



INDEPENDENCE
INCLUSION
INNOVATION

March 28, 2011

TO: House Committees on Aging and Long Term Care, and Social Services Budget
FR: Tom Laing, Executive Director, InterHab
RE: Senate Bill 210, a provider assessment to enhance Home and Community Based Developmental Disability Services reimbursement rates.

It is a rare day when a relatively simple action by the Legislature can have a significant impact on our broad network of developmental disability community service providers. It is even rarer when a meaningful financial investment in our system can be made without having to add a single additional state general fund dollar to our budget.

Happily, I can report that is exactly what we have a chance to accomplish this year – by passing SB 210 to make possible a badly overdue investment in community DD reimbursement rates, without asking for a single dollar of additional state general fund assistance.

Bill Summary:

Senate Bill 210 would position the State and the Community to adopt a provider assessment for HCBS/DD services, which would make possible an immediate enhancement for the HCBS/DD reimbursement rate structure.

An assessment of 5.5% on the HCBS-service income of community service providers would be added to the State's Medicaid matching fund, for the single purpose of raising reimbursement rates. Those dollars would then be matched by Medicaid, and the assessment which the State estimates to be \$19.9 million would be matched by an additional \$26.9 million in Federal funds.

As noted in the bill, the matched funds would be utilized in the DD system to effectuate an uniform percentage rate increase for HCBS/DD services, which have uniformly lost significant purchasing power in recent years.

In the attached testimony (from Matt Fletcher of our office) given during the Senate hearing, you will find ample justification of the need for these immediate rate increases.

HOUSE AGING & LTC
DATE: 3/28/11
ATTACHMENT # 2

History:

Federal law has allowed provider assessments across the nation for many years to enable providers' resources to be invested in state match pools to raise reimbursement rates. The practice was adopted in Kansas for hospitals, and was expanded last session to include adult care homes. The legislature was right to adopt provider assessments for hospitals and adult care homes, and would be right in extending that same opportunity to providers of HCBS services to persons with developmental disabilities.

CMS review:

Even with passage of the bill, the process will still await a decision from CMS to add HCBS/DD as an eligible class of services. CMS officials are currently considering the proposal to do this. We believe that decision will come during this calendar year, perhaps within a few months. If SB 210 is passed, it will only take effect if and when CMS approves HCBS/DD as a new class of eligible services. If, as we expect, CMS approves the proposal, SB 210 will have put Kansas in a position to immediately apply the law, without waiting months for the next legislative session. Delaying this matter until the 2012 session could cost us many millions of needed dollars.

Protections for community organizations:

As with similar legislation, this bill would prevent future legislatures or administrations from redirecting these funds away from their intended purpose, and to prevent these funds from being used to supplant existing funding. Additionally, this methodology would be terminated if reimbursement rates were cut, or if eligibility was tightened to eliminate services for persons with developmental disabilities. Provider assessments will supplement State efforts to maintain quality services. Provider assessments should not be redirected into other purposes.

Summary:

- Senate Bill 210 would benefit all HCBS DD community service providers if CMS approves this new class of service under the federal provider assessment law.
- There would be no cost to the State, and the resulting revenue would allow for a uniform percentage rate increase for all HCBS services.
- Such rate increases are long overdue, and Senate Bill 210 should be passed for the great potential it offers to help address these rate needs.
- We strongly urge a YES vote for SB 210, the most significant step for adequate HCBS/DD reimbursement ever considered by the Legislature.

In a year when SGF dollars are in short supply, SB 210 would allow our system to reinvest its own resources to draw new Federal dollars to Kansas. Therefore, we strongly encourage your committees' endorsement of SB 210.



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March 11, 2011

TO: Senator Carolyn McGinn, Chair,
Members, Senate Ways Committee

FR: Matt Fletcher, Associate Director, InterHab

RE: SB 210: Building Capacity in the Kansas Community Developmental Disabilities Service System

Thank you Senator McGinn and members of the Committee for the opportunity to speak to you today regarding the merits of SB 210, and the needs of the community-based service system for Kansans with developmental disabilities.

Senate Bill 210 provides an excellent opportunity for a substantial and sustained investment in the Kansas DD service delivery system. You will hear from other conferees the "how" of Senate Bill 210 – how it will bring additional federal dollars to the State, without the need for any additional State funds. I wish to impart to you the "why".

Providers of services to Kansans with developmental disabilities are tied to a reimbursement mechanism that has seen few adjustments in the past two decades, service providers have watched as expense has steadily risen. They are increasingly faced with critical budget decisions which have direct impacts on the level and quality of service that can be offered. They have made the cuts, and have then cut some more.

- *Many Kansans with developmental disabilities who don't qualify for the HCBS DD Waiver have lost services, or experienced a severe reduction in services.*
- *Direct care worker jobs have been eliminated.*
- *Kansas families who have children with developmental disabilities have lost their family support assistance – vital funding that helps a family keep their child in the home.*
- *Transportation for persons with developmental disabilities has been reduced, or eliminated.*
- *Smaller residential settings (2-4 persons) have been closed, with persons moved to larger congregate settings (6-8 persons), representing a back-slide of the State's decades of commitment to increasing the independence of Kansans with developmental disabilities.*
- *Costs of fringe benefits to staff have risen such that health insurance and paid time off, for example have been reduced for many of our employees.*

Underfunding of the Kansas DD rate structure is not in dispute by anyone who has examined the facts.

Consider the following data from the University of Minnesota's College of Education and Human Development. In 1993, the per-person cost for DD services in Kansas was \$49,418. In 2008, the per-person cost for DD services in Kansas was \$42,483. All of the states surrounding Kansas experienced a growth in per-person costs during that same time frame. Nationally, the increase in per-person cost for DD services was 14.3% during that time. In Kansas, during that same period, we declined 14%.

A Further Look at Underfunding:

Funding for Kansas community DD services truly has been anemic during the past two decades:

- *HCBS DD waiver reimbursement rate increases to providers totaled only 29% in the previous 17 years, far behind inflationary increases during that time (54%).*
- *A 2001 rate study conducted on behalf of the State showed that 27% of day service hours and 40% of residential service hours provided by community service providers were not funded due to way the reimbursement rate formula had been devised. No action has ever been taken to address that finding.*

The most visible symptom of underfunding in the community DD system is the financial inability to consistently attract and retain a quality workforce of Direct Support Professionals.

Direct Support Professionals – The Core of the Kansas DD System:

Direct Support Professionals are vital in ensuring that Kansans with developmental disabilities can thrive in the community of their choice. They provide support in day and residential settings, often without direct supervision, and must handle demanding tasks such as managing crises in the lives of those with behavioral episodes strong behavioral, caring for persons with feeding tubes, attending to very personal tasks such as bathing, clothing or toileting persons who need their assistance.

Extensive training is required in courses as diverse as working with families, maximizing community resources, counseling skills, the detection and reporting of abuse, neglect and exploitation, bloodborn pathogens, CPR, first aid and non-aggressive restraint techniques.

Take a moment to compare the importance of these staff persons, in terms of their responsibilities for the health and safety of a vulnerable person with the following:

\$8.78 per hour.

That's the average wage for Direct Support Professionals in Kansas, as reported in a 2009 national study of direct care wages in community DD service settings. It's no wonder that community providers experience high turnover.

In 2004, as part of a grant funded by the Kansas Council on Developmental Disabilities and coordinated by the University of Minnesota and the University of Kansas Center on Developmental Disabilities, data was regarding challenges in recruiting, retaining adequate direct care staff within the field of community services for persons with developmental disabilities. The grant's summary report found that:

- *"Average annual DSP turnover rates of 57% in 2002 and 53% in 2003."*
- *"The percent of DSPs who quit their jobs within six months of hire was 51% in 2002 and 51% in 2003."*
- *"The percentage of provider organizations that curtailed services due to workforce shortages was 40% in 2002 and 43% in 2003."*

We also know from a 1998 study on direct care staff turnover, conducted by the Kansas State University Institute for Social and Behavioral Research, that the average cost per incident of turnover is \$2,094, a significant financial cost to providers. We must act to assist providers in maintaining a quality staff to serve Kansans with developmental disabilities.

The State Has Already Faced this Same Dilemma:

Currently, the starting wage step for a 'DD Tech 1' position (a directly comparable position to a community Direct Support Professional) in one of the State's institutions is \$12.35 per hour. That's almost \$4 per hour more than what Direct Support Professionals make in Kansas communities, on average.

The State previously articulated the reason for increasing institutional direct care wages – turnover.

In the Governor's Budget Report for FY 2006, the Governor stated that:

"For a number of years, significant inequalities between the beginning salary ranges for state hospital employees and similar direct care positions in both the state and private sectors have been developing. Such inequalities have led to high employee turnover, which has been costly in terms of training, recruitment, and employee performance."

It is clear that, years ago, the State concluded that higher wages equal lower turnover. However, the State's application of this remedy stopped at the property lines of its own two institutions.

While SB 210 won't capture enough funds to bring community Direct Support Professional wages and benefits up to the level of State direct care workers, it will provide a significant boost to providers' efforts to attract and retain a quality workforce of Direct Support Professionals.

Factor of Safety:

There's an engineering term – "Factor of Safety" - that refers to the structural capacity of a system beyond the expected load or actual load placed upon it. For the Kansas community-based developmental disabilities service system, the "factor of safety" is in danger of being exceeded due to the past two decades of underfunding.

While the community DD network would like to accomplish big things, such as reducing or eliminating the DD waiting lists, they must first address the system's capacity issues. To ignore crumbling capacity while expanding the numbers in the service system will only further dilute the collective resources these organizations have been able to assemble in their community. It would also put the system in jeopardy of compromised quality in the delivery of services.

Senate Bill 210 will help to stabilize the Kansas community DD system. It is essential that you protect the potential new funding embodied in SB 210 for use in addressing the capacity needs of the DD system. Any other use of these funds would place further stress on a system that is already in danger of exceeding its "factor of safety".