



**Testimony by Thomas Cook, A.N.D. Executive Director
Given at the Joint Finance Committee Hearing on the FY 2022
Division of Developmental Disabilities Services Budget
February 25, 2021**

Good afternoon Representative Carson, Senator Paradee, Members of the Joint Finance Committee, Director Cade, Secretary Magarik, and Director Catalon. My name is Thomas Cook. I am the Executive Director of the Ability Network of Delaware, a statewide association of 35 community service providers that serve people with intellectual and developmental disabilities (I/DD) and people needing treatment for behavioral health issues.

Because there are so many new members who joined the Committee this year, I'd like to share some information with you about the DDDS rate system, which is also known as the Direct Support Professional (DSP) rate system. I have attached some information about the rate system, which I hope you will take time to review. The rates for day and residential services are composed of four main parts. The foundation for each rate is an hourly wage referenced against the Bureau of Labor Statistics data for the local area – for most DSPs working in Delaware, the state's 2019 rate study recommended that funding should be provided by DDDS that is sufficient to support a wage of \$14.11/hour. The other components are expressed as a percentage of the hourly wage. They are employee-related expenditures (payroll taxes and benefits); program support expenses (including direct program supervision and training); and general and administrative expenses. If the rate is used in day program facilities, it can also include building costs.

When the rate has been developed, and the system has been fully funded, it should provide all the financial resources needed to deliver each billable hour of service. According to the last set

of information I received from DDDS, for FY 2020, however, the rate was funded at 68.2% of the benchmarked wage that was recommended. If you do the math ($\$14.11 \times .682$), your calculation will show that providers are only receiving \$9.62 for each hour of service to support the wage component. Because the rate system is not being funded at 100% of the benchmarked wage levels recommended in the [2019 rebasing study](#), all of the other components are also underfunded.

In Town Halls held during February and March 2020, and in letters like the one on page 6 of this document that were sent to people advocating for fully funding the rate system, Governor Carney and other high-ranking state officials said that the “final decision of the allocation of funds is left to providers to increase pay for direct support professionals.” That is a misleading statement. **Every DDDS-contracted provider is forced to supplement the DDDS rates to be competitive in the regional labor market and even then, according to a [2020 report from NASDDDS](#), Delaware’s providers are experiencing dangerously high staff turnover rates of 40% or more.** They supplement the state’s support for DSP wages either by fund-raising **or** more often, by taking money from other components of the rate system, which are supposed to be used to maintain service quality, **or** both. The funding components in the rate system that end up being tapped by providers to enhance DSP wages include supervision, training, quality assurance, and staffing ratios, all of which are necessary to ensure the health and safety of the people being served. So, while it is true that providers make decisions about what to pay DSPs, it is also true that providers have no choice but to make these decisions in ways that can be detrimental to service quality. Furthermore, that is not how the rate system was designed nor is it how it is supposed to be used. In fact, the creator of the DSP rate system told me many years ago that the system will not function in the way it should if it falls below 90% of the recommended wage level.

Thank you for this opportunity to provide testimony.

A Primer on JVGA's Brick™ Method of Rate Construction

The Brick Method™ of rate construction accomplishes fairness and equity by predicating the compensation on direct care staff patterns. This is in response to a held belief that the nature and quantity of direct care staffing holds the greatest influence over the quality of services.

The Brick Method™ (the JVGA approach to rate set projects) begins with the value of an hour of direct support and builds all the payment based on it. All the costs of providing the service are embedded in each billable unit of service.

The Structure of the System

There are five basic components, or types of costs, that we study and include in our standard rate system:

Direct Support Wage: The basis of the value of the hour. It is the wage or the salary value of an hour spent performing the service.

Employment Related Expenditures: Insurance: FICA, FUTA, Unemployment, Workers Compensation, and fringe benefits. Included in fringe benefits can be things such as tuition reimbursement, retirement programs, profit sharing and others as designed by the provider agencies.

Facility Costs: These are the costs associated with the use of buildings. Sometimes they are included in Medicaid covered rates (day programs) and sometimes they cannot be included (residential programs).

Program Support: This category includes all the expenses of supporting the program other than the direct support professional, or benefits, or administrative costs. It includes program supplies (other than food), supervision, supplies, and other categories.

General and Administrative Expenses: These are all the expenses that any business is likely to have, regardless of the nature of the business they are in.

What follows is a further development of the definitions of each component.

Direct Support Professional Hour (Wage)

The definition of Direct Support Professional Wage consists of the following two elements:

- 1) The staff must be people who are performing tasks in the furtherance of the objectives of the service. In other words, they must be doing what they are doing in order to meet some objective defined in the service. They are not considered Direct Support Professionals solely by their qualifications.

- 2) The person who is receiving the service and who is expected to benefit from it must be present, most of the time.

Our rate work always includes creating a rate for people who need one-to-one dedicated support; they need their own support person who is with them and focuses on them alone, and whose time is not shared by any other person. Because this is an intense need and not to be confused with someone who just needs to be supervised but may be fine with other people, the definition of the hour of direct support must be more restricted and cannot include general supervision.

Employment-Related Expenditures

Simply stated, these are all the benefits received by employees of the service agency. Benefits generally fall into two categories:

Discretionary Benefits: those benefits that employers may elect to provide but are not mandated to do so by any governmental authority.

Non-Discretionary Benefits: Those benefits that are mandated by a governmental authority.

Program Support Expenditures

These are all the expenditures that support the objectives and the provision of the service and are often reflective of differences in the level of needs of the consumer, but cannot be tied to any particular person receiving the service. For this reason, Program Support Expenditures are considered “indirect” rather than General and Administrative Expenditures. Supervision of Direct Support Professional, supplies related to the service, consultative services to general staff, transportation, and facility costs are all examples of Program Support Expenditures. It is important to note that many factors influence the inclusion or exclusion of cost types in this category, but the two most prominent are the service descriptions and the funding source regulations.

General and Administrative Expenditures

These expenditures are the costs of being in business. General and Administrative Expenditures have nothing to do with the program, the service, or the product offered. These expenditures tend to be costs that are as common to automotive manufacturing firms as they are to pizza parlors or as common to doctors’ practices as they are to amusement parks. General and Administrative expenses include administrative salaries (other than program support), insurance, travel and entertainment, office expenses, lease or rental costs for office space, depreciation and amortization, interest on capital debt related to office equipment or building, real estate taxes/ property insurance/other property costs related to the corporate or business entity office, miscellaneous, and

equipment rental. In most instances, the categories of costs included in this component are similar in both non-profit and for-profit organizations.

Where Do the Numbers Come From?

JVGA gathers the General Ledgers from providers of the services for which rates are to be set and Cost Reports, if they are available.

JVGA always works first and most comprehensively with the actual cost information we receive from the providers in the form of downloads from their General Ledgers.

We never create surveys and ask providers to fill them out because we cannot be sure that all providers are filling them out the same way. But if we ask for the information to be given to us in the form of a “download” from their accounting system then we are the only people coding and interpreting it, so we can be sure they are all treated the same. It is also much easier for a provider to export the accounting information to a spreadsheet file and send it to us, than to fill out surveys. And we can be confident that the actual costs are being studied.

We do, however, also look at cost reports. When we do they must:

Be available (reports must exist); they should be current; they should be considered accurate, as much as possible; they should be in enough detail to allow us to categorize the accounts according to the categories we are using; and line items within them should be consistent between providers of the same service.

Provider cost reports are very important to the process when used together with the General Ledgers submitted by providers.

JVGA uses the [Bureau of Labor Statistics](#) wage data to establish Direct Support Professional wage levels, because the data represents independently established and objectively observable wage level information.

How the Components in the Brick Method Are Calculated

- A.Total Expenditures for the Direct Support Professional wages
- B.Total Employment Related Expenditures (benefits) divided by A.
- C.Total Facility Costs divided by A.
- D.Total Program Support Costs divided by A.
- E.Total Training Costs divided by A.
- F.Total Transportation Costs divided by A.
- G.Total General and Administrative Costs divided by A+B+C+D+E+F.

Source: This description of the method JVGA uses for rate construction comes from the [JVGA website](#) and the [report](#) they prepared while doing rate work in Maryland.



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Dear XXX,

Thank you for contacting our office regarding funding for Direct Support Professionals or DSPs. Please be assured that the Governor takes your comments seriously.

The Governor understands the critical role played by Direct Support Professionals and groups like Easter Seals, Chimes, and Elwyn, among others. He firmly believes that we should do all we can to support Direct Support Professionals and organizations that provide those services. That is why, as you may be aware, Governor Carney signed House Substitute 1 to House Bill 104, also known as the McNesby Act, into law on September 4, 2018.

The McNesby Act establishes the intent of the State to phase in an increase in the rates paid to providers according to the recommendations of DHSS's 2014 market study, until reaching 100% of the benchmarked rate. In the Fiscal Year 2020 budget, the Governor recommended the allocation of \$2 million to the Division of Developmental Disabilities Services (DDDS) to fund direct support professionals.

As you may be aware, House Bill 225, the FY 2020 general operating budget bill, signed by the Governor on June 25, 2019 allocated an additional \$2.2 million, raising the total of allocated funds to \$4.2 million. In summary, with the allocation of \$4.2 million and an additional \$4.6 million in the Fiscal Year 2019 budget, the State has set aside almost \$9 million for Direct Support Professionals.

Currently, the Department of Health and Social Services, Office of Management and Budget and Controller General are exploring options to create a more uniform and consistent methodology for addressing provider rates. On April 1, 2020 they will provide a review of their findings to the Governor and the Joint Finance Committee, which will be considered in the determination of FY21 allocation amount. Please note that the final decision of the allocation of funds is left to providers to increase pay for direct support professionals.

We always welcome ideas from Delawareans on issues important to our state. You may visit de.gov/ideas anytime to email Governor Carney and express your ideas, thoughts and concerns.

If you have suggestions for improving state government, consider offering ideas to our Government Efficiency and Accountability Review Board (GEAR). Governor Carney created GEAR in 2017 to identify ways to save taxpayer dollars, and more effectively deliver state services. Visit gear.delaware.gov to submit an idea.

Thank you again for reaching out to Governor Carney's office. We appreciate your feedback, and hope you will stay involved.

Sincerely,
Office of the Governor