

Senate Committee on Medicaid

Testimony of Director John L. Martin Ohio Department of Developmental Disabilities

May 14, 2015

Chairman Burke, Vice Chair Manning, Ranking Member Cafaro, and members of the Senate Medicaid Committee, my name is John Martin. I am the Director of the Department of Developmental Disabilities (DODD).

Introduction

Our field has been through a lot of turmoil in the past six months. Because of things going on at the national and state levels, 18 months ago, we convened a stakeholder group to set some long-term goals for the field, and help us look at how best to maximize the new dollars that we knew the State needed to invest in the developmental disabilities system. As this work was underway, three additional events occurred: The federal Centers for Medicare & Medicaid Services (CMS) came out with a new rule regarding home and community-based services; the administration received a letter from Disabilities Rights Ohio (DRO) alleging Ohio has a significant bias toward institutional services and, in their view, may be violating the Americans with Disabilities Act (ADA); and the Department of Labor issued new standards affecting how the State interacts with Independent Providers. With these activities happening all at the same time, and multiple meetings happening around the State, many issues were blended together, resulting in a lot of confusion and anxiety. The introduction of our budget, and our efforts to respond to these multiple issues while trying to do the right thing and move our system forward, added to the anxiety.

We have been listening to the feedback received in recent months, and the As Passed by House version of HB64 represents a modification of some of our original proposals. It stakes out a middle ground between those who want drastic change and those who want no change, thus moving us forward in responsible ways. As I go through my testimony, I will highlight some of the changes that have occurred, the significant investment Governor Kasich has made in our program, and how this investment will impact our system and those receiving services. I am grateful for the input and counsel we have received from families, self-advocates, providers, County Boards, and legislators as we continue to shape and improve our system.

Background

Ohio has a strong tradition of providing services for individuals with developmental disabilities. During the 1950s, 60s and 70s, this tradition led parents, advocates, and local communities to develop schools in their communities when there were no other educational options, sheltered workshops when there were no other vocational options, and large institutions when there were no other residential service options.

Today, our system, both here in Ohio and nationally, is at a crossroads as the expectations of and for individuals with developmental disabilities rightfully increases. Individuals want to more fully participate in their communities – they want to engage in everyday life activities, maintain strong family relationships, make social contacts, explore work options, find cultural enrichment, and achieve economic independence.

As these expectations grow, our system must evolve. This budget builds on the positive momentum begun by Governor Kasich's previous state budgets, and expands not only the ways in which individuals can more fully

participate in their community, but also increases the number of individuals we are able to serve. Community is not a new idea.

25 years ago, President Bush signed into law the Americans with Disabilities Act (ADA). In so doing, he welcomed Americans with disabilities into the mainstream of life. “We embrace you for your abilities and for your disabilities, for our similarities and indeed for our differences, for your past courage and your future dreams,” he said. The President said the purpose of the Act was to “ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: Independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the rich mosaic of the American mainstream.”

While we have come a long way, today there are people with disabilities across Ohio who have not been welcomed, and who have not been given independence, choice, or control. For example, 36 percent of adult Ohioans with developmental disabilities want a job in the community¹, and approximately 2,500 people living in Intermediate Care Facilities (ICF) are on a waiting list for Home and Community-Based Services.

The ADA empowered people. Section 202 of the Act prohibited discrimination on the basis of disability in the services, programs, and activities provided or made available by state and local governments. The Justice Department’s regulations imposed an “integration mandate” requiring public entities to administer services, programs, and activities “in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”² People with disabilities began asking – and demanding – to be treated as equal and included in society; to be given choice and opportunity. In 1999, in *Olmstead v. L.C. by Zimring*, 527 U.S. 581, the U. S. Supreme Court ruled that “[u]njustified isolation . . . is properly regarded as discrimination based on disability.”³

As you review this budget, it should be reviewed in the context and spirit of this Act, and as a continuation of the work of millions of Americans, and Ohioans, who have shown us what is possible – their lives are a testament to the fact people with disabilities, even the most severe disabilities, can participate fully in community life. It also should be viewed in the context of the research which supports this Act – that quality of life and satisfaction are the highest among those living in small settings; that people are happiest when they earn real money from real work.

And it should be viewed with the knowledge that change is difficult when looked at through the front windshield, but often is satisfying as we look through the rear view mirror. We acknowledge that change is especially hard for those we serve, and their families who have been through so much already. We know many are satisfied with their services, and that they don’t object to institutions or workshops. We also know that the research shows they won’t object to community life once we get there.

- Nationally, research on the closure of state-operated centers shows that, prior to closure, 85 percent of the families were opposed to closure. After closure, satisfaction was as high as 80 percent.
- In Ohio, the Department’s follow-along visit with those who moved out of a state-operated Developmental Center between January 1, 2011, and February 20, 2015, show an average of 77 percent of the individuals reported feeling happy in their new home, and an average of 81 percent of the families/guardians reported being satisfied or highly satisfied with their family member’s current setting.

¹ National Core Indicators, 2012-2013 Ohio Adult Consumer Survey State Report

² 28 C.F.R. 35.130(d).

³ Id. at 597.

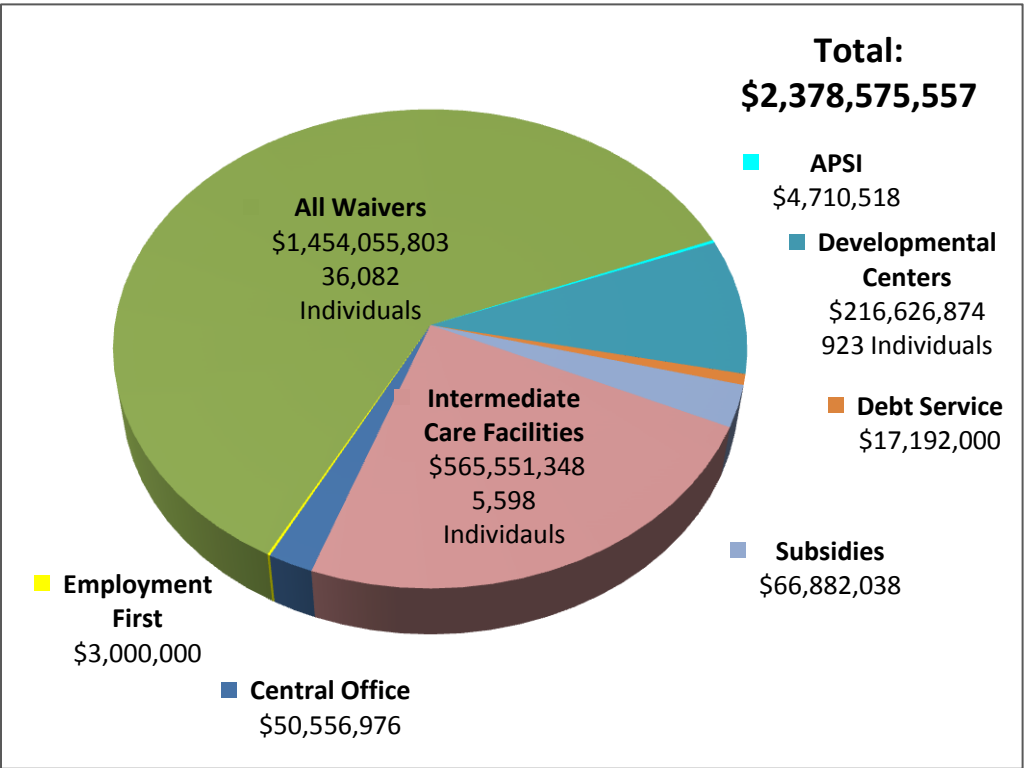
Today, we are looking through the front windshield. It will take great faith and courage to believe the rear view mirror will tell a different story.

This budget is built on my belief, and our shared belief, that all of us are created equal. We all are likely to become disabled in some way, and even those of us with the most severe disabilities can be living, working, and receiving services as full participants in our community. We all have challenges, and by working together, these challenges can be overcome.

Current Fiscal Overview

Before I describe how the Department’s budget seeks to expand opportunities to live and work in the community, a brief overview of the DD system is warranted. The DD system is funded through a unique combination of local, state, and federal dollars. The uniqueness lies in the significant role local dollars play in our system. With the passage of HB94 in 2001, local dollars were made available to leverage federal dollars, enabling significant growth in the amount funding available for Home and Community-Based Services (HCBS) waivers. The chart below (Figure 1) provides an overview of this service delivery system **today**, and the number of individuals served by its various parts.

Figure 1: FY15 Estimated Expenditures⁴



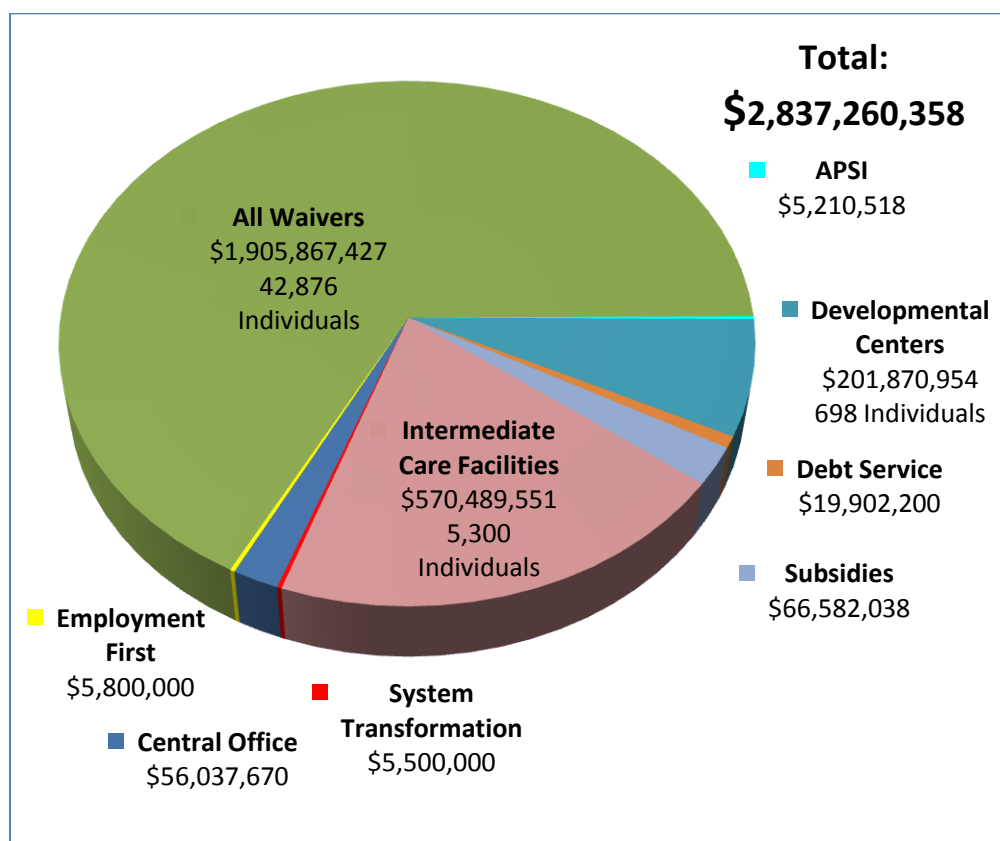
⁴ Figures include only major budget areas; items such as grants and other pass through (CAFS, TCM, county MAC, etc.) are excluded.

FY2016-17 Budget Overview

The Executive Budget As Introduced invests \$316 million (\$129 million state share) over the next two years to increase opportunities for people with disabilities to live and work in the community. The initiatives in this budget 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 goal is to try to honor the choices of individuals and help those who wish to move into their communities to do so, as well as allow those who wish to maintain their current services to do so.

The chart below (Figure 2) provides an overview the Department's budget for State Fiscal Year 2017.

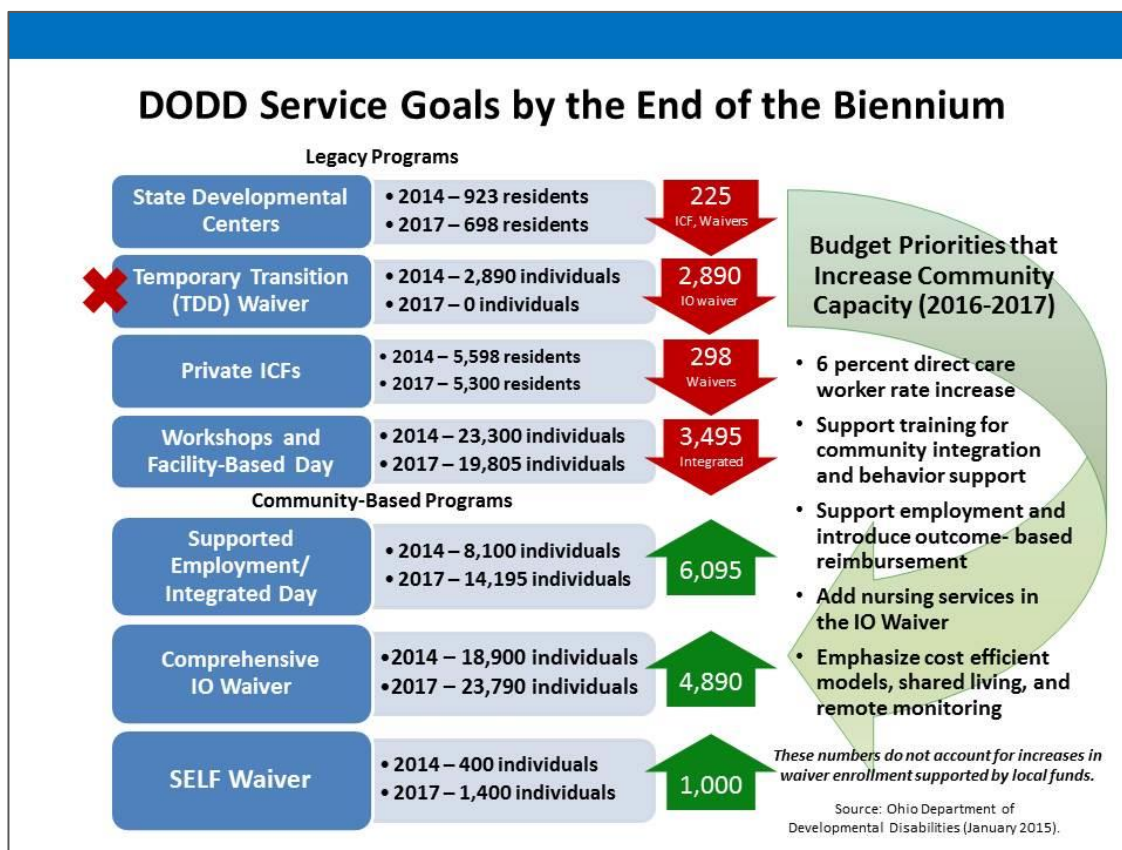
Figure 2: FY17 Expenditures (As Introduced)⁵



⁵ Figures include only major budget areas; items such as grants and other pass through (CAFS, TCM, county MAC, etc.) are excluded.

Over the next two years, as waiver enrollment grows to serve an additional 3,000 individuals in community settings, enrollment in state-operated Developmental Centers (DC) and privately operated Intermediate Care Facilities (ICF) decreases (Figure 3). As participation in supported employment and integrated day services increases by 6,095, the number of individuals served in workshops and facility-based day settings is estimated to decrease by 3,495. These numbers do not account for increases in waiver enrollment supported by local funds.

Figure 3: DODD Service Goals by the End of the Biennium



The financial resources necessary to achieve these gains represent the most significant health and human services State investment in the Executive Budget, and the most significant investment in the Department's history. It continues the trend to downsize state-operated DCs and large private ICFs, convert ICF-funded beds into HCBS waivers, and expand community employment opportunities.

Before I begin to review the budget recommendations in more detail, I wanted to share some thoughts around the efforts to increase the number of people who receive services in the community. This is a national trend, and a direction we have been heading as a state for more than 25 years. While there are outside factors that are encouraging this change, it's the right thing to do. The more people participate in their communities, the better we are as a whole, and the more opportunities there are for enrichment in each of our lives. It is the Department's responsibility to ensure families are aware of the benefits and options available in the community, and to take appropriate steps to ensure the health and safety of the individuals who choose to move into the community.

Also, I want to acknowledge the collaborative process that has taken place. Individuals and families, providers, and County Boards have shared much input on what will work, and what needs to be changed. They also have

worked with us to respond to that input and make changes to our budget. These changes allow this work to move forward in a way that works for everyone. I will highlight the result of that work later in my testimony.

Desired Policy Outcomes

The Department has seven policy outcomes that this budget is designed to meet.

1. **Individuals will understand their options, and be able to exercise choice.** Facility-based care and community-based care isn't an either/or decision. We are committed to offering a range of services that meet a variety of needs. It is important that we educate individuals and families about their options, and to make sure they have access to those options. This includes maintaining access to and improving Intermediate Care Facilities (ICF) and Developmental Centers (DC), and expanding the number of waivers available, thus increasing access to community-based services.
2. **Individuals will have more space and privacy.** As is the general trend in long-term care facilities, we must provide more space and privacy for individuals living in ICFs and DCs. This includes reducing the number of people who share a bedroom, and offering smaller, more home-like settings.
3. **Individuals who are happy with their current ICF will be able to maintain that choice.** We are committed to offering a range of services to meet the varying needs of individuals, and we see a long-term role for ICFs.
4. **The direct care workforce will be stronger.** The staff who provide day-to-day care for individuals are critical to the success of the individuals they serve. We will ensure they are well-trained, and better compensated for the work they do.
5. **Individuals will have meaningful ways to spend their day.** People need something meaningful to do during the day. For some, that is community employment. For others, that is participating in community activities through day services. We will help connect individuals with employment, day services, or a combination of both.
6. **The system will be simplified.** Simplifying our system makes it easier for individuals, families, providers, and County Board staff to navigate. It also helps us realize cost savings that can be reinvested in the system, expanding the number of individuals we can serve.
7. **The system will be sustainable.** Ensuring that our programs can extend well into the future and that our system is fiscally sound is integral to ensuring we can continue to provide the level of service that individuals are accustomed to, and serve the individuals that enter our system.

While all initiatives are important, the seventh objective perhaps is the most critical, as it is integral to meeting the previous objectives. As individuals live longer and the prevalence of developmental disabilities such as autism increases, the number of individuals we serve will continue to increase. We must find ways to serve more people and improve the services we offer without significant increases in funding. We are very grateful to the Governor for his historic investment in our system, and are committed to finding ways that will allow that investment to benefit those we serve well into the future.

Budget Recommendations

The Department's budget can be categorized in four areas: **Strengthening the Community System, Reducing Waiting Lists, Modernizing the Intermediate Care Facility Program, and Ensuring Developmental Centers are Fiscally Sound.** It is important to remember that this is a system, and everything is interconnected – this also is true with the initiatives outlined in our budget. Changes to one area often have a downstream impact on other areas, or are required to realize change in other areas. For example, funding for one initiative relies on the savings we realize from another.

Strengthening the Community System

With thousands of people living in community-based settings, we must continue to examine and improve our system to ensure their health and safety. The Executive Budget has several initiatives that will help strengthen the community system.

The first component focuses on ensuring support for individuals with complex needs to encourage community-based services as an alternative to institutionally based care. The budget continues the \$2.08 per hour rate increase (one year) for HCBS waiver providers if the individuals they are serving were residents of a public hospital, DC, or converted ICF immediately prior to waiver enrollment. The budget continues the behavior support rate modification of \$2.52 per hour for those serving individuals with challenging behavioral needs. The budget takes steps to ensure a more consistent availability and application of the behavior support rate modification by elevating the administration of the behavior add-on to the Department. Additionally, the Executive Budget adds a nursing service to the Individual Options (IO) Waiver to provide direct services from a licensed nurse to individuals with significant medical needs.

The second change further strengthens the direct care workforce. It increases Homemaker Personal Care (HPC) and Shared Living waiver provider rates by 6 percent to support a more stable, consistent workforce. Providers must increase wages to attract and retain dedicated staff, and this budget gives them resources to do so.

The third change reduces administrative complexity. It converts all 2,890 Transitions Developmental Disability (TDD) waivers to Individual Options (IO) waivers. Due to the limitations of the TDD waiver, the individuals enrolled have few providers to choose from, and have few community options. Moving from four waivers to three will simplify the system. Also, the Department plans to develop a more predictable daily or weekly rate using a cost projection tool, reducing the need for frequent adjustments to payment authorizations, and claims adjustments by providers.

The fourth component modernizes employment services. Employment is a key part of the human experience – it gives someone's day meaning and purpose, and it offers financial freedom. While Ohio currently ranks 6th in the nation for enrollment in day services, and 8th in the nation for integrated employment services per capita, we still have many individuals asking for support in gaining employment. To build on the work established by Governor Kasich's Executive Order establishing the Employment First initiative, this budget provides transitional funding to support individuals in moving to integrated day and employment options that are being developed by the collaborative efforts of providers, County Boards, Opportunities for Ohioans with Disabilities, and the Department. This change in services will take place over an extended timeframe.

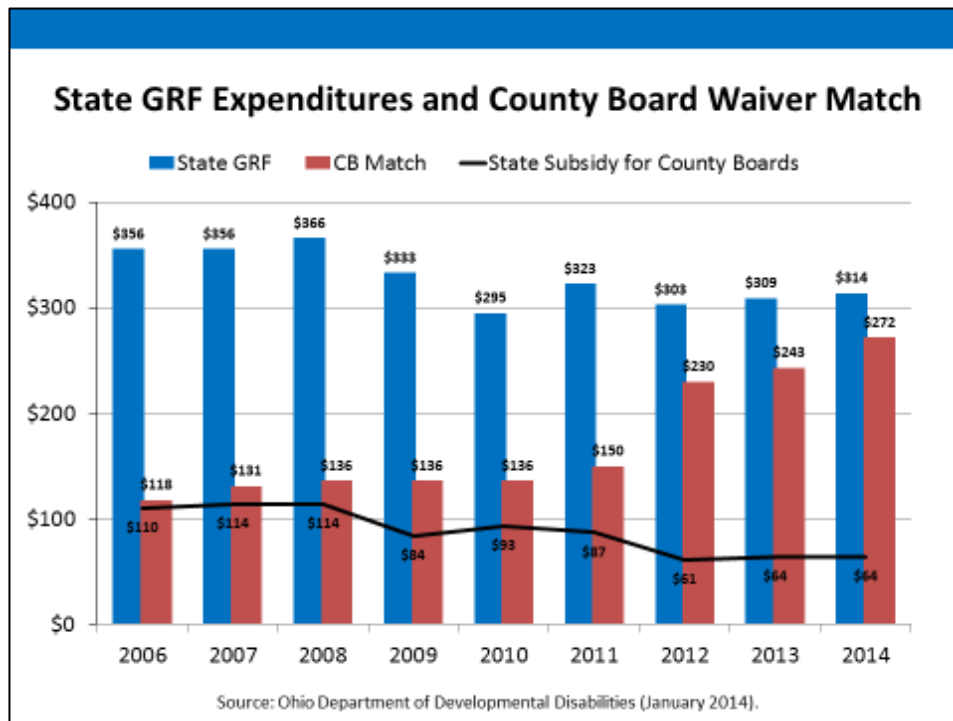
Below is a snapshot of what we anticipate some of these initiatives will cost in FY17:

Strengthening the Community System	
Provide a 6 percent increase for direct support staff	\$21,100,000.00
Add nursing and behavior supports funding to the IO waiver	\$14,000,000.00
Provide training for staff who plan and deliver services	\$1,000,000.00
Conduct a staff stability survey	\$100,000.00
Increase remote monitoring and shared service awareness	\$100,000.00
Provide rental assistance	\$1,000,000.00
Earmark funds to establish new service models for employment and day services	\$3,000,000.00
Transition TDD waiver to IO waiver	\$11,100,000.00
Strengthen monitoring and oversight in the ICF and waiver program	\$300,000.00
Total	\$51,700,000.00

Reducing the Waiting List

Thanks mainly to the availability of local tax levy dollars, Ohio has been able to continue to enroll individuals in DODD HCBS Waivers, even through the recession (Figure 4). As a result, over the past four years, Ohio has enrolled **approximately 2,000 additional individuals per year** in DODD waivers.

Figure 4: GRF Expenditures and County Board Waiver Match



Despite significant gains, the capacity of the local system to add waivers is not infinite. Also, there are more than 40,000 Ohioans on waiting lists – 22,000 of whom have immediate needs, 8,000 of whom live with an aging caregiver, and 1,000 of whom will lose the support of their primary caregiver in the next year. In

response to meeting the needs of what many consumers want and to reduce waiting lists, the Executive Budget seeks to expand the available home and community-based services.

The Executive Budget provides \$95 million in additional state funding for waivers and the infrastructure mentioned above. It will provide approximately 2,000 new IO waivers, and 1,000 new Self-Empowered Life Funding (SELF) waivers to enable individuals across the state currently on the waiting list to access services, to avoid ICF admissions, and to give individuals in ICFs a choice to leave. This reinforces the State's commitment to promoting home and community-based services.

Below is a snapshot of what we anticipate some of these initiatives will cost in FY17:

Reducing the Waiting List	
2, 000 new IO waivers	
<ul style="list-style-type: none"> • 860 waiting list – general • 1,140 waiting list – diversion and leaving ICFs 	\$25,800,000.00
1,000 new SELF waivers	\$3,500,000.00
Total	\$29,300,000.00

Modernizing the Intermediate Care Facility Program

House Bill 153 (signed into law June 2011) transferred the operation of the ICF program from the Ohio Department of Medicaid to DODD. After the transfer, DODD began a process to encourage both the conversion of ICF beds to waivers, and the downsizing of large ICFs (nine or more beds). While these efforts have helped more people move into a community setting, there still is work to be done; per capita, Ohio ranks 6th in the country for the number of individuals living in non-state operated ICFs, and 2nd for the number of individuals living in large ICFs. The As Passed by House version of HB64 focuses additional reforms on large ICFs, both improving the experience for people who live in them, and offering community-based alternatives. It also provides financial assistance for providers who voluntarily convert or downsize.

In feedback to the Department and to the Ohio House, both families and providers shared that they believe the As Introduced version of HB64 would limit access to this important service model. The Department met with a representative group of providers and County Boards to determine how to address these concerns. The group reached consensus on changes that would preserve access to and ensure the sustainability of this service, and the Department and stakeholders support the ICF initiatives in the As Passed by House version of HB64. The changes are noted below.

As Introduced	As Passed by House
The Department will pay a flat rate for residents residing in an ICF who have the least support needs. The savings from this provision, along with additional dollars, will be used to support individuals with significant needs, provide for a 2 percent rate increase in each year of the biennium, and cover transition costs when a large ICF downsizes. For the first time, the Department will offer rental assistance for individuals leaving ICFs, and to buy back ICF beds.	The flat rate applies only to individuals who move in to an ICF; the rate for those currently living in ICFs would not change. This addresses families' concerns that this provision could reduce the level of support individuals currently living in ICFs are accustomed to receiving. Because of this change, the 2 percent rate increase only will apply in the second year of the biennium.
Prior to admission to a large ICF, County Boards will complete an assessment to determine if less restrictive options (such as home and community-based services)	The amount of time County Boards have to complete the assessment was reduced from 90 days to seven. This addresses providers' concerns that the 90-day time frame

could meet the individual's needs, and to assist the individual and family in understanding all of the options available. The final decision will be left up to individuals and families – the assessment simply ensures individuals and families are aware of their options.	would create a financial hardship and delay admissions.
Individuals and families in ICFs regularly will receive information about the features and benefits of HCBS waivers. The Department will contract with a third party to interview the approximately 2,500 individuals who live in an ICF and are on the waiver waiting list to determine if they are interested in a waiver. If so, the Department <i>may</i> fund their waiver, and the bed will close behind them.	The ICF bed will remain open if an individual transfers to a waiver. This addresses families' concerns that this would reduce capacity and thus access to this service option.
Individuals living in ICFs will have greater privacy through the enforcement of the requirement that ICFs have no more than two residents per bedroom; previously, some ICFs were grandfathered. This is consistent with trends experienced in other health care facilities such as nursing facilities.	An exception was added for children, and adults currently living with more than two per bedroom who want to continue that arrangement. This addresses families' concerns that their loved one would be forced to change their current, preferred living arrangement. Also, ICFs will have more time to transition to two per bedroom, and are able to admit new residents if a plan on how to get to two per bedroom is in place. This addresses providers' concerns that this would put a financial burden on their operations due to the time and cost to make needed changes.
Capital ceilings will be temporarily increased for ICFs undergoing downsizing and conversion efforts, and the Department will do a case mix adjustment after the downsizing or conversion. This addresses the financial impact of downsizing or converting, an often-stated barrier by ICFs to downsizing or converting.	No changes were made to the As Introduced version.
The ICF reimbursement formula will be reformed. The reimbursement system is more than 20 years old, and needs to be evaluated in light of the transformational activities taking place in the DD system. The Department will issue a request for proposals for a third party to develop a plan to reform the reimbursement formula, which will include quality measures, make payments based on health outcomes, and promote integrated services appropriate to the needs of the individual.	No changes were made to the As Introduced version.

Below is a snapshot of what we anticipate some of these initiatives will cost:

Modernizing the ICF Program	
Provide a 2 percent rate increase (second year)	
Provide financial support for downsizing and conversion	\$6,500,000.00
Issue contracts for ICF reimbursement redesign	
Provide financial support for bed buy back program	\$3,000,000.00
Total	\$9,500,000.00

The ICF program represents an integral part of our system, and we have a long-term commitment to the important role it plays in our system. This budget invests significant funds to strengthen the ICF program, thus improving quality.

Ensuring Developmental Centers are Fiscally Sound

On February 20, 2015, the Department announced the closure of two of ten state-operated DCs.

In the last eight years, we have helped more people move into the community. During that time, the number of people living in DCs has decreased by more than 40 percent, from 1,600 to 900. By this fall, that number will be approximately 800. With this decrease in census, it now costs approximately \$200,000 per year for a person to reside in a DC. Maintaining ten DCs no longer is fiscally responsible.

While there are no savings in this biennium, we estimate that closing the Montgomery Developmental Center (MDC) and Youngstown Developmental Center (YDC) will save an estimated \$6 million per year beginning in approximately four years. This money will stay within our system, and be redirected to those who are waiting for services. For example, \$6 million could fund approximately 1,000 new SELF waivers.

We will honor the choices of the individuals who live in these closing DCs, and they will have the option to move to a home in the community with a HCBS waiver, into a privately operated ICF, or another DC. We will work with individuals and families one-on-one to review their options, and develop a personalized transition plan to make their move as easy as possible. Also, individuals who move into the community or an ICF will receive robust follow-along services, where a DODD staff member will meet with them in-person to ensure they are safe, happy, healthy, and successful. If, at any time, an individual isn't doing well, they will have the option to move to another home, including a DC. We are allowing more than two years for this transition so that individuals and families have time to consider all of their options, and can plan for a smooth transition.

Changes were made to the As Introduced version of HB64 to establish a 13-member closure commission that would be responsible for reviewing and approving the proposed closure of any DC. The commission would use specific criteria to evaluate the impact of the closure on residents, staff, the local community, and the taxpayers. When determining to close two DCs, and to select to close MDC and YDC, we used the same factors that this commission would use, and believe the commission would arrive at the same conclusion. This was a very difficult decision to make, and it was not made lightly. I believe that this is the right decision, and one that will allow us to serve the many individuals who are waiting for services by helping to strengthen our budget.

Also, the House version of the Executive budget decreased funding for the DC program by \$80 million, or 21 percent, over the biennium. As I previously mentioned, in this biennium, the Department will see no savings from the closure of MDC and YDC, and a drastic cut in funding would cause significant challenges in the operation of the program. Those challenges would be compounded if the DC Closure Commission reverses the decision to close MDC and YDC.

Regarding the future of the Developmental Center program, I do believe that there will continue to be a need for this valuable service option, and our DCs will focus on providing care for those with the most complex behavioral needs.

Achieving Our Policy Outcomes

I have said that the FY2016-2017 Executive Budget lays the groundwork for a long-term plan. It begins the work to increase the number of individuals we serve, to increase opportunities for community participation, to improve the experience for individuals by modernizing services and strengthening the direct care workforce.

We can only realize those goals through the restoration of the As Introduced budget, and all of the work supported by the budget. This is important because we know that this work must be viewed as a whole – the initiatives I’ve just outlined are interrelated, and many initiatives are required for or depend upon others. Removing initiatives from this biennium likely means there won’t be funding in the future to realize this work. Eliminating some of the funding and initiatives places the rest of the work – and our system – in jeopardy.

The Department’s As Introduced budget capitalizes on the one-time historic investment in this biennium by establishing a strong foundation that will reap benefits well into the future. I encourage you to restore the Department’s funding to the As Introduced version of House Bill 64 and make other corrective language changes. Specifically, the Department requests the following changes:

Budgetary Requests

- Restore ALI 653407 (Medicaid Services) to As Introduced levels. Make the necessary adjustments to correct federal spending authority. House changes here will severely impact the Department’s ability to operate the state’s Developmental Centers.
- Restore ALI 322509 (Community Supports and Rental Assistance) to As Introduced levels. Adding \$250,000 back in each fiscal year strengthens the Department’s ability to increase residential housing options.

Language Requests to the As Passed by House version of HB64

- Remove **Developmental Center Closure Commission** language found at 5123.032, page 2030, line 62792 (as Passed by House version). The language restricts the Department’s ability to effectively manage state-operated Developmental Centers, and achieve savings in future years that are necessary to decrease statewide waiver waiting lists.
- Remove **5166.24**, page 2156, line 66628, and temporary law section **259.290**, page 259.290, 87528. Section 5166.24 and temp law 259.290 makes changes that require the Department and private providers to serve the same number of individuals in sheltered workshop settings who are served on the effective date of the budget, and maintain the current rate structure. The language restricts the Department’s flexibility to fully implement the Employment First Initiative, restricts public and private providers from making decisions about how to operate their businesses, and contradicts other areas of state and federal law. The Department supports the language at 5123.621, page 2075, line 64164 that allows individuals to continue to receive services in a variety of settings, including sheltered workshops, if those settings offer community options.
- Remove changes made to **5123.62**, page 2072, line 64075. The **DD Bill of Rights** was created through stakeholder input, however, changes were not. The Department is supportive of the language as currently drafted, and believes that changes should be made only after all stakeholders, particularly self-advocates, have had the opportunity to comment, particularly self-advocates.

External Factors Driving Change

This testimony would not be complete without noting that these changes also are being influenced by several external forces, as referred to in my opening comments.

Centers for Medicare & Medicaid Services

A new rule from CMS says that federal Medicaid funds cannot be used to pay for waiver services that are offered in institutions, adjacent to public institutions, or in other settings that have the effect of isolating people. The Department convened a CMS Transition Plan Committee comprised of stakeholders from across

the DD system to identify which settings currently are not in compliance with this rule, and to develop recommendations for how to bring them into compliance. The State submitted its transition plan to CMS in March 2015. Much of what is in the Executive Budget supports the work outlined in the transition plan. It is important to note that CMS' feedback on the draft plan, which the State has not yet received, may affect some of the items outlined in the budget.

Also, CMS released additional guidance on conflict of interest, reinforcing that the same organization that provides case management cannot also provide waiver services. Today, many of our County Boards do both. We are working on a plan that will reduce conflict of interest in the waiver program. We know this is a concern for our County Board partners, and for the individuals and families who are receiving services from their County Board. Our goal is to develop a plan to submit to the CMS that will minimize disruption to the services individuals already receive.

Disability Rights Ohio

In summer 2014, Disability Rights Ohio (DRO) sent a letter to Governor Kasich and Directors Moody, McCarthy, and me stating that DRO believes Ohio is violating the Americans with Disabilities Act and the Olmstead decision because the system favors segregation and institutional placement – DRO says that, while the state has made progress, it's not been fast enough. DRO requested the state take specific action to avoid litigation.

While the Department disagrees with much of what was outlined in the letter, we both share a common goal – increasing opportunities for community participation. We have been in negotiations with DRO, and many of the initiatives outlined in this budget support that common goal.

Department of Labor

In 2015, the U.S. Department of Labor issued new standards affecting how the State interacts with Independent Providers. This guidance indicated that, as our program is structured today, the State would be the employer of record for Independent Providers. Because this would increase state employment by more than 20 percent, the Administration looked at what changes would protect this important pool of providers and balance state employment. By expanding self-direction in Ohio's HCBS waiver system, individuals would be able to continue working with their current providers, and maintain the independence working with Independent Providers offers.

Under the lead of the Governor's Office of Health Transformation, the As Introduced budget proposed shifting to a new supervisory model, where the individual receiving services would be the employer of record. The State would contract with a fiscal intermediary to help individuals with HR-related functions. It's important to note that the State would cover the cost of this service, so it would not be deducted from the individual's waiver budget.

The Administration received significant feedback that more time was needed to make this change to ensure individuals and providers could make the transition seamlessly. The House removed the language from the budget, and we expect it will be introduced on a separate track.

Conclusion

We have a great responsibility. A responsibility to listen to our stakeholders, to make changes thoughtfully, and to help individuals, families, County Boards, and providers through these changes. We also must be accountable for the funds our taxpayers have entrusted to us, while remembering our first priority is the safety, rights, and well-being of the individuals we serve.

Ohio's developmental disabilities system is at a crossroads, and is ready to head down the path that ensures Ohio's citizens with developmental disabilities receive the basic guarantees of independence, freedom of choice, and control of their lives. Never before have the expectations of individuals been so high, and never before have we been as well-positioned as we are today to help individuals realize their dreams. With your support, we can help Ohioans with developmental disabilities seize their rightful place as equals in our community.

On behalf of the developmental disabilities community, I want to thank you for your leadership and support for the individuals DODD serves.

I welcome your questions.