



July 12, 2024

Secretary Kate Walsh
Executive Office of Health and Human Services 100 Hancock Street, 6th Floor
Quincy, MA 02171

Dear Secretary Walsh,

Thank you for the opportunity to provide testimony on *101 CMR 420.00: Rates for Adult Long-term Residential Services* and *101 CMR 451.00: Rates for Certain Youth and Children Services*.

On behalf of the Providers' Council's more than 220 members across Massachusetts, thank you for your continued support and close working relationship with community-based human services organizations. We appreciate the work of EOHHS and the Healey Administration in setting rates for human services programs, and we appreciate being your partner in providing services to hundreds of thousands of Massachusetts residents with our sector's workforce that fills more than 160,000 jobs.

Thank you for holding these rate hearings today and, while our members may submit testimony regarding programmatic concerns with these rates, the Providers' Council will provide brief comments on how these rates affect our workforce development efforts.

Our sector is experiencing frighteningly high turnover and considerable challenges in recruiting talent. As a result of vacancies, some programs are unable to run at full capacity and residents needing care remain on wait lists. Our testimony is directed at increasing the Bureau of Labor Statistics salary percentile used, ensuring an adequate cost adjustment factor (CAF) is being applied to rates, examining benchmarks used for the administrative allocation and tax/fringe costs, and ensuring rates account for new overtime regulations put in place on July 1, 2024 by the U.S. Department of Labor.

While our testimony contains many "numbers," these figures represent real people in Massachusetts who are essential to helping community-based human services organizations fulfill their missions and provide critical care to hundreds of thousands of residents on behalf of the Commonwealth. We must also look at these numbers through a gender and racial lens; we know the state is committed to racial and gender equity, but these depressed salaries promote inequity.

A demographic study of our workforce by the University of Massachusetts Donahue Institute notes that our field is 80 percent women (compared to 43 percent in all other industries) and we have a higher proportion of people of color in our workforce (36 percent) than all other sectors (25 percent). Our testimony not only supports a fairer economic policy but also a better social policy.

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I. Using BLS 75th percentile data

Four years ago, an EOHHS task force with active participation from the state, Council and other sector leaders agreed that EOHHS would begin to use salary benchmark information from the Bureau of Labor Statistics (BLS) to set salaries for human services workers. Thank you for using BLS state-specific Occupational Employment and Wage Estimates data for Massachusetts.

Additionally, we are thankful that EOHHS has raised benchmark salaries for some positions, including Direct Care I workers, beyond the 53rd percentile of the BLS. We appreciate benchmarking Direct Care I salaries to \$20 an hour. It is our understanding that this figure represents roughly the 62nd or 63rd percentile of the BLS. We do, however, continue to urge EOHHS to use no less than the 75th percentile of BLS when setting benchmark salaries for all positions.

As the workforce crisis in the human services sector continues to worsen, it is imperative that rates of reimbursement allow community-based human services providers to pay fair and competitive wages to their staff members – relative to what the Commonwealth pays state employees holding similar job titles and performing similar work – to attract workers to the sector. Inadequate rates depress workforce salaries and increase staff turnover and vacancies, which means residents who need the safety net are on waiting lists or denied services. None of us either support or should be comfortable with that outcome.

Recommendation: We respectfully request EOHHS use the 75th percentile, at a minimum, to set fair and comparable salary levels using an adequate blend of BLS job classifications.

II. Increase cost adjustment factor

In today's hearing, EOHHS is proposing a cost adjustment factor of 2.58 percent for 101 CMR 420.00 and a cost adjustment factor of 2.66 percent for 101 CMR 451.00, which publicly available economic data indicates is inadequate.

As we have done at prior Chapter 257 hearings, we continue to urge EOHHS to discard the IHS Markit optimistic scenario data that uses a cost adjustment factor that ignores market realities. If the state continues to use IHS Markit to set the CAF, we asked instead that you use the pessimistic scenario data, which would set the CAF at 4.26 percent for 101 CMR 420.00 and 4.31 percent for 101 CMR 451.00. We believe these figures more accurately reflect expected cost increases.

It is imperative that the proposed CAF be increased. Even with an unimaginable future projection of zero inflation, the CAF remains inadequate today and worse tomorrow. We must adequately reimburse programs for these non-negotiable costs or it will decrease the availability of funds for our workforce needs.

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***Recommendation:* We ask EOHHS to discard its inadequate CAF of 2.58 percent for 101 CMR 420.00 and 2.66 percent for 101 CMR 451.00 and to use, at a minimum, the IHS pessimistic scenario data, which would set the CAF at 4.26 percent for 101 CMR 420.00 and 4.31 percent for 101 CMR 451.00.**

III. Tax/Fringe and Administrative Expenses

We appreciate EOHHS increasing its tax and fringe rate to 27.38 percent this year, as it bases this figure on the Commonwealth's Fringe Benefit and Payroll Tax rates. The Chapter 257 tax and fringe rate, however, does not include any funding for retirement. Additionally, our members do not have the purchasing power of the state Group Insurance Commission, which means we likely spend a higher percentage on health insurance than the state.

We do recommend the state include an additional 5.1 percent for retirement on top of the tax and fringe rate of 27.38 for a total tax and fringe rate of 32.48 percent. The 5.1 percent is derived from an Association for Behavioral Healthcare survey noting the average plan match was 4.1 percent plus 1 percent for plan admin.

We also continue to support our members' request for an administrative allocation of between 15 and 18 percent, as 12 percent is inadequate.

***Recommendation:* We ask EOHHS to include 5.1 percent for retirement in the tax and fringe rate, setting the overall rate at 32.48 percent, and for an administrative allocation between 15 and 18 percent.**

IV. Department of Labor Overtime Thresholds

We request that the proposed rates – and all Chapter 257 rates proposed by the Executive Office of Health and Human Services moving forward – take into account the financial implications of recent changes in Department of Labor (DOL) overtime regulations. Starting July 1, 2024, the rule increased the salary threshold for overtime exemption to \$844/week (equivalent to \$43,888/year). This threshold is scheduled to increase again on January 1, 2025, to \$1,128/week (equivalent to \$58,656/year). These changes will significantly increase the number of employees who must be compensated at overtime rates, placing an immense burden on providers.

As you know, Chapter 257 states EOHHS must take several items into account when establishing rates of payment for social service programs, including “the reasonable cost to social service program providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority.” While we appreciate the increase in rates being proposed today, we do not believe that they account for the increased costs that will undoubtedly be caused by the new overtime regulations.

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The human services sector, already struggling with low reimbursement rates, relies on overtime and/or temporary staff to fill numerous vacancies. These vacancies are a direct result of the sector's chronically low wages. Providers are grappling with the dual challenge of meeting these new financial obligations while continuing to offer essential services to our communities.

Recommendation: We ask EOHHS to account for the recent changes to the Department of Labor overtime regulations when setting human services rates, as this is a new governmental mandate being imposed on social service program providers.

Closing

Again, we thank the Executive Office of Health and Human Services for its review of these rates, and we appreciate the significant progress made to increase salaries for the community-based workforce. We appreciate EOHHS commitment to improving our staff recruitment and retention. We hope that adequately funding these programs with our recommendations gives our providers the best opportunity to meet your mandates and serve the Commonwealth's residents with quality and available services from a stable and essential workforce.

Sincerely,



Bill Yelenak
President/CEO