Testimony
Department of Human Services
Long-Term Care Interim Committee
Representative Gary Kreidt, Chairman
September 28, 2010

Chairman Kreidt and members of the Long-Term Care Interim Committee, I am JoAnne Hoesel, Cabinet Lead for program and policy with the Department of Human Services (DHS). I am here today to report on the review of audit and reimbursement process and the review and reconsideration of the 95 percent occupancy rule directed by 2009 Senate Bill No. 2423.

Audits

A workgroup has met seven times. In testimony in July 2010, it was reported that the results of a request for information (RFI) were anticipated. This RFI's intent was to gain an understanding of the available services that could be purchased to address the timing of audits.

The workgroup met in September and reviewed the results of the RFI. (**Attachment A**) There were three responders. Taking the additional basic care and nursing facilities and resulting work effort into consideration, the provider audit unit would need 1.5 fewer FTE's if the work done for developmental disability audits and desk rates were completed through a contract. The cost of 1.5 FTE in provider audit would result in a lesser biennial cost of $171,447. The RFI range of biennial costs was a high of $471,600 to a low of $298,020. From a pure cost perspective, it appears to be more costly to improve the timeliness of audits.

Providers have wondered if by using their own CPA firms who do their internal audits is an option to complete the compliance audits as it has the potential to reduce time. Centers for Medicare and Medicaid require auditors to be independent so a provider audit firm cannot also do their compliance audits. DHS would need to gain approval from CMS to pursue this option. The next step, if this is the direction preferred, would be for DHS to issue an official RFP and go through the procurement process to obtain a vendor for field audits and desk rates. This would result in the actual price of the contract for planning purposes.

The outcome of HB 1556 would need to be considered first as this solution would be irrelevant if the rate setting methodology was changed.

Base Year

Currently, the base year is set when all providers' audits have been completed for the most recent year. Providers questioned whether it is possible to use the base year as the two years previous specific to a provider versus the entire group of providers having their audits completed. While this may sound like a solution to increase timeliness, DHS feels this is not an option for two reasons: 1) it would impact the accuracy of the spend down tables as there would be constantly changing numbers of audits which have different base years. 2) DHS feels that those with a less current base year would be dissatisfied with their audit results versus those with more current base years. By using a common base year, it puts all providers on a level playing field.

95% occupancy

The workgroup considered and reviewed the very existence for this rule. This rule served as an incentive for providers to take admissions and avoid skipping over those very hard to serve individuals. Several options have been forwarded.

1. Day Support services appear to drive the majority of the situations where providers experience problems; one suggestion is that DHS remove this service from the rule. DHS continues the need to have a cost control method for day supports, so we offer instead the option of adjusting the provider's budget limitation when the provider's actual Day Support units of service are less than budgeted units of service, regardless of the percentage. This would eliminate the gap which leads to the problems but continues the budget limitation to help control costs.
2. A second idea was to combine 'like' services when calculating the 95% occupancy rule. DHS is very open to this and has the ability to apply this methodology within current rules.
3. Another idea was to remove the 95% occupancy limitation entirely from the 'green sheet' interim rates. After analysis, if calculations were done using rates on 100% units and not 95% units, providers would no longer have the extra cash flow built into the interim rates for their use during the fiscal year. DHS also feels some sort of control needs to be in place to incentivize accepting admissions. This continues to be important due to the need to transition persons from the Developmental Center.

DHS feels the only logical way to completely eradicate the 95% occupancy limitation problem is to move away from retrospective rate setting.

As noted previously, any action taken to move to a prospective methodology will negate the need to address audit, interim rates, and cost settlement activity.

I would be happy to answer your questions.