



Department of  
Developmental Disabilities

Office of the Director

John R. Kasich, Governor  
John L. Martin, Director

**Substitute House Bill 483-Mid Biennium Review**

Testimony of John L. Martin, Director  
Ohio Department of Developmental Disabilities  
Before the Senate Committee on Finance

May 17, 2016

Chairman Oelslager, Vice Chairman Coley, Ranking Member Skindell, and members of the Senate Finance Committee, my name is John Martin and I am the Director of the Ohio Department of Developmental Disabilities (DODD). Thank you for giving me the opportunity to discuss the work of the Department and the recommendations set forth in HB 483. I look forward to working with each of you on behalf of the Ohioans we serve.

**I. INTRODUCTION**

Ohio's developmental disabilities system supports more than 93,000 citizens and their families. Our services assure individuals' health and safety, foster community participation, and promote employment opportunities. DODD provides leadership, oversight, and funds through its partnership with 88 County Boards of Developmental Disabilities services for hundreds of providers, thousands of individuals, and families. The Department's efforts in this MBR cannot be successful without the backing of stakeholders; which include county boards, provider organizations, local and state advocacy groups, self-advocates, and families. DODD is grateful for their continued guidance and support. Likewise, the assistance of OHT Director Greg Moody and OBM Director Tim Keen, the bill's sponsor Representative Ron Amstutz, and the leadership and members of the House Finance Committee and House Finance Committee Subcommittee on Health and Human Services has been vital to the formation of the recommendations before you.

Since taking office, Governor Kasich has made it clear that he cares deeply about the issues that impact the lives of those with a developmental disability and their families. Governor Kasich's previous operating budgets and MBRs have transferred the Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) program and Transitions waiver to the Department. He has increased available waiver services, provided funding for the new SELF waiver, and created financial incentives for the downsizing or conversion of beds in the ICF/IID program. In 2012, the Governor signed the Employment First executive order to make integrated community employment a priority. He has empowered individuals to make decisions about their own lives and increased transparency so families and guardians can make informed decisions about who should care for their loved ones. Governor Kasich expanded autism insurance coverage, the use of telepsychiatry services, and Medicaid. He has created ASD Strategies in Action, a ground-breaking online training and certification program, free to all Ohioans. He has supported efficiency by encouraging the county boards to share superintendents and county

board staff. Most importantly, the Governor and Legislature made the single largest investment in the Department's history; House Bill 64 added \$286 million (\$116.5 million state share) new dollars to the DD system. This money is helping Ohioans with disabilities live and work in the community, expand supports for those who are waiting for services, increase opportunities for community participation, and improve the experience for those who are receiving services by modernizing our programs and strengthening the direct care workforce. The policy changes found in HB 483 will continue to build on the Governor's considerable legacy.

## **II. AS INTRODUCED MBR RECOMMENDATIONS**

### **1. Improve service delivery by changing Early Intervention lead agency status to DODD**

- The Ohio Department of Health (ODH) and The Ohio Department of Developmental Disabilities (DODD) have worked for years as partners in implementing Ohio's early intervention system. Approximately two and a half years ago the two agencies entered into a formal transition agreement with defined roles for each agency for oversight and supervision of different parts of the program. While the more formalized management structure has yielded good results, the bifurcated nature of the supervision has caused confusion for some early intervention professionals and a duplication of efforts.
- In order to provide the best and most efficient services to the citizens of the state of Ohio, ODH and DODD are requesting that DODD be named Early Intervention lead agency. The Department expects many children that participate in the EI program will continue to receive services in the DD system throughout their lifetime. Allowing DODD to become lead agency will permit a seamless transition as children get older and begin receiving Department supported services. Additionally, the Department will be able to better leverage the expertise, knowledge and background that employees of local DD Boards possess. Naming DODD lead agency also recognizes the financial support made by county boards. Each year, the county board system contributes approximately \$100 million to support Early Intervention. The Department firmly believes its commitment to family centered practices and its knowledge of DD related issues and concerns will mean better service over the long-term for those we serve.

### **2. Create policy alignment between residential facilities and day service facilities**

- Changes made in House Bill 64 allow the Department to forgive an outstanding balance a county board or non-profit agency otherwise owes under a construction, acquisition, or renovation of a residential facility if the facility converts its beds to providing home and community based services. HB 483 will bring day service facilities into policy alignment with residential facilities. Proposed changes found in HB 483 will allow a day service facility operator to close a facility without

requiring payment of an outstanding balance that may be left on the depreciation schedule when the proceeds of the sale are used for the acquisition of housing for individuals with developmental disabilities. It is important to note, this arrangement will not cost Ohio any money. All bonds used to finance the construction or renovation of the day service facility have been retired. Providers must identify alternate providers or services to be offered to individuals impacted by the closure of the facility.

### **3. Modernize healthcare administration, nursing delegation, and healthcare related tasks**

- When the community movement started back in the early 70s, direct service staff working in a community setting administered medications and did medical tasks in the same way with the same regulations as existed for parents, an informal system where the staff followed the directions passed along by the family physician. To strengthen this system, in the 1990s nurse delegation was mandated by statute which created a three tiered system. First, an assessment was developed to determine if the individual was capable of self-administration. If they were, this was the first tier, and the individual could take their own medication without the assistance of anyone. If the individual could not self-administer, they might be in the second tier, which was called nurse delegation. Under nurse delegation, direct service staff could administer medication if a nurse determined it was something that could be delegable per the statute, and if the direct service staff person had successfully completed a course and passed a test demonstrating competence. The third tier included tasks that could not be delegated to a direct service staff person and needed to be performed by a nurse. The statute also identified the settings delineated by size, where delegation could occur, with the larger the setting the more restrictive the practice. In 2003 the nurse delegation statute was updated.

DODD, at the urging of stakeholders, is proposing to update the statute again to reflect both new medications and new practices, as well as the ongoing experience of both nurses and direct service staff as they work to better serve the individuals with disabilities in our system. In summary, our proposal will:

- a. Allow direct service staff with training to use vagal nerve stimulator (VNS).
- b. Allow direct service staff to use an Epinephrine by auto injector with training.
- c. Allow direct service staff to use over the counter topical treatments (such as sun screen, bug spray, dandruff shampoo) and with certification products like Bengay.
- d. Expansion of health related activities approved to be done by certified staff (CPAP, percussion vests, cough assist insufflator, compression hosiery).
- e. Use of oxygen and metered dose inhalers with certification.
- f. Expansion of certification from settings of five or fewer residential services to include adult day service of up to 16 persons.
- g. Inhaled insulin and injections for pre-diabetic and diabetic medications permitted with delegation in all settings.

- h. The addition of more specific parameters for family delegation (this would be a family directing an independent provider).

#### **OTHER MBR RECOMMENDATIONS:**

4. Ask ICF providers who promised to downsize or convert, but were unable to do so, to return efficiency incentives to the Department.
5. Clarify a cost report drafting discrepancy by ensuring that providers who file a 90-day cost report understand they must also file an annual cost report.
6. Remove unnecessary language related to Targeted Case Management.
7. Allow the Department of Developmental Disabilities to deny certification to a *new* provider if the Department of Medicaid refuses to allow the provider to enter into a Medicaid provider agreement.

### **III. DEPARTMENT SUPPORTED CHANGES MADE IN THE HOUSE OF REPRESENTATIVES**

HB 483 was improved in the House of Representatives by enhancing *As Introduced* proposals and incorporating other initiatives to better serve Ohioans with developmental disabilities.

#### **Changes to *As Introduced* proposals:**

- a. Changes to healthcare administration, nursing delegation, and healthcare related tasks to allow these practices in settings of seventeen beds or larger.
- b. A change to allow the Department to alter terms of capital agreements for early childhood facilities, as well as residential and day service facilities.
- c. Changes to cost report language to require the Department to use a cost report covering the time an ICF operated as a newly downsized or converted ICF for Medicaid rate purposes.
- d. Makes clarifying changes to match intent of the bill to allow for good faith exceptions when the Department attempts to recoup efficiency incentives, if an ICF provider was unable to downsize or convert.

#### **New additions to the bill:**

- e. Adds language clarifying that County Boards of Developmental Disabilities are a political subdivision and are able to become self-insured.

- f. Adds language that will allow county boards to renew levies under different titles and language that would account for changes in services and delivery methods.
- g. Addition of ABLE Account language, including provisions to allow non-Ohioans to sign up for Ohio ABLE accounts and the addition of language found in HB 358 (Dever) to allow for contributions to ABLE accounts to be deductible for state income taxes purposes.
- h. Requires the Department to submit a report to the Speaker of the House detailing health and safety information for individuals who have moved out of Youngstown and Montgomery Developmental Centers.
- i. Creates requirements for the Department when making changes to the Individual Assessment Form which is used to assess acuity in intermediate care facilities
- j. Allows payments for bed holds when a resident is visiting potential new residential settings, including a downsized ICF

#### **IV. CONCLUSION**

Our MBR proposal requests language changes we feel are crucial to continue the work that goes with our daily responsibilities to Ohio citizens with developmental disabilities.

Thank you for the opportunity to present this testimony. I welcome your questions.