

Dear Parents, Guardians, and Family Members,

Who we are:

The Minnesota Families and Advocates Coalition (MNFAC) was formed in January 2016 as a volunteer organization of parents and family members concerned with protecting the rights of individuals with intellectual, physical, and developmental disabilities in Minnesota.

MNFAC's Mission is faithful to the US Supreme Court's Olmsted decision and the Americans with Disabilities Act (ADA). Olmsted clearly states as individuals desires are paramount in determining residential and day placement. It is with this legal foundation that MNFAC asserts that the Minnesota Department of Human services must offer a range of residential habilitation and employment options to meet the diverse needs of individuals with intellectual, physical, and developmental disabilities.

What we are doing:

Currently, some of MNFAC's primary concerns are with the Disability Waiver Rate System (DWRS) and the healthcare workforce crisis. The Disability Waiver Rate System changes currently will take effect in 2019 and could dramatically reduce rates for traditional center-based day programs and for some traditional group homes. As a result, these impending rate cuts could jeopardize the survival of many programs and ultimately eliminate choice for individuals. The healthcare workforce crisis is another focus for us, with the lack of movement in pay and the approximately 9000 open positions in Minnesota alone, finding quality care will become increasingly difficult.

How you can help:

MNFAC's goals include **statewide advocacy, awareness, and advisement**, and this is an invitation for all interested parents, guardians, and family members to join and support the work being done on behalf of our loved ones with disabilities.

To receive more information and/or to join MNFAC, email your name and email address to:

MNFAC@outlook.com

Regards,

MNFAC Steering Committee

What we are currently working on:

1. Meeting and Communicating with Parent and Family member forums across the state, to provide our position on emerging initiatives that are going to dramatically change the availability and delivery of services to our loved ones. With our focus being on, DWRS and the Healthcare Workforce Crisis along with highlighting changes coming in HCBS, WIOA.
 - a. Encourage parents and family members to **Know Their Numbers** – Rate Management System new individualized rates, a.k.a. “screen shots”. Inform them that these are available from Case managers and/or Service Providers.
 - b. Encourage parents and family members to meet with their Service Providers, and find out what the impact of the new rates will have on them. Support these providers in whatever they need to do under DWRS.
 - c. Encourage parents and family members to meet with their local legislators, to educate them about the impending impact of DWRS. There will likely be statute changes to DWRS in the 2017 and 2018 sessions, so it is vital that parents and family members meet with their local legislators to get them on board to support changes to DWRS.
2. Develop a close relationship with Disabilities Services Division within Minnesota Dept of Human Services. Participate in public comment periods, attend advisory councils, invite them to our meetings, and get our membership to do the same.
 - a. Get DSD/MnDHS to establish a new advisory council, specifically for parents, family members, guardians, and self-advocates.
 - b. Attend and become members of related councils including Mn Governors Council on Developmental Disabilities, State Quality Council, DWRS Advisory Council and others.
3. Work with legislators, groups, and agencies like MOHR, ARRM, MDLC and MnDHS to help shape statute changes where possible, to DWRS in the 2017 and 2018 sessions.

Agenda for upcoming Metro meeting on January 31st

1. Introduction of MNFAC
2. Disability Waiver Rate Setting status update
3. Advocacy 101
4. Best Life Alliance - Workforce Crisis

Minnesota Families and Advocates Coalition

PENDING CHANGES AFFECTING YOUR LOVED ONE

Ways to Get Connected/Stay Connected:

- ✓ **Read the Disability Waivers Rate System Report** dated January 15, 2016. Found on the Department of Human Services website: <http://tinyurl.com/z7esmoa>
- ✓ **Contact your Legislator** –Let them know how the Disability Waiver Rate Setting would affect your loved one.
- ✓ **Get to Know Your Candidates:** Find out where the candidates in your area stand on issues that matter to you. See how your candidates responded to [ARRM's 2016 MN House and Senate Candidate Questionnaire](#) (ARRM=Association of Residential Resources in Minnesota) and check back later as additional responses will be added when they are received. Go to: <http://tinyurl.com/hsa7r5d>
- ✓ **Sign up to receive notices and updates from the Department of Human Services (DHS)-** <http://tinyurl.com/h8wemr3>
Scroll down the website page to 'General Public'. Click on Disability Services Division Stakeholder E-List. Enter your e-mail address. Click 'Submit'.
- ✓ **Sign up to receive notices and information from the Minnesota Families and Advocates Coalition (MNFAC)-** MNFAC@outlook.com
Provide your name, phone number, e-mail address and organization (if applicable)
Also, MNFAC is on Facebook! Friend us!
- ✓ **Sign up to receive the Minnesota Organization for Habilitation and Rehabilitation (MOHR) newsletter at** www.mohrmn.org
The agencies coordinating this forum all belong to MOHR. MOHR's mission is to promote and strengthen employment and life engagement opportunities as chosen by people with disabilities.
- ✓ **Check out the available resources on MOHR's website** www.mohrmn.org
- ✓ **Check out information on the Minnesota Governor's Council on Disability website-** www.mnddc.org
- ✓ **Sign up to receive e-mail updates from the Best Life Alliance at:** www.arrm.org/ARRM/Advocacy/Best_Life_Alliance.aspx
Best Life Alliance was formerly known as The 5% Campaign. Best Life Alliance is a Minnesota coalition advocating for Home & Community-Based Services that support people with disabilities and employ Direct Support Professionals.
- ✓ **Sign up to receive Access Press-** www.accesspress.org
Access Press is Minnesota's disability community news source.
- ✓ **Join VOR –** www.vor.net – weekly email and quarterly newsletter – National Advocacy organization for Parents, Family members, guardians
- ✓ **Read the HCBS Minnesota Statewide Transition Plan –** <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/hcbs-transition/>

Disability Waiver Rate Setting – Facts & Realities

January 9, 2017

What is the Disability Waiver Rate Setting (DWRS) initiative?

1. In 2007, the Centers for Medicare and Medicaid Services (CMS) notified the Minnesota Department of Human Services (DHS) that its four disability waivers were out of compliance with federal requirements for uniform rate-determination methods and standards.
2. The DWRS provision was approved in the 2013 Minnesota State legislative session. This new system transferred responsibility for setting service rates from counties and tribes to the state. This allowed for the federal renewal of Minnesota's disability waivers at that time. Rates will be established **by individual** instead of by program or service provider. Also fundamental in the legislation, was "**Budget Neutrality**" – a promise that the new rate system will not reduce overall spending or sub-component spending for waivered services.
3. Implementation is planned over a five year period ending **December 31, 2018**. During this period, the Rate Management System (RMS) framework within DWRS was/is being developed. Also **rate banding** was instituted that limited rate changes from 0.5% to 1% depending on the year, but only during transition. A one-year extension to the banded rates has been requested but not approved yet by CMS.
4. DHS publishes reports every 6 months to the Legislature, titled "DWRS Impact Study." The July 2016 report said that overall spending for all services after full implementation (FY2020) will be a **+1.73% change**. But within that change, the "Day (Services) Bucket" will experience a **-9.2% change** before exceptions are considered. The metro Twin Cities counties are going to see significant overall rate reductions; **Anoka -7.7%, Hennepin -6.6%, Ramsey -6.5%**. **The combination of two impacts indicate that Day Services in the metropolitan counties are going to experience very significant rate reductions.** The December 2016 report continues to report that DTH programs across the state will experience a **-9.3% change** between historical and RMS framework rates before BLS, CPI adjustments and rate exceptions are considered.
5. Issues with the new **Rate Management System framework** are significant:
 - a. Center based program facility rate factors are way too low – not realistic;
 - b. Transportation rate calculations are extremely flawed;
 - c. Utilization assumptions (97%) and parameters are very aggressive – particularly impacting medically fragile individuals and those with significant disabilities;
 - d. Budget neutrality is not being instituted as agreed; in fact has been rescinded altogether.
 - e. Staffing wages used are unrealistic (direct care staff at \$13.33, supervisor at \$17.43) while **9,500 healthcare workforce openings are going unfilled and turnover is extremely high**;
 - f. Regional variance factors are also flawed because relevant cost factors were not considered;
 - g. Administrative effort to comply with DWRS will increase dramatically diverting funding away from client services, and
 - h. New Rates are NOT being proactively communicated to those that will be impacted as required by law and reinforced by a CMS memo published June 24, 2016.
6. Many residential and day services providers are running proformas to see what the rates will be after full implementation and finding significant reductions. Minnesota Organization for Habilitation and Rehabilitation (MOHR) has conducted a study across over 100 member Day Services providers. With 76% reporting, the projected funding change (for DD Waiver funded services) will be a **13.58% decrease** or over **\$21 million** on an annualized basis.

Bottom Line ~ Many share the opinion that **DWRS is the largest and most eminent threat to people with Intellectual or Developmental Disabilities in Minnesota. Many Residential and Day Services providers will not be able to survive, so many people with I/D disabilities will lose services!**

Disability Waiver Rate System, Rate Management Tool

A Case Study: Kathryn Smith daughter of Jerry Smith

April 27, 2016
Mn Family & Advocates Coalition meeting

Rate Management Report, "6790" for Support Living Services

SLS Corporate Daily		6790" Report							
Start Date: 10/10/2014	End Date: 10/21/2014	11 of 12 clients down, 1 up							
Service Information and Authorization									
Provider NPI	1044	County of Residence	PARIS						
Area of Care	1044	Service End Date	10/21/2014						
Service Start Date	10/10/2014								
Total Day State within Service Start and End Dates	1								
Average Shared Direct Care Staff Hours per Day									
Cor Site Awake Hours	144	Average Hours	8						
Respite Awake Hours	0	Number of Residents	4						
Respite Wake Hours	0								
Respite Awake Hours	0								
Average Individual Direct Care Staff Hours per Day									
Cor Site Awake Hours	0	Average Hours	0						
Cor Site Awake Hours	0	1H Assistant/Work/Treatment Hours	0						
Respite Awake Hours	0								
Respite Awake Hours	0								
Other									
Transportation	No transportation	Customization	No customization						
Non Framework Reimbursement Information (From SLS007)									
Units	1	Type	2						
Respite	0								
Service Total									
Last Modified	Service Type	HCPC Most Mod Start Date	End Date	HCPCS	Billable Rate	Rate Paid	Final Rate	Limit	Total
SLS	SLS Corporate Total	10/10/2014	10/21/2014	9247.35	\$153.31	\$265.31	1	\$166.22	Debit
	Daily								\$166.22
Calculate		Add		Lock Record		Clear			

Rate Management Report, "6790" for Day Training & Habilitation Services

6790 Rate Management System

Log Out

6790 Report

Start Date: 1/1/2015, End Date: 10/31/2016

Report Information and Authorization

• Program: N/A

• Service Start Date: 1/1/2015 • Service End Date: 10/31/2016

• County of Residence: 24 (Anne Arundel) • Average Staffing Ratio: 1/1

Average Individual Direct Care Staff Hours per Day

Service Route: 1/1/2015 - 10/31/2016

Other

Customization

Transportation Information

• Average Number of Trips per Day: 1000

• Average Number of Miles per Day: 1000

• Number of Riders: 1000

• Total Daily Trip from DT&H Transportation Account: 1000

New Framework Rate/Exception Information (Form 5020)

• Type: 1000

Service Total

Line	Number	Service Name	HPC	Mod1	Mod2	Start Date	End Date	NPI/State	Posting Date	Rate	Rate Type	Delta
Select	1000	DT&H Daily	12000	1000	1000	1/1/2015	10/31/2016	1000	1000	82.27	82.27	82.27

~21%

Bottom Line

	Historical Rate \$ per day	RMS Rate \$ per day	Change \$ per day	Change %	Change \$ annualized
SLS – Residential	\$267.55	\$163.33	-\$104.22	-39%	-\$35018
DT&H – Day Serv	\$82.27	\$64.90	-\$17.37	-21%	-\$4432
Totals				-36%	-\$39450

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Employment Changes for People with Disabilities

Law/Policy	Impetus/Origin	What does it say?	Intent	Impact on people with disabilities	Implementation
Olmstead Plan	Minnesota Department of Human services agreed to create plan as part of a legal settlement in 2011; name comes from 1999 U.S. Supreme Court ruling <i>Olmstead vs. L.C.</i>	Lists broad series of activities and goals Minnesota must accomplish to ensure people with disabilities are living, learning, working, and enjoying life in the most integrated setting	Provide Minnesotans with disabilities greater opportunities to live close to their friends and family, live more independently, engage in productive employment, and participate in community life	All public services and programs across the state will place emphasis on providing real opportunities for people with disabilities to live and participate in the greater community	Approved in September 2015; state agencies are currently working toward achieving the goals listed in the plan, which can be found at www.dhs.state.mn.us/olmstead
Department of Justice (DOJ) Statement	In October 2016, the U.S. DOJ issued a statement clarifying how the Americans with Disabilities Act (ADA) is to be applied to state and local governments' employment services systems for people with disabilities	States and counties cannot administer and fund an employment service system in a way that <u>unnecessarily relies on segregated employment facilities or programs</u>	Historically, the language in the ADA and <i>Olmstead</i> decision have predominately applied to residential settings; the DOJ wished to clarify that the ADA and <i>Olmstead</i> decision also applies to <u>publicly-funded employment services and facility-based day programs</u>	States and counties must ensure that their employment services and programs for people with disabilities <u>do not require or promote segregated employment settings</u>	DOJ can investigate the state of Minnesota is relying too heavily on segregated employment options

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site specific assessment
heightened scrutiny

Law/Policy	Impetus/Origin	What does it say?	Intent	Impact on people with disabilities	Implementation
Home and Community-based Services (HCBS) Final Rule	In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued new requirements for HCBS (i.e. services provided through waivers)	Defines and describes requirements for home and community-based settings under federal Medicaid law	Enhance quality of services, add protections for those receiving services, and <u>ensure full access to community living in the most integrated setting</u>	Still many uncertainties about how the final rule will be implemented in Minnesota—all HCBS settings (including day training and habilitation programs) <u>must not isolate people with disabilities from the greater community</u>	Minnesota submitted plan outlining how it will transition to be in compliance with the final rule and is awaiting approval from CMS; the state must be fully in compliance with the new requirements by March 17, 2019 ✓
Disability Waivers Rate Setting (DWRS) Framework	In order to be in compliance with federal requirements, Minnesota must have a uniform method for determining the rates service providers across the state will receive for providing services	Creates a statewide system for determining the rate (i.e. funding) each person will receive for their waivered services	Comply with federal requirements by establishing uniform process of determining rates; ensure that rates are transparent, fair, and consistent across the state	Rates providers received for providing services to an individual will be based on the support needs of the person rather than on the program; some people will have a higher rate for some services they receive, others will have a lower rate— <u>providers could consequently see and increase or decrease in their funding</u>	The Department of Human Services has been slowing adjusting rates to move toward the new rates each year since 2014; the new rates will be fully implemented in 2019
Workforce Innovation and Opportunity Act (WIOA)	Federal law that was signed by President Obama in July 2014	Large law that addresses numerous workforce programs and initiatives across the country for vulnerable populations	Help job seekers, including those with disabilities, access employment, education, training, and support services to succeed in the labor market	Places limits on those seeking subminimum wage employment by requiring informed choice and, for young people, job counseling and training	State plan took effect on July 1, 2016 532 pages DEED/VRS Kim Peck, Dir