

Testimony of Theodore Kastner MD, MS
Mental Hygiene Budget Hearing
February 13, 2024

Thank you members of the Senate and Assembly for holding this hearing and for the opportunity to testify today. My name is Theodore Kastner. I am a family member, a former direct support professional (DSP), a pediatrician, an advocate and former Commissioner of NYS OPWDD.

In 2021 OPWDD invested \$514 million to increase the compensation of DSPs. Average DSP compensation was raised from about \$15 per hour to more than \$18 per hour and salaries increased from an average of \$30,000 per year to \$36,000 per year for approximately 100,000 workers over a two-year period.

In 2021, OPWDD estimated that making the increase permanent would cost approximately \$330M. We had a three-part plan to make it happen beginning in April 2022.

First, the benefits of COLAs are not reaching our DSPs. Over the past 4 years, increased appropriations totaling more than 14% should have reached DSPs and increased compensation by more than \$2.00 per hour. It's time to do what other states, like New Jersey, are doing, and require that any COLAs contained in the OPWDD appropriation be passed through to DSPs in their entity, on a percentage basis.

Second, in the summer of 2021, OPWDD identified approximately \$250M in annual underspending related to COVID vacancies in day programs and certified residential settings. This "COVID windfall" should have been invested in making the DSP compensation increase permanent. The legislature should have a full accounting of where OPWDD spent these funds and an explanation for why they were not used to address DSP compensation, the highest priority identified by stakeholders.

Third, OPWDD must cease overpaying Care Coordination Organizations (CCOs). According to the OPWDD Office of Audit Services, during the first 30 months of operation ending December 31, 2020, CCOs accumulated \$208M in profits. CCO overpayments are now about 25% to 30% above costs, in part as a result of COLAs of 5.4% in 2022 and 4.0% in 2023.

As you may recall, OPWDD reduced compensation to CCOs in June 2020 by approximately 21%. In the spring of 2021, OPWDD proposed an additional rate reduction of 23%.

During the February 5, 2021 Budget Hearing, Nick Cappoletti, CEO, LIFEPlan CCO NY, speaking on behalf of all CCOs, claimed that:

“Last July, the State implemented an almost 16 rate cut- prior to any known economic impact of the pandemic. As part of the recently proposed State Fiscal Year 21-22 budget, OPWDD is planning an additional 23% cut effective 7/1/21. This represents a 39% rate cut over a 12-month period. This is not transparent – you will not find this in any budget document or bill. There has been no impact planning on the part of the State for what this will mean to the CCOs or the population they serve. The short story, however, is that the state is creating a scenario where CCOs will *no longer be financially viable entities*, ending the promise of Care Management for the most vulnerable population during a national pandemic.” (Italics in original.)

However, in written correspondence with Missy Miller, Member of the Assembly, he acknowledged that payments made to CCOs were being diverted to managed care entities:

“Care Coordination Organizations are the precursor entities intended to fulfill the State’s plan to move all Medicaid recipients to a provider-led, integrated managed care system. The State expected the CCOs to invest in the infrastructure required for managed care including building the significant reserves required by New York State insurance regulations to start the plans and ensure their successful operations. All CCOs have accomplished this effort.”

Mr. Cappoletti made it clear - CCOs are being overpaid by hundreds of millions of dollars so that they can give the funds to their managed care partners. The proposed budget cuts represented no threat to CCO viability.

Naturally, DSPs have lost hope in our field and its leadership. Commitments that we made to provide adequate compensation have been empty.

With more than \$10B in funds, there is enough money in the system to preserve the one-time benefits afforded DSPs through ARPA. I encourage you to make DSP compensation this year’s budget priority and:

- (1) Require OPWDD and provider agencies to pass COLAs and other salary enhancements through to DSPs in their entirety;
- (2) Determine the disposition of the \$250M “COVID windfall” and redirect those funds to DSPs; and
- (3) Claw back more than \$200M overpayments to CCOs, implement a \$100M CCO rate cut and also apply those funds to DSPs.

Thank you for the opportunity to speak on behalf of DSPs.

APPENDIX A

Stakeholder Input Analysis: Regional Forums

The following provides an overview of stakeholder input shared with OPWDD leadership as part of its planning efforts.

Regional Forums

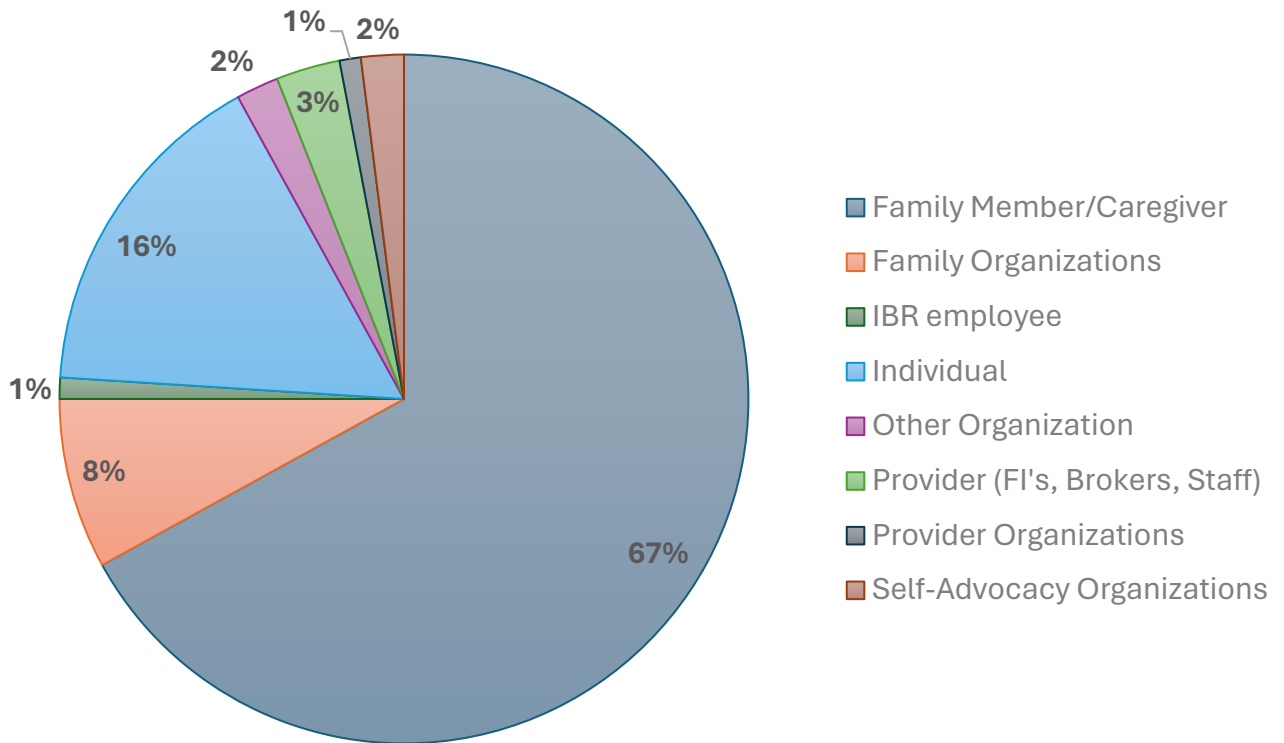
Number of Forums: 5 Total, 1 per OPWDD region of the state

Total speakers: 100

Speakers included:

- 67 family members/caregivers
- 16 individuals/self-advocates
- 8 representatives of family organizations
- 3 Provider/staff/Broker/FI's
- 2 representatives from Self-advocacy organizations
- 2 representing 'other' organizations
- 1 IBR employee
- 1 representative of a Provider organization

Participants



Identified Priorities of speakers:

To determine priority areas for those who spoke at the public forums, individual testimony was coded based on the order within which people spoke about topics, the amount of space/time they gave to topics, and the language used when discussing the topics. Each testimony was coded for the 'top' three priorities. Some testimony did not discuss three topics, others discussed more than three topics.

Top priorities identified by speakers:

Priority Topics	Total Mentions
Workforce	43
Self-Direction	33
Housing	23
Other	21
Complex Needs	13
Data & Transparency	12
Day Services	10
Family Services/Children	10
Assessment/CAS	7
Employment Services	7
Care Coordination	6
Clinical/Crisis Services	4
Technology	4
DEI	3
Research	2
Telehealth	2
Managed Care	0

* Some examples of 'Other' included: transportation, better collaboration between state agencies, support staff allowed in in-patient hospital settings.

APPENDIX B

Historical Trend in Utilization of Certified Residential Services, Structured Day Programs and Self Direction

**Table S-1B Utilization of Certified Residential Services (FFS & MC)
by Age Group (YE June 2017 - YE June 2022)**

Year Ending June						
Service Recipient Counts						
2017 to 2023 % Change						
2017	2018	2019	2020	2021	2022	
38545	38474	38277	37825	37292	35550	-7.8%

Ref: OPWDD Data Book June 2023 (7-11-23).xlsx Page 35 accessed at
<https://opwdd.ny.gov/system/files/documents/2023/07/opwdd-data-book-june-2023-7-11-23.pdf>

**Table S-2C Utilization of Structured Day Programs (FFS & MC)
by Sex Category (YE June 2017 - YE June 2022)**

Year Ending June						
Service Recipient Counts						
2017 to 2023 % Change						
2017	2018	2019	2020	2021	2022	
48763	49172	49291	48756	46102	42004	-13.9%

Ref: OPWDD Data Book June 2023 (7-11-23).xlsx Page 41 accessed at
<https://opwdd.ny.gov/system/files/documents/2023/07/opwdd-data-book-june-2023-7-11-23.pdf>

**Table SD1 Utilization of Self-Directed Services (FFS & MC)
by Self-Direction Type and Service (YE June 2017 - YE June 2022)**

Year Ending June						
Service Recipient Counts						
2017 to 2023 % Change						
2017	2018	2019	2020	2021	2022	
11734	14422	18090	22129	24727	28498	142.9%

Ref: OPWDD Data Book June 2023 (7-11-23).xlsx Page 91 accessed at
<https://opwdd.ny.gov/system/files/documents/2023/07/opwdd-data-book-june-2023-7-11-23.pdf>