

Ohio: Lawmakers Question Thrust of Administration Budget Proposal; Disability Rights Ohio (P&A) Defends System Changes

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[Note: Related story follows below, p. 4, which details questions relating to the closure of two State ICFs/IID (“developmental centers”).

A finance subcommittee that's become accustomed to fielding backlash against developmental disabilities budget proposals heard support Tuesday for plans to shift more people from institutional settings to home- and community- based care.

Although a majority of the more than 100 witnesses to speak before the House Finance Health and Human Services Subcommittee were opposed to at least some portions of the Department of Developmental Disabilities proposed budget, a handful said the recommendations put the state in line with national trends by encouraging community integration for disabled Ohioans.

The slight turn in testimony provided the panel the opportunity to grill Disability Rights Ohio [Protection & Advocacy] Executive Director Michael Kirkman. Some have argued that the civil rights group is at the crux of the budget proposals drawing ire.

Pointing to DRO's threat of litigation against the state if it doesn't work more quickly to reduce the number of large Independent Care Facilities and move people out of state-run developmental centers, Peter Van Runkle, executive director of the Ohio Centers for Intellectual Disability, described the group as "a shadow in the room."

He said facilities are supportive of the budget's additional waiver opportunities and overall goal of providing choices to those who want to be more integrated into the community per a Centers for Medicare and Medicaid rule, but they feel the budget goes too far in an effort to appease DRO.

The CMS rule that the state is required to meet is fulfilled by providing 3,000 additional waivers targeted toward ICF residents and those who are on waiting lists to enter them, Mr. Van Runkle said. However, additional proposals meant to encourage the transition, such as setting flat rates for high-acuity individuals, limiting the number of individuals per room, bans on ICF admissions during implementation and eliminating beds once someone moves onto a waiver are a step farther and don't benefit disabled individuals, their families or service providers.

Ohio Provider Resource Association President Mark Davis said ICFs have already begun moving in the direction of the state's plan to reintegrate people into the community, but will be unable to continue working to make those changes under the budget proposal.

"It is not uncommon to use a carrot and stick approach to system change. It is uncommon, however, to deploy all sticks and no carrots initially," he said.

Similarly, Michael Rench, President and CEO of St. Joseph Home in Cincinnati, told the panel: "Many agencies are very willing to do what Director (John) Martin has proposed, but are finding it very hard to do with these kind of economic penalties."

The three witnesses are part of a group of service providers who have presented amendments to DODD that would encourage the transition but make it more sustainable. Sheltered workshops and developmental centers are also addressed in the amendments, Mr. Van Runkle said.

Following them to the podium was Mr. Kirkman, whose first remarks were that he is "always a little surprised when people say some things are our fault."

He said he was unaware of what provisions would be included in the executive budget and isn't even supportive of them all.

"Our advocacy only extends to what we can get a court to do," Mr. Kirkman said, adding that he also questions the aggressive timeline of the implementation of ICF transitions and the methods that are being used to drive the changes.

"We're not asking for any services to be terminated, we're not asking for any facilities to be eliminated and certainly not in an immediate sense," he said, responding to accusations that DRO would like to see all ICFs closed.

One positive example of extending the number of available waivers is that nursing services could be covered, Mr. Kirkman said. Those who currently need nursing assistance are sent to ICFs even if that's not where they'd prefer to be.

"We want a broad system that serves everyone where they need to be served in a way that meets their service needs and is the most integrated that's appropriate to their needs. That's what the law requires," he said, pointing out that DRO is simply asking the state to meet Americans with Disabilities Act requirements.

Mr. Kirkman told the panel that negotiations with the state in regard to its compliance with federal standards continue and DRO has not determined whether the budget proposals are sufficient to stave off a lawsuit.

Noting that there are 40,000 Ohioans on wait lists to receive disabilities services, Chairman Rep. Robert Sprague (R-Findlay) asked why the organization thinks it would be beneficial to reduce the number of ICF beds.

"There are a lot of individuals not just in the room here today, but also in the last week who are upset about the risk we're creating for our families because of the upheaval in the entire system," he said. "We're sitting here as representatives of the citizens of Ohio thinking why in the world would we make these wholesale changes to satisfy a federal agency.

"What gives you the right to come in and tell our citizens what's best for them when, in a lot of cases, the advocates who in almost all instances, at least in my district, the parents of those with developmental disabilities have built this system in Ohio really from the ground up?" Rep. Sprague asked.

More accurate estimates have found that there are only about 20,000 people who are waiting for waivers because they've specifically chosen not to go into an institutionalized setting, Mr. Kirkman said. He added that it's up to the state to determine the best model for expanding waivers while simultaneously maintaining ICF services if that's a choice people want to have.

Studies in other states that have made similar model changes have found that people who left institutional settings and were moved into the community were reluctant at first but eventually were more satisfied over time, he said. "People are often satisfied with the services they have because they don't know what else is available."

Diana Mairose, president of the Ohio Self Determination Association, shared a similar sentiment, telling the panel that developmentally disabled individuals like herself simply need encouragement and a system of supports to rejoin the larger community and be successful.

"Please support the budget initiatives proposed that give all people with developmental disabilities the support needed to be an active, contributing member of their communities if they so choose," she urged the panel.

Miranda Tusinac, Director of Employment Services for Turning Point Residential in Youngstown, and a handful of those the facility has served through a program that moves people into the community, was also supportive of the budget proposals.

"I am very proud to be a part of the changes that Ohio is beginning to offer individuals with special needs," she said.

Rep. Barbara Sears (R-Maumee), who has been critical of whether the DODD budget proposals actually promote choice, said she'd like to consider options for maintaining the current system as a new one is being created.

"I don't think anyone questions that CMS is forcing us to do some changes, but what I believe is that it's your interpretation of what CMS is asking us to do that is ratcheting up a lot of the fear and concern with what's happening here and that I think is probably my biggest concern as we look at this."

Rep. Sears also told Mr. Kirkman that she doesn't believe people don't know what options are already available to them. "I think parents look painstakingly into what their options are," she said.

Mr. Kirkman said there are about 3,000 people who are being served in ICFs currently who have asked to be put on a waitlist for waivers to move out into the community.

He also pointed out that the CMS rule that limits reimbursements for ICF waivers and sheltered workshops is not related to DRO recommendations. They were simply announced around the same time, he said.

Rep. Nickie Antonio (D-Lakewood) said her main concern is that people who are currently receiving services will lose their home, whether that's currently at an ICF or developmental center, and they'll end up in shelters or won't be able to find work and will have to sustain themselves through consistently decreasing state and federal entitlement programs.

Pressed for time, but with lots of additional questions in mind, lawmakers asked that Mr. Kirkman, Mr. Van Runkle, Mr. Davis and Mr. Rench attend the subcommittee's Thursday hearing to provide additional information.

The committee also heard from a number of parents, service providers and county boards who were opposed to portions of the budget that would eliminate independent providers as the state

moves to an agency-only model and move forward with the closing of two state-run developmental centers.

Related Story: Testimony Opposes Closure of Developmental Centers

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A large portion of the testimony on the developmental disabilities portions of the executive budget has been devoted to Intermediate Care Facility changes, but those with opinions on developmental center closures also spoke up on Tuesday.

The state announced last month that it would shutter the Montgomery and Youngstown developmental centers by June 30 because the number of individuals they serve has significantly declined in the last decade and will continue to do so under new budget provisions that favor community-based settings. (See [Gongwer Ohio Report, February 10, 2015](#), above)

While a handful of witnesses said the centers put the state at a financial disadvantage and unnecessarily isolate people who could otherwise be served in the community, the union that represents those who work in the facilities argued that they're vital resources for developmentally disabled Ohioans and closing them would put their well-being as well as many jobs at risk.

Staff and family members involved with the facilities set to close chartered busses to the Statehouse Tuesday to testify before the House Finance Health and Human Services Subcommittee and urge lawmakers to stop the closures as well as support a measure that would establish a closure commission ([HB 73](#)).

Sally Tyler, health and policy analyst for the American Federation of State, County & Municipal Employees, which is represented by the Ohio Civil Service Employees Association, asked the panel to consider why it would close down two developmental centers when there are thousands of people on waiting lists to receive services.

"Legislators and other policy-makers cannot afford to look at this demand for services as an either/or equation, but unfortunately it is frequently framed in this way," she said. "A budget which starves these vital services in general forces advocates for various residential and program settings to fight over the same narrow piece of the pie, when the best solution for those in need would be to enlarge the pie, so that all the waiting individuals can receive services, honoring the full spectrum of consumer choices."

However, Disability Rights Ohio Executive Director Michael Kirkman told the panel that those on waiting lists are holding out for waivers because they don't want to be placed in institutionalized settings.

Ms. Tyler said she is supportive of better integrating disabled Ohioans into the community and providing them with opportunities to live the lifestyle they chose, but suggested that the state keep developmental centers open while it works to transition from an institutional-heavy model to one that's more focused on community- and home-based care. She also offered support for Intermediate Care Facilities and sheltered workshops, which are also facing downsizing as a result of DODD proposals.

She further questioned the impetus behind the proposals to close the centers and move people out of other facilities, saying that Centers for Medicare and Medicaid rules that encourage community integration may eliminate funding for facility-based services, but don't prohibit them from being offered.

"Although some of the short-term decisions within this budget focus on the question of providing services to those with intellectual and developmental disabilities, they will have lasting impact on the way Ohio structures its overall system of long-term services and supports, which will affect the provision of services to seniors and those with physical disabilities, as well, and which will be in even greater demand in coming years," she said.

"This necessitates a deliberate and thoughtful approach to planning new services and modifying existing ones, rather than taking the drastic step of closing facilities while capacity within the community is still so lacking."

However, Deb Plaza, director of operations for The Waiver Network, said downsizing intermediate care facilities and consolidating state development centers per the budget recommendations gives way to an increase in the number of waivers Ohio can provide, which will give 3,000 additional developmentally disabled individuals the ability to take advantage of options outside of institutional settings.

The changes will also save the state money, she said, noting that the average cost of caring for someone in a state facility is about \$200,000 annually while it costs about \$58,000 to provide services to someone on waivers.

Also offering support for the closure of the facilities were staff and residents of Turning Point Facilities in Youngstown and Ohio Self Determination Association President Diana Mairose. Lesley Phillips, who works with the Youngstown facility's day program members, said in prepared testimony that many used to live at the local developmental centers or ICFs. They were believed to have too severe of a disability to work in the community, but they have learned to do so through specialized care.

"I see firsthand people finding gainful community employment and being part of their community instead of a visitor in it," she said. "Initiatives such as Employment First and Opportunities for Ohioans with Disabilities give employment supports, while our waivers give people the ability to step into new experiences."