DSPs are a vital part of New York’s “care economy,” and are the backbone of the system of supports and services for people with disabilities. DSPs are employed by the not-for-profit provider agencies and directly by individuals with disabilities to provide vital supports and services in group residential settings, independent apartments and homes, and in recreational and therapeutic day support settings.

The role of a DSP is not an easy one, requiring a high degree of responsibility, skill and compassion.

DSPs are essential to ensuring that individuals with intellectual and developmental disabilities (I/DD) are safe, lead fulfilling lives in their communities, and receive attention for complex medical and therapeutic needs.

The 2021 NYDA survey results capture data from January 1 through April 30, 2021 and includes data from 118 providers agencies which represent approximately 60% of statewide voluntary program funding for the field. The survey showed that statewide, provider agencies have an average 24.75% vacancy rate for direct care staff. The full survey data toplines are as follows.

SURVEY RESULTS				
Total Survey Responses				118
Statewide Average Vacancy %				24.75%
Regions¹				
Region 1 (Downstate) 18.29%	Region 2 (Hudson Valley) 27.33%	Region 3 (Upstate Metro) 25.77%	Region 4 (Rest of the state) 27.61%	
Change in Average Statewide Staff Vacancy Rate from pre-pandemic through Jan 1, 2021 – Apr1, 2021				74.3%
Staff Turnover Ratio – Statewide				11.90%
Statewide Agency Staff Vacancy Rate Over 30%				23.72%
Agencies reporting senior staff had to cover shifts due to staffing shortages from January 1, 2021 - April 1, 2021				69.2%
Agencies reporting that their agency had to close programs or reduce operations due to staffing shortages				47.9%
Agencies reporting programs not opened due to staff shortages				39.32%
Agencies reporting a decrease in job applicants				93.16%

1. Region definitions: https://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/doh-owpdd_regions.htm

Notably the survey showed a 74.3% increase in the staff vacancy rate from pre-pandemic levels.

Furthermore, nearly 70% of agencies statewide reported supervisory staff needing to cover shifts as a direct result of staffing shortages. The results of the NYDA survey paint a dire picture for the I/DD service delivery system, which necessitates swift action by the State of New York to adequately address the current emergency and to ensure individual's safety and the future viability of the system.

On June 2nd, NYDA hosted a Workforce Summit that brought together more than 700 participants including representatives from provider agencies and state government, service recipients, family members and those who work in direct support positions. They discussed the current emergency and developed ideas and strategies for a comprehensive approach and to provide a roadmap for the State and providers, as partners, to respond to the workforce emergency and provide long term stability.

At the Summit, participants cited recruitment, retention, fiscal and regulatory relief as the main areas of focus. However, the common theme that was discussed throughout is the need for increased funding from the state to support higher wages for DSPs. With OPWDD receiving approximately \$800 million in enhanced Federal Medical Assistance Percentage (eFMAP) for home and community-based services (HCBS) as part of the recently enacted American Rescue Plan Act, NYDA believes that this funding must be utilized as a down payment to increase wages for direct care staff. Additionally, the state must commit to increasing funding and rates to support a living wage for staff.

New York must look to the steps that the federal government is taking to recognize the importance of the care economy, with the introduction of the Better Care and Better Jobs Act, which would vastly expand the Medicaid HCBS program. The legislation forms the basis of President Biden's \$400 billion commitment to expand access to HCBS and raise the wages of direct support professionals in his American Jobs Plan.

The following recommendations have been identified as critical to addressing the emergency.

ESTABLISHMENT OF A LIVING WAGE:

In 2014, New York's Governor Andrew Cuomo announced the intent to increase the state's minimum wage. Provider associations across New York and other advocates who support people with intellectual and developmental disabilities came together to respond to this proposal. While they supported an increase in the state's minimum wage, they worried that DSPs would be

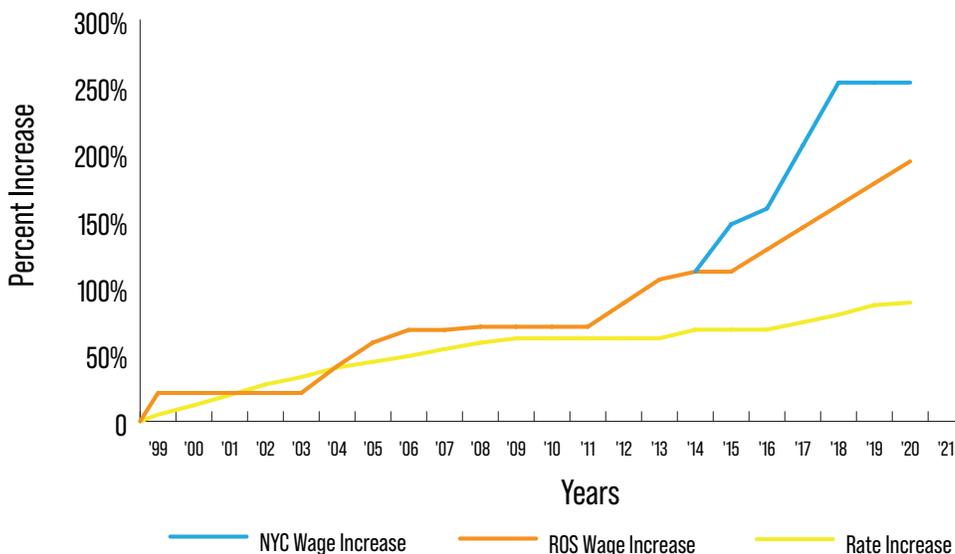
left behind in two ways: first, direct support personnel, whose responsibilities far exceed those of entry-level minimum-wage employees, would lose any ground gained toward professionalism; and second, the state may not even increase current DSP rates of pay to match the progressive increases intended for the general minimum wage targets.

By 2016, the state legislature adopted a multi-year, phased-in minimum wage of \$15 per hour, effectively designating DSPs as minimum wage workers. More concerning, the enactment of the \$15 per hour minimum wage for fast food worker has created a significant toll on upstate providers.

To address this, the statewide provider agencies began the bFair2directcare campaign, with the goal of securing wage increases for direct care staff, but the state imposed a Budget Neutrality Factor (BNF). Although funding was allocated to fund the increase, the state was able to reduce rates through across the board rate actions that ultimately negated the funding increases and essentially created an unfunded mandate.

Further compounding the situation for provider agencies has been the lack of inclusion of the statutory Cost-of-Living-Adjustment which has been notwithstanding more than a decade. Unlike for-profit entities that have the ability to raise prices, not-for-profit providers have only been able to pay rates as afforded by the funding that is provided by OPWDD, which has caused stagnation in the wages. These actions have directly resulted in the current, nearly 25% vacancy rate.

Therefore, it is essential that OPWDD be required to annually calculate a living wage for staff and adjust provider agencies' rates accordingly.



1: NYC minimum wage increases reflect schedule of large employers with 10 or more employees
 2: Long Island and Westchester minimum wage schedule is not broken out separately for the purposes of this chart

Additionally, payments must not be subject to a budget neutrality factor, which historically has taken funding away from provider agencies.

Provider agencies across the state have already taken action to increase wages, without any additional funding from the State to fund these increases, which must be addressed to ensure the viability of the voluntary section to ensure that services will be available and that NYS is able to meet its constitutional obligation to the I/DD community.

RECRUITMENT

Provider agencies have faced challenges in recruiting and retaining staff as a direct result of the statewide minimum wage increases, the lack of annual increases for more than a decade, combined with a state rate system that has resulted in certain providers being reimbursed at below their actual costs, and all providers not receiving sufficient trend factors or other increases to support basic cost of living increases. This issue has been compounded by the COVID-19 pandemic, which caused a significant decrease in the number of applicants for direct support positions in the I/DD service delivery system as well as early retirements and other exodus from the positions in the field.

Through the first quarter of 2021, 93% of provider agencies reported a decrease in the number of applicants as compared to previous reporting periods.

To address the recruitment challenges that agencies are facing, the following proposals should be implemented.

CREATION OF THE DIRECT SUPPORT PROFESSIONALS (DSP) STANDARD OCCUPATIONAL CLASSIFICATION

The U.S. Bureau of Labor Statistics (BLS) classifies workers into occupational categories called the Standard Occupational Classification (SOC) for the purpose of collecting, calculating, or disseminating valuable wage and occupation data. All workers are classified into one of 867 detailed occupations according to their occupational definition. A discrete SOC does not exist for DSPs, which means strong wage and occupation data is unavailable and such critical workforce data is not accurately captured.

BLS combines DSP data with that of Personal Care Assistants and Home Health Aides which does not accurately reflect the profession. With the current DSP workforce shortage in New York, a discrete DSP classification will yield the appropriate data to assist states and federal agencies better understand a workforce that is facing increased demand at a time when recruitment and

retention are low and turnover is high. The establishment of a DSP classification will also further advance the “professionalization” of the role.

NYDA believes that stronger federal data on DSPs will help address workforce shortages by providing a more accurate understanding of this profession and assisting advocacy efforts to implement a living wage for DSPs.

Members of NY’s delegation in the U.S. Congress, along with members of the NYS Legislature and the Governor must call upon the Biden Administration and the federal Bureau of Labor Statistics to authorize a discrete Standard Occupation Classification for DSPs.

BOCES HIGH SCHOOL PROGRAM

To address the need for DSPs, a pilot program was initiated in the Capital Region to introduce the direct support profession to new potential workforce candidates.

Individuals enrolled in the pilot program through the Capital Region BOCES are provided work-based learning opportunities, job mentoring and curriculum-based training. The pilot project aligns state education standards with quality DSP training metrics and offers participants six certificates including Nurse Assistant, Home Health Aide, Personal Care Aide, Direct Support Professional, American Heart Association Basic Life Support/CPR and First Aid. The program teaches students the skills necessary for a long-term career of helping people with disabilities live independently in their own communities, in group home settings or in a nursing home.

After successful completion, Program Course Participants are eligible for job placement upon graduation.

The goal of the pilot is to increase the pool of qualified candidates in the direct support profession as one tool to address the workforce shortage. To ensure statewide access to individuals, we recommend that the State establish a transition plan that incorporates providers and education representative’s input with a goal to replicate this program statewide by 2023.

EXPANSION OF THE SUMMER YOUTH EMPLOYMENT PROGRAM

The expansion of the Summer Youth Employment Program (SYEP) would provide an additional avenue to address the shortage of DSPs in the workforce. Currently, Local Workforce Development Boards receive funding through the TANF program for summer youth programs.

Historically, not-for-profits I/DD agencies have worked with individual local Workforce Development Boards to provide a program that is designed to invest in low

income or at-risk-youth by providing academic support, work experience and other extra-curricular services in order to promote high school graduation, post-secondary enrollment and successful entry into the I/DD workforce. The ages of the participants range from 16-18, those entering 11th and 12th grades.

To expand access and increase participation statewide for promotion of the I/DD workforce, we recommend a statewide program in the direct support role be established and promoted across the State as an additional avenue to address the shortage of DSPs.

STATEWIDE MARKETING CAMPAIGN FOR CAREERS AS A DIRECT SUPPORT PROFESSIONAL

In recognition of the workforce emergency that exists there is a need to raise public awareness of career opportunities in the I/DD service delivery system.

By partnering with New York State to create and implement a statewide ad campaign aimed at educating individuals on rewarding careers in the I/DD service delivery system, awareness will drive an increase in job applicants for direct support roles at provider agencies.

This campaign should highlight the benefits and the incentives that exist for individuals who work in these roles and provide awareness of the sector and the individuals that are served.

RETENTION

For years, the I/DD service delivery system dealt with high staff turnover in the DSP role. According to a 2017 American Network of Community Option and Resources (ANCOR) report on DSPs, the high turnover and recruitment difficulties in the I/DD field is damagingly disruptive to individuals with I/DD and constitutes a public health crisis.

The ANCOR report indicates low wages, lack of public awareness and lack of opportunities to advance their careers as just some of the reasons these dedicated workers leave their jobs. Therefore, it is vital for the State to aggressively develop and implement strategies that will significantly reduce turnover and provide pathways for individuals to stay in this field.

To address the systemic challenges that provider agencies have faced in retaining individuals in these vital direct support positions, the following strategies are recommended:

DSP CREDENTIAL AND CAREER LADDER PROGRAM

To incentivize individuals to remain in DSP roles, there is the need for a multi-pronged approach to establishing a “career ladder/lattice” with the goal of reducing turnover by providing additional training and opportunities, which will improve quality outcomes for individuals being served and increase pay for individuals who remain in the field and wish to further their careers.

DSP CREDENTIAL

NYS must act immediately to implement a multi-tiered credential program for DSPs with a hybrid model of learning methods tied to increased pay for individuals completing each tier of the credential.

Credentialing and certification programs are strong solutions to consider in closing the wage gap that currently exists in New York’s I/DD sector. Such programs provide targeted opportunities for people to master specialized content areas in professions that require targeted skills and practical responses. A direct support professional credentialing program is a key tool to strengthen the workforce by providing knowledge and skills, recruit and retain qualified staff and create the bridge between skill building and increased wages.

A clear rationale exists in New York for advancing a statewide, voluntary credentialing program for DSPs with evidence that a robust process will strengthen and increase the pipeline for DSPs, value-based wage enhancement and career growth and advancing the DSP skill and knowledge to reach accountable goals for better quality and affordable supports and services.

By adopting a multi-tiered credential model, which combines on-line, classroom and work-based learning, including a number of successful and well-established credentialing programs, New York State will be able to increase DSP tenure, job satisfaction and provide a career path.

CAREER LADDER/LATTICE

New York State should implement a statewide Career Ladder Program for DSPs, which will provide a pathway to an associate’s degree in the human services field for current DSPs who have participated in the credentialing program and offer it at no cost to the participants.

The program should provide job-specific higher education and career development to frontline workers in health, education, and human service occupations. Some examples include a degree in:

- Community residence management

- Developmental disabilities
- Psychology
- Education
- Human Services/Social Work
- Nursing
- Physical Therapy Assistant
- Occupational Therapy Assistant.

Existing pilot and demonstration programs have been proven to increase the retention of direct care workers, improve their job performance, and strengthen the quality of care received by people supported and their families. These existing programs can be used as the framework for a statewide career ladder program, which could also leverage the SUNY and CUNY for All program that was recently expanded to include OPWDD.

For those with family and/or financial constraints, a one-year certificate program in community residence management or disability studies may also be offered.

ESTABLISH A PERSONAL INCOME TAX CREDIT FOR DSPS

In recognition of the workforce emergency that exists in the I/DD provider community, there is a significant need to provide incentives to recruit and retain employees who choose to work in the I/DD field. This is especially critical with the rising minimum wage, increasing wages paid by large employers, like Amazon and Costco, and the increasing fast food statewide minimum wage. All of this exacerbates the need to provide incentives for individuals to join and stay in direct care roles.

We recommend that a \$2,500 refundable personal income tax credit be established for individuals who are employed by or contracted by not-for-profit provider agencies who are in 100, 200 or 300 direct care positions providing supports and services to individuals with I/DD. This tax credit could phase out on incomes over \$50,000 and could be capped on individuals with incomes in excess of \$100,000.

FISCAL

OPWDD is currently undertaking a rate setting methodology redesign that will be used as the basis of payment rates to provider agencies moving forward.

As part of this process, it is essential that the rate methodology include provisions to ensure that the new rates are adequate to pay direct support staff a living wage, without this specific consideration as part of the

rate, the current issues facing the field will persist and amplify.

Furthermore, should a regional average approach be implemented, any proposed rate structure must not take funds away from providers for current workforce expenses; forcing providers to lose dollars simply because they pay employees a living wage or a wage above the regional average is not justifiable and will further undermine the voluntary service delivery system, leading to higher costs to the State's Medicaid program. Efforts to establish a new reimbursement methodology must recognize and appropriately value the workforce, both those new and those with more years in the field. It is essential for the state to incentivize providers to invest in DSPs in order to reach a living wage and close the wage gap between the voluntary sector and the state-operated system.

Finally, the State must commit to ensuring that the rising costs of operations are considered and funded on an annual basis.

REGULATORY REFORM

While “regulatory reform” is a buzz term that is thrown around often, we recognize that this process is complicated and time consuming with both federal and state mandates to consider. To truly take meaningful steps to reform/streamline the service system, significant changes must be allowed – and a true partnership between the provider community and the State must exist to advance many proposals. Furthermore, the State must truly be receptive to removing redundant, irrelevant and/or ineffective rules that cost the system time and money. The state must also refrain from implementing new costly rules and administrative memoranda and must put in place a process of review with providers prior to implementation. Similarly, smoothing the path to expanded use of programs and technology that will mitigate the dependence on staff-based programs should be a priority. Here are some of the ideas that warrant further exploration:

INCIDENT MANAGEMENT REPORTING REFORMS

The Office for People with Developmental Disabilities (OPWDD) incident management reporting, investigation, and review processes include excessive administrative duties that have reduced the provider community's ability to focus on the improvements in quality of life for people with I/DD due to occupying and exhausting limited provider resources.

These processes have become focused on presentation over content with providers spending time completing lengthy and often duplicative forms, inspecting incident

and investigation report formats, and responding to numerous state requests to correct clerical errors in an effort to conform to inflexible standards. The administrative duties have to be examined and streamlined to require the reporting, recording and submission of only the most critical information aimed at reducing the recurrence of incidents.

The state incident management oversight functions are redundant across both OPWDD's internal units, the New York State Justice Center for the Protection of People with Special Needs, and expectations of provider Incident Review Committees (IRCs). Incidents are reviewed several times by OPWDD's Incident Management Unit, Bureau of Program Certification (BPC), Mortality Review Unit, the provider's IRC and ultimately the New York State Justice Center. Each review produces additional requests for administrative response, often on incidents several years old. The oversight function needs to be examined and streamlined to limit the parties responsible for review and requests for additional information.

Interoperability between state incident management information systems remains unavailable. This creates additional duplicative administrative reporting and response duties. OPWDD's Incident Reporting Management Application (IRMA), the New York State Justice Center's Web Submission of Investigative Report (WSIR) and Administrative Action Reporting Mechanism, The New York State Incident Management and Reporting System (NIMRS) for the Office of Mental Health (OMH) and the New York State Department of Health (NYS DOH) Incident Reporting and Management System (IRAMS) are just some of the state systems that providers must report incident information into, often for the same event.

New York State must place paramount concern on the burden on workers, including increase on workload, that regulations and inefficient processes place on the disability workforce. The negative impact the Justice Center adds to those in the disability field needs further attention on how best to mitigate the Center's activities on good employees who what are almost entirely unfounded allegations to deal with. Burdensome regulations and the unique problems the Justice Center brings to the field are State-created challenges that must be minimized.

The state must examine the reporting systems and streamline them by creating interoperability or a singular statewide record keeping system.

EXPANDED USE OF TECHNOLOGY

Currently, there are support monitoring systems, location monitoring devices, tele-support services and devices, etc. that would enable people across the state to live more independent lives if program rules and funding could be more readily accessible. Telehealth triage systems, centralized live-in staffing with support monitoring systems, and other programs have proven successful on a pilot basis in New York and have successfully been used beyond piloting in other states – we need to allow expansion of these models that reduce reliance on staff. We propose that a provider-led group be tasked with working with families and current users of the system to develop a detailed proposal for technology-based changes within OPWDD's system by the fall of 2021.

STREAMLINE MEDICATION ADMINISTRATION TRAINING

Work with providers to identify successful models for implementation of online and minimal in-person training options to ensure medication administration proficiency. Streamline training to target the reduction of common medication administration errors which would both reduce the training time for staff and focus on the essential information they need to keep the people they support safe.

ACCELERATE BACKGROUND CHECKS

Streamlined/cross-agency background checks through a state centralized data warehouse must move forward. The State should no longer point to federal or state barriers – remove the barriers and implement one NYS application for staff, then work with the agencies to provide the data each needs for its respective background check requirements.

SURVEY RELIEF – DURING PERIODS OF STATE OF EMERGENCY

The idea of a risk-stratified approach to surveys is a welcome first step, but there is much work to be done to recognize the staffing shortage's impact on staff who often are pulled away to respond to/participate in program surveys by the state. Particularly in staffing emergencies, we recommend stepped down options for the State's survey obligations to be implemented.