

March 20, 2007

Estelle Richman, Secretary
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg PA 17105

Dear Secretary Richman:

The challenges you face in your position as Secretary of the Pennsylvania Department of Public Welfare (DPW) are diverse and complex. Planning an operating budget that meets the needs of Pennsylvania's most needy and vulnerable citizens in an environment of increasingly restrictive federal dollars and intensified federal requirements and mandates must no doubt appear impossible at times.

We listened with great interest to your response to Representative Scott Petri's questions during the recent House Appropriations Committee meeting. He directly asked why the COLA for County Child Welfare programs was proposed in the Governor's budget for 2007-2008 at 2% rather than at the 3% level proposed for other categorical human services and supportive programs. Your answer to this question was consistent with those offered by staff from the Office of Children Youth and Families (OCYF). You indicated that the counties had other alternatives through the Needs Based process to address increased costs – either through new or expanded programming.

You also responded to a question as to whether or not the COLA could be reviewed every year and be attached to an accurate mechanism for determining a realistic cost of living adjustment. You indicated that you were well aware of the issues and believe that this will be addressed by moving toward a pay for performance model. Representative Kathy Manderino asked about the how well the numbers in the budget to support county child welfare match the dollars requested. She was asking about the difference in the total number of dollars requested by counties (\$2.224 Billion) compared with the totals that were recommended in the proposed DPW budget (\$1.841 billion – a difference between need/request and certified levels of funding of \$383,000,000.) You indicated that Representatives will no doubt hear from the counties concerning the allocations, in view of the differences between their requested amounts and those identified in their tentative allocations.

While appreciating your responses and the complexity of the process, we must continue to raise concerns regarding this proposed appropriation and challenge the

rationale behind these calculations that are directly connected to supporting safety for at risk children and their families. We would like to take this opportunity to address your responses and offer information regarding the consequences experienced by private providers as a result of program and funding decisions made within the Department of Public Welfare.

Historical Reference

Act 148 (1978) and Act 30 (1991) direct county children and youth agencies to develop service plans and budgets based on projected county needs to comply with public mandates and to keep children safe. As you referenced, this is the Needs Based Plan and Budget Process (NBP&B). This is the statutory process used to project federal dollars along with the needed match of state and county dollars which support the delivery of mandated services.

Efforts have been made to maximize federal dollars to support child welfare and juvenile justice services. The projected level of federal dollars has not been realized and some claims for federal dollars have been denied. As a result of this situation and other shifts in funding (TANF, SWAN, SSBG, etc.) counties have exercised caution in spending.

Counties have become more conservative in spending and the county budgets for children and youth services have been affected. We can attest that children are being denied care or are receiving less appropriate, less costly interventions. For the past three years, County Needs Based Plans and Budgets have been based on actual costs incurred by counties, although in each year these numbers have been further reduced by DPW as reflected in the certified allocations. The Needs Based Budget process is not working as it was intended. Current projections are not reflective of true need but rather are based on available dollars. Clearly, more costs are being shifted to the county.

These funding shifts have directly affected access to and availability of services. Prevention programming has been reduced, criteria related to acceptance for services has been elevated, referral patterns reflect suppressed levels of care and the scope of services purchased through private agencies has diminished. Again, much of this has not been based on need but rather driven by diminishing state dollars to counties and movement away from the original intent of the NBP&B legislation.

Purchase of Service Process and the COLA

The majority of counties purchase direct services delivered by private agencies to meet legislative and regulatory mandates and court ordered services. As you are well aware, funding to support these services is a complex combination of federal, state, county (tax revenues) and dollars raised by private agencies. The purchase of service process is one that is an individual contracting relationship between a county and the provider.

The Cost of Living Adjustment (COLA) in the County Child Welfare budget is an area of long standing concern to private agencies. It is this calculation that sets the ceiling for contracting discussions with counties. While it is true this figure is an aggregate amount for services purchased and that counties may exercise discretion and exceed this level for select programs justifying higher increases, this is not the normal practice. The COLA percentage is cited as the criteria for any increases in rates regardless of actual increased costs incurred by private agencies or increased expectations defined by counties, the Commonwealth or the federal government.

In the past three budgets, a greatly appreciated calculation reflecting a 2% COLA has been included. We recognize that the COLA is not an automatic adjustment and that it must be calculated with consideration of county “match” dollars. Regulations also require providers to submit budgets documenting the rates for services.

Over the past several years, most contracts have reflected some increase. The two largest counties that purchase the greatest number of services are also the most resistant to addressing realistic increases in rates for services purchased from private agencies and have not regularly or methodically adjusted county set rates.

Budget Language

COLA funds are not reflected as a discrete line item and practice within counties often reflects a failure to adhere to legislative intent. PCCYFS has advocated for specific language in the Budget Bill to reflect that this COLA is to be used for “services purchased by the counties”. This more appropriately reinforces the legislative intent and supports appropriate use of this funding allocation.

We have also advocated that the COLA not be restricted to direct care staff salaries as it has been for other categorical programs. Increases in rates, when negotiated, are needed to cover all aspects of agency operations.

Impacts on Private Providers

You indicated in your response to Representative Petri that counties have other mechanisms for addressing increased costs within the Needs Based Plan and Budget process. This is an accurate statement in that the counties can and do include increases for their staff, often at a 3-5 % per year level and can include additional funds for new initiatives and expanded services.

However, the foundation for services rests with the private providers that deliver the ongoing programs and services that strive to keep children and communities safe. Private providers have no needs based mechanism to increase wage scales or address inflationary costs related to transportation, operating insurances, and health care costs. The disparity in wages continues to widen as the ability of private agencies to raise private dollars to subsidize public mandates has decreased. In other words, tax dollars are providing for increases to those monitoring the services and not the actual services delivered to children and families.

Private agencies have regularly and routinely responded to individual county requests to diversify funding, redesign programs and individualize interventions. The private provider community has also worked as an invested partner to address broader systemic challenges. Much of this has been done in direct response to DPW direction to counties related to Medical Assistance Realignment, evidence based practices and the desired outcomes defined by the Child and Family Services Review (CFSR).

Private providers have invested their own resources – time, staffing and dollars – to respond to these directives. All too often, private providers have assumed all the risk in this process with little benefit; in fact, often the result is extremely negative. Realigned residential program units are closing, evidence based interventions are operating at

significant financial losses and referrals for specialized programming have not materialized resulting in additional losses to the private agency.

DPW has been very clear in recognizing that the purchase of service relationship exists between counties and private agencies. This appears to be contrary to your recent presentation of plans to move toward a “pay for performance” structure. Performance based contracting has been in place in Philadelphia for a clearly defined group of children and providers. The referral numbers were significant enough to support this process and it has required diligent efforts, regular communication, immediate problem resolution, repeated redefinition of contractual obligations and monitoring from both DHS and private providers. Although marked with challenges, it has worked as well as it has due to consistency in practice, commitment to planning and frequency of interaction and review and even so, there have been serious challenges. Allegheny County has referenced such a process for several years, but has not included private providers in any level of focused discussion nor has the process materialized.

It is a challenge and concern to accept a “pay for performance” structure proposed by DPW as a viable solution to systemic challenges immediately confronting counties and providers. Since little detail has been offered, it is difficult to embrace this as an acceptable remedy for the immediate challenges at hand. If the intent is to have counties utilize this process in their contracting relationship with private agencies, it will require thoughtful development at the state level with incorporation into the NBP&B Bulletin. This could not happen until 2008 for inclusion into planning for the 2009-2010 fiscal year. Even then, it would require input from each county with internal review to assess ability to support this process. The ability of the Commonwealth or counties to productively move forward in this direction is questionable.

Trends and Planning

The projections for Title IV-E funding are more realistic than has been the case in prior years. Even so, there are still philosophical conflicts between the categorical funding streams and DPW stated/implied direction and priorities. It has been challenging to rely on funding that supports out-of-home placements when the emphasis has been on community based, in-home services and reducing placement lengths of stay.

There is an overall decreasing trend in out-of-home placements. Whether this is truly reflective of actual need or is, as is suspected in many cases, due to elevated criteria for making a determination of need for this level of intervention, is not clear. This may be a positive trend, however, the increasing severity in juvenile and young adult crime indicates dysfunction within our system. The rates for children and youth reentering placement also appears to be rising. More older adolescents are entering the system for the first time in their teens, indicating either that opportunities for intervention earlier in their lives are being missed or that prevention services are not as effective as they once were. This population requires supportive services of a different nature and intensity and when placement is required, a different level of programming to respond to challenging behaviors and peer influences.

The fundamental questions as to true child welfare, juvenile justice and children’s behavioral health systems capacity needs, the desired array of services and supports, options to truly integrate service planning and delivery and flexibility in funding to support such goals remain unanswered. This has direct connections to the turnover experienced

in leadership within OCYF and the perceived absence of true collaboration and coordination within DPW to address these challenges.

Changing the relationship between private providers and counties to one that is based on performance and measurement can only happen with great leadership and the inclusion of the private sector. We embrace the concept, but we need leadership from the state level to allow this to happen. If the rich array of services which the providers have delivered for so many years is valued, then we need to be at the table with strong state leadership to discuss and support systemic reforms.

In summary

We cannot apologize for the length of this letter as our concerns are complex and opportunities to engage in constructive solution-focused discussions have been limited. While additional funds supporting child welfare and juvenile justice services are not the total answer, they are a critical component of the solution. We strongly encourage the following:

- That the Needs Based Plans be fully funded to ensure that children are safe and that families are supported. County property tax dollars and privately raised dollars cannot fill the gaps created by less than adequate State appropriations.
- That an appropriate and adequate COLA (minimum 3%) to support ability of counties to purchase direct services for at-risk children and their families be included in the county child welfare appropriation and that language in the budget guarantee an increase for purchased services.
- That there be equity across human services regarding the cost of living increases – Child Welfare, Community Mental Health, Mental Retardation – and Human Services Programs including, Child Care, Early Intervention, Domestic Violence, Rape Crisis, Legal Assistance, Homeless Assistance, Service to Persons with Disabilities, Attendant Care, etc. Many providers have diversified services and funding in an effort to offer continuity of care and an array of services and supports. Cost of doing business funding increases must be equitable across service lines if integrated, comprehensive services and supports are to continue to be available to at-risk children and youth and their families.

Thank you for your consideration of our concerns and requests.

Very truly yours,

Bernadette M. Bianchi, LSW
Executive Director

CC: Members of the Pennsylvania General Assembly