



March 30, 2020

Re: Ensuring Access for People with Disabilities during the COVID-19 pandemic

Dear Directors Davis and Corcoran:

Disability Rights Ohio (DRO) appreciates the opportunity to provide you input on ways to mitigate harm to people with disabilities who face unique risks from the COVID-19 outbreak.

As you know, DRO is the state's designated and federally authorized protection and advocacy system with the mission to advocate for the human, legal, and civil rights of people with disabilities. We recognize that this is an exceedingly challenging time, and we appreciate the efforts your agencies have made thus far to respond to the COVID-19 pandemic.

Unfortunately, we anticipate that this crisis will worsen over the coming weeks and possibly months. DRO would like to address three issues for you to take under consideration as this crisis continues: 1) maintaining and expanding services and supports; 2) protecting rights and safety; and 3) providing effective communication to individuals receiving services.

I. MAINTAINING AND EXPANDING SERVICES AND SUPPORTS

A major concern is disruptions to the services and supports people with disabilities rely upon to meet their needs, particularly if the system experiences a significant reduction in workforce capacity. Ohio needs to plan for the worst case scenario and should leverage available resources and authorities to meet the needs of people with disabilities throughout the state, while not sacrificing transparency, accountability, and non-discrimination mandates.

One option that Ohio is likely already considering is submitting to the federal Centers for Medicare and Medicaid Services (CMS) an 1135 waiver application, a state plan amendment or utilizing Appendix K for its 1915(c) waivers. In addition, you may be evaluating current rules, policies, and practices. To maintain and increase access to services and supports for people with disabilities through the duration of this public health emergency, the state should consider using these available options to do the following:

- Suspend prior authorization requirements for benefits, services, and durable medical equipment;
- Automatically extend existing authorizations for services;
- Cease all reductions or terminations of existing services (for example, replacing nursing care for people with developmental disabilities with aide services);

- Cease all disenrollments from waiver programs;
- Rescind all proposed reductions and terminations of services and disenrollments from waiver programs that are pending in the state hearing system or in which the appeal timeframe has not yet expired, and reinstate such services immediately (reevaluation can occur after the public health emergency passes);
- Relax eligibility requirements and expedite enrollment in home and community-based waiver programs, particularly for people who are in hospitals, nursing facilities, or other institutional settings and want to live in community settings;
- Increase any cost limits and payment rates within home and community-based waiver programs;
- Increase service scope and coverage, including adding services to address emergency situations (home-delivered meals to those waiver programs that do not currently cover these services, emergency counseling, emergency medical supplies and equipment, heightened case management), and allow greater opportunities for payments to family caregivers or legally responsible adults.
- Quickly resolve, through teams or workgroups, situations in which people are denied waiver enrollment because they may have applied for the wrong waiver program (for example a person denied enrollment in the Ohio Home Care waiver because they meet the developmental disabilities level of care); and
- Expedite waiting list assessments for waiver programs administered by the Ohio Department of Developmental Disabilities, and ensure county boards have the resources and capacity to connect people to services and supports.

In addition to the above steps to increase and maintain services, the state should take steps to ensure access to Medicaid programs generally, including by:

- Expanding optional benefits and amount, duration, and scope standards for mandatory and optional services;
- Eliminating cost-sharing requirements, extending redetermination timelines for current Medicaid enrollees to maintain continuity of coverage, utilizing presumptive eligibility, and considering expansion of Medicaid coverage, eligibility criteria, and income limits and income or asset disregards;
- Expanding managed care networks; and
- Clarifying coverage of COVID-19 testing and treatment under Emergency Medicaid for immigrants for any individual receiving treatment for symptoms reasonably consistent with COVID-19.

II. PROTECTING RIGHTS AND SAFETY

The state should consider facilitating a process to identify individuals who are at the greatest risk of harm and most vulnerable during this crisis, especially those without natural supports or other support systems available to them. This could be implemented through a survey of

county boards of developmental disabilities, case management agencies, managed care organizations, providers, and other stakeholders.

For the Medicaid state hearing process, the state should also extend timelines for state hearing requests, mandate more leniency for individuals and families who are requesting postponements of state hearings, and require automatic exhaustion of the managed care appeal process.

DRO understands the imperative to make available hospital beds throughout the state, but we do have concerns about waiving PASRR requirements, even temporarily. Providing the option of community-based services is even more critical at this time when congregate settings may increase health risks to people with disabilities. We encourage the state to prioritize maintaining and expanding community services, as alternatives to institutional care in nursing facilities.

Inadequate provider workforce capacity is another major concern. When taking action to address that concern, we ask that you avoid actions that would put individuals at risk such as relaxing screening or background check requirements. We encourage Ohio to balance addressing the current and anticipated need for more providers, while at the same time avoiding unintentional and harmful impacts and maintaining strict oversight of providers to ensure people's health and safety, autonomy, and self-determination.

III. EFFECTIVE COMMUNICATION TO INDIVIDUALS RECEIVING SERVICES

Easy-to-understand, accessible, accurate information during this crisis is crucial for people with disabilities and their families, providers, and other stakeholders. The Ohio Department of Developmental Disabilities (DODD) appears to have comprehensive resources and guidance for people with developmental disabilities on its website. Recognizing that not everyone has internet access, service and support administrators (SSAs) at county boards and DODD's local support teams should be taking affirmative steps to ensure people and families have access to up-to-date information and resources.

We could not find specific information and resources on the Ohio Department of Medicaid's (ODM) website relating to the COVID-19 pandemic, and we ask that you provide easy-to-understand, accessible and accurate information to Medicaid recipients. In addition to being available on ODM's website, it is important for case management agencies through ODM-administered waiver programs and managed care organizations to ensure people have the same access to up-to-date information and resources. The state should take a strong oversight role here to ensure this happens.

Disability Rights Ohio appreciates the opportunity to discuss issues impacting people with disabilities during the COVID-19 pandemic and provide information on steps the state can take to ensure full access to needed services and supports. DRO appreciates the work your agencies are doing to respond to this public health emergency and looks forward to working with you

throughout this crisis. If you have any questions or wish to discuss these issues further feel free to reach out to me or our staff.

Sincerely,

Kerstin Sjoberg
Executive Director