

## Testimony - Ohio Senate Finance Committee House Bill 96

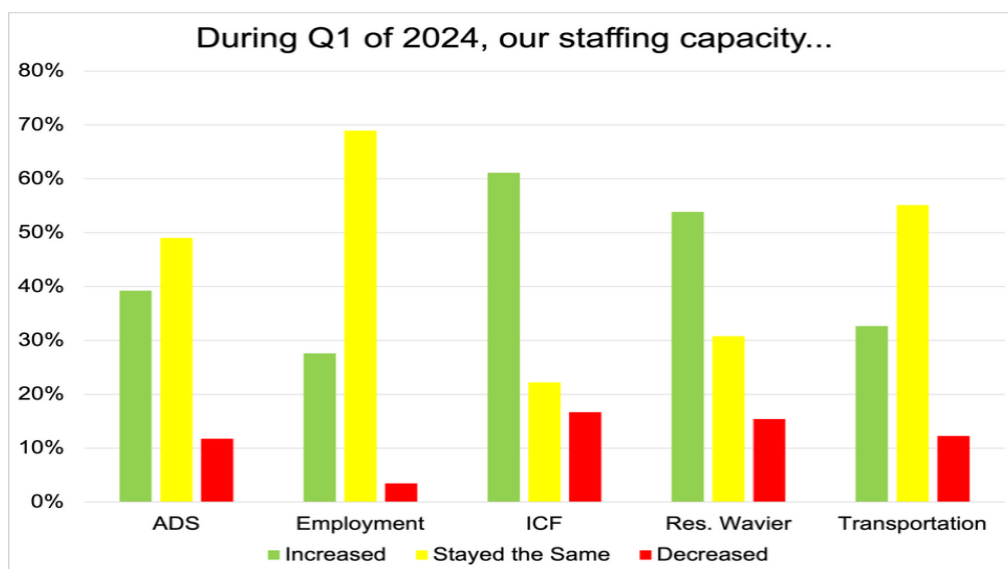
**Debbie Jenkins – May 2025**

Chair Cirino, Vice-Chair Chavez, Ranking Member Hicks-Hudson and members of the committee, my name is Debbie Jenkins with the Ohio Health Care Association. Our association represents providers who serve people with intellectual and developmental disabilities and a variety of other long-term services and supports including assisted living, home care, hospice and skilled nursing facilities.

I appreciate the opportunity to share testimony regarding House Bill 96 and specifically the section of the budget for the Department of Developmental Disabilities (DODD). OHCA is extremely grateful to the General Assembly and specifically some of the members of this committee who were instrumental in shaping HB 33 which provided historic increases in Medicaid reimbursement allowing for significant wage increases for direct support professionals (DSPs).

Prior to the investments made in HB 33, providers were losing staff at an alarming rate causing decreases in services. This meant individuals and families were unable to find staff to provide the support needed.

The Ohio DD Coalition surveyed providers following the January 1 2024 rate increases and within just the first quarter of 2024, the vast majority of providers reported staffing capacity either remained steady or increased across the range of services provided.



The survey also showed that almost all providers across all settings were able to increase both starting and average wages leading to stabilization and improvements in staffing.

In DODD's [2023 DSP Compensation Report](#), the department asked providers for some preliminary data for 2024. The report shows that average hourly starting wages increased from \$13.95 in 2023 to a projected \$16.04 in 2024. Additionally, average hourly regular wages increased from \$15.56 in 2023 to a projected \$17.04 in 2024.

The data from both the department's DSP compensation survey and the DD Budget Coalition's survey show that DD providers have invested in DSP starting wages and average wages, as well as investing in training, benefits and bonuses.

In speaking with our members directly, we also hear about the positive impact the investment had on our providers and the people they serve.

One of our members shared the chart below. It shows that the number of applicants they received doubled from 2023 to 2024, with 2023 already being much higher than 2022 in anticipation of the rate increases. However, it also shows that a larger percentage of those interviewed were made offers and actually continued working after orientation. Many providers are seeing better quality candidates and those who actually want to work in the field, as opposed to just applying and doing an interview to keep unemployment benefits.

Year	# of Applicants	# of Interviews	# of Offers Made	# in orientation	# lost during orientation
2024	1395	340	272	238	22
2023	694	432	349	243	28
2022	285	235	255	146	15

But it's not just recruiting and hiring that has improved, it is also retention of current employees. Increasing retention and decreasing vacancies is leading to a stabilization of the DSP workforce as we anticipated in our advocacy message for HB 33.

While the impact on businesses and our provider members is important, the more important impact of the historic investment in HB 33 is that for individuals receiving services and their families. The terminations of services have almost stopped and some of the people who were waiting for services are now able to receive them. One of our members shared a story about a family that had been waiting 7-8 months for a provider and our member was finally able to support their loved one due to the increases in available staff.

The investment you made in HB 33 has truly made a difference for our providers, DSPs, the individuals who receive services and their families!

Turning to House Bill 96, I'd like to address ICF services, EVV, Home and Community Based waivers and our ask of you to protect the investment made in HB 33.

### **Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID)**

The House passed budget takes an important step in continuing to support DSPs working in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID). The professional workforce development add-on was utilized during the last budget to support wage increases in fiscal year 2024 and fiscal year 2025. However, since the ICF reimbursement formula utilizes historical costs to set future rates, the timing of the professional workforce development add-on needed to be addressed in this budget. Calendar year 2024 costs will be used to set rates for fiscal year 2026. Since the professional workforce development add-on for fiscal year 2025 was only paid to ICFs for part of the calendar year, there will only be half, or less, of the costs included in calendar year 2024 cost reports. The executive budget recognizes this timing issue by proposing a professional workforce development add-on for fiscal year 2026 equal to half of the add-on for fiscal year 2025. It is imperative that this remain in the budget or providers will not have enough funding to support the wage increases already provided to staff.

While not in DODD's section of the budget bill, HB96 includes a provision to increase the personal needs allowance (PNA) for residents of ICFs from the current amount of \$50 per month to \$75 per month. The personal needs allowance is the amount of income a resident gets to keep each month, as the remaining income, earned or unearned, goes to the cost of care. Individuals use their PNA for things such as attending community activities, maintaining hobbies, eating out with friends or family and purchasing items that are special to them. We fully support the increase to the PNA which is included in the Department of Medicaid's budget.

### **Electronic Visit Verification (EVV)**

The House passed version of HB 96 includes language that prohibits the Ohio Department of Medicaid (ODM) from denying claims upon submission for non-matching electronic visit verification data. ODM has begun this process with some home health claims, but has set a date of October 1, 2025 to begin denying DODD waiver claims that are subject to EVV. According to DODD's most recent data shared with OHCA, currently about **60%** of claims that require EVV do not meet all of the requirements and therefore would deny, if the process is allowed to continue.

Contrary to what ODM is implementing, there is no language in the 21<sup>st</sup> Century Cures Act that requires a state to deny claims for non-matching EVV records. The 21<sup>st</sup> Century Cures Act only requires the use of an EVV system that electronically verifies certain aspects of a service:

- (i) the type of service performed;
- (ii) the individual receiving the service;
- (iii) the date of the service;
- (iv) the location of service delivery;
- (v) the individual providing the service; and
- (vi) the time the service begins and ends.

These requirements do not include that the claim for providing the service matches the information in the EVV system.

Ohio's EVV system is extremely difficult for direct support professionals to utilize. Specific challenges faced by staffing include, but are not limited to:

- The system often doesn't work in especially in areas with internet connectivity issues.
- A challenging 12 character password with one upper case, one lower case and one special character that has to be reset every 60 days
- Requires Multi-factor authentication
- Visits need to be split when they cross over a calendar day, so someone working a 10pm-7am shift would need to log-in at 10pm, log-out at 11:59, log back in at 12:00 and log out again at 7am.
- When staff are working with more than one person, it is extremely complicated. For example, if a DSP starts their shift with one individual and then another individual comes home later, they have to log-out when the 2<sup>nd</sup> individual comes home and start a group visit. If a third individual comes how later, they have to get a group visit code, remember that code and then do another entry to add the third person to the group visit using the group code. The same complicating factors exist when people leave the home during a DSP's shift.

These are just a few examples of how complicated and difficult the EVV system is for DSPs. Please keep in mind that these DSPs are caregivers. They are in their role because they are good at providing the support that individuals with disabilities need and not because of their technical knowledge. The Ohio EVV system is not user-friendly. These DSPs are providing care and the people are receiving the services, so claims payment should not be withheld for system/technical issues.

The language in HB 96 would still allow the State to utilize EVV information in post payment claims reviews or audits, which would allow providers an opportunity to prove that the care was provided. If the provider cannot support their claim upon review, the state already has the authority to take back any overpayments.

Many of the DSPs required to utilize EVV are independent providers. If they do not receive their payments timely, they will not continue in this role. The use of pre-payment denials will most certainly lead to a reduction in the number of DSPs and a lack of access to services. We ask that you support the language in HB 96 regarding EVV to protect the availability of these critical services.

## **Home and Community Based Services (HCBS) Waivers:**

We appreciate the Governor's team working hard to keep the commitment made during the last budget and continuing funding the rate levels from HB 33, as ARPA funding expired. While this was a heavy lift, we're concerned that rates are being proposed to remain flat over the next biennium and the impact that may have on the DSP workforce and the availability of services to people with developmental disabilities.

Services for people with developmental disabilities are only available through Medicaid. They are not covered by Medicare or commercial insurance. This means that Medicaid rates set how much DSPs who provide services can earn. HB 33 allowed for rates to support an average wage of \$18 per hour starting January 1 2024 and \$19 per hour starting July 1 2024.

It is important to note that these are *average* hourly wages which include overtime, shift differentials, and any other required wages. They are not starting wages or average regular wages. As a point of reference, I pulled a state operated Developmental Center job posting for Therapeutic Program Workers (TPWs), who are the equivalent of DSPs in private services. The starting wage for TPW new hires is \$21.63. Again, this is the starting wage, not the *average* wage, which is what is utilized to set Medicaid rates for HCBS waivers.

As I shared, the historic investment in HB 33 allowed for increased retention of DSPs and the ability to attract new, quality DSPs into the system, resulting in people with disabilities receiving services that they desperately need. However, if there are no increases included in this budget, those staff will go from July 1 2024 to likely January 1 2028 before there could be wage increases – assuming increases are included in the next biennium budget. Staff are extremely unlikely to stay in a position for three and a half years with no increases in wages.

The administration and legislature acknowledged during the last budget that we had dug a very deep hole by not doing rate increases for many years - leading to the need for such a large investment in HB33. To maintain the current DSP workforce, continue supports people with disabilities so desperately need and prevent the need for such large investments, annual modest rate increases are needed.

***We are asking the legislature to include small rate increases in this budget and give statutory authority to the Departments of Developmental Disabilities to adopt rules prescribing a methodology for annual reviews of HCBS waiver rates.***

We propose a modest increase of 2% on January 1, 2027. This equates to only a \$0.38 per hour increase in DSP wages (SC1053). We are also proposing to include language in HB96 to require the department to create a method to obtain cost data from providers and utilize the percentage of change in costs to review waiver rates annually (SC1023).

People with developmental disabilities rely on the services and supports they receive from their direct support professionals. When staff are not available, the impact on their lives and the lives of their family is tremendous and often life-threatening. People should be able to receive support in the setting of their choice, which is why DSPs in all services should be compensated at a rate that reflects the challenging demands of the job and shows that the work they do is valued.

We know you have your work cut out for you in this budget process, but we respectfully ask that you maintain the ICF-IID features in the House passed version of HB96, include EVV protections to ensure timely payment and add a modest rate increase for waiver services and a mechanism for ongoing rate reviews and adjustments.

Thank you for your time and I am happy to answer any questions you may have.