State of Connecticut
Department of Developmental Services

DDS

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TESTIMONY OF THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
TO THE HUMAN SERVICES COMMITTEE
March 11, 2010

Senator Doyle, Representative Walker and members of the Human Services Committee, I am Peter O'Meara, Commissioner of Developmental Services (DDS). Thank you for the opportunity to testify on **Senate Bill No. 282 - An Act Concerning Implementation of an Attendance-Based Rate System by the Department of Developmental Services** and **House Bill No. 5245 - An Act Establishing a Task Force to Study the Privatization of Group Homes**

Senate Bill No. 282, which the **Department of Developmental Services strongly opposes,** would halt the implementation of an attendance-based reimbursement system for day service providers that was put in place on February 1, 2010 as a result of a $3.7 million rescission in the DDS Day Services account. The bill would require the Department to wait to make any changes to the Day Services' reimbursement until the recommendations of the advisory committee for reimbursements for services under programs administered by the Department of Developmental Services, established pursuant to section 57 of public act 09-3 of the September special session were made on or before January 1, 2011.

Generally DDS has focused reduction activities on its own operations and to the extent possible has shielded its providers from these reductions. DDS has acted prudently in response to the $3.7 million rescission and reductions in the FY11 budget for day services. DDS implemented reductions in providers' funding through the implementation of utilization-based billing. DDS informed the provider community of this impending change in December and has amended all contracts effective February 1, 2010. DDS chose this approach to provide the most service possible for consumers and their families, which is DDS's priority during these lean times. This approach also ensures the best value for the taxpayer's dollar. Since the rescission of $3.7 million in Day Services funding is for the full fiscal year 2010, it was imperative that DDS implement a reduction option as soon as possible.

As the department strives to maximize reimbursement from the federal government through the Centers for Medicare and Medicaid Services (CMS), it is important that DDS continue to follow the guidelines of the Home and Community Based Waiver (HCBS) program from which Connecticut receives a 50% match for qualified state expenditures. This attendance-based approach is consistent with the general direction of funding for services through the HCBS waivers nationally. The federal requirement of the waiver programs is that reimbursement is only

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allowable for services actually provided which, for day services, means days in attendance. DDS has been proceeding towards an attendance-based reimbursement system using uniform rates for all supports provided to our consumers for over five years. This system was first instituted for all new graduate and age-out placements in 2005. At present, there are more than 3,800 individuals whose day and/or residential services are paid based on utilization.

There are multiple benefits to this attendance-based approach, which creates a financial incentive for agencies to provide more service as opposed to the one-twelfth payment system that had been in place, which created a financial incentive for providing less service. DDS implemented the one-twelfth system about 20 years ago. At that time, the state was greatly expanding community-based residential and day services. Helping providers to build capacity was a paramount concern. Today with a mature service delivery system there is no longer a need to greatly expand capacity. The one-twelfth payment system having no relationship to service provision rewarded providers that had reduced expenditures due to lower attendance. DDS has already seen the benefit of this change as January attendance was approximately 6% higher than the annual attendance levels reported by providers.

An additional benefit is the improvement in both the data integrity and timeliness of federal waiver billing. We have also seen an increased level of interest in the timeliness and accuracy of attendance information among private providers. Timeliness and accuracy are very important since provider attendance data is the cornerstone of our rate setting and billing activities with the federal government. Additionally, by connecting all of the information, we have discovered some funding errors and are recouping those funds. We would be gravely concerned about returning to a system which produces less accurate information for the federal government and does not provide an incentive to maximize service.

That being said, we are sympathetic to many provider concerns. We have already taken action to address some of them and have expressed a willingness to work with the rate study committee to further review the issues.

Among the steps DDS has taken are:

- DDS has limited losses for the supported employment to individual's program to 2% for this year.
- DDS has limited reductions for providers with less than 80% attendance to the 80% level.
- DDS has instituted a process for looking at specific agency hardship situations. Any agency that experiences financial distress due to low utilization may request a one-time emergency allocation from DDS.

We remain willing to continue to address providers' issues within the attendance-based framework.

Concerns have been expressed about the 90% factor for group day services. The 90% factor means that for 35 days including holidays, vacations, illness, personal commitments and inclement weather, people can be absent without any impact to providers. In fact, providers receive more funds for the people who attend more than 225 days, to help offset situations where a person is unable to attend as regularly. Families should understand that whether their family member is able to attend nearly every day or can attend less often, they are part of the agency's overall attendance. The 90% factor was chosen after inquiries were made to other states. While

we believe we have selected a very reasonable factor, we are working with the rate study committee to further review the factor.

As the Human Services Committee considers this bill, it is important to be aware that, if it is passed, the department is still responsible to reduce the expenditures in this account by the $3.7 million in the Governor's November rescission and to absorb the additional reductions made in the FY10 legislative budget. The department would be forced to make across-the-board cuts which would impact all providers regardless of their attendance. This type of reduction would only exacerbate the differences in resource allocation between lower and higher rate providers and may lead to cuts in services to consumers. It also would continue the existing incentive for low attendance because of its financial benefit to the provider. An across-the-board cut would be 2.305%. In our estimate of the impact of an across-the-board cut on private providers, there would be **62** agencies that would receive a larger reduction with the cut and only **31** agencies that would receive a smaller reduction. It is our belief that, even if funding is increased in next year's budget or in a future budget, the advantages of creating an incentive to provide services, enhancing data integrity and meeting federal requirements make it imperative that DDS retain a payment system based on service provided.

We are willing to work with the legislature on ways to address providers' funding concerns without returning to a reimbursement system that has outlived its usefulness and results in fewer services for people and less accurate information for the federal government.

DDS opposes **H. B. No. 5245 - An Act Establishing a Task Force to Study the Privatization of Group Homes** because it proposes to create another task force that will require several state agencies' administrative time and resources that should be concentrated on the provision of services. Although the scope of the study is of interest to the Department of Developmental Services, the question is whether a legislative task force is the most efficient way to get the information needed for the study or whether legislative resources could be used to compile this information.

Thank you for allowing me the opportunity to testify today on **S. B. No. 282** and **H. B. No. 5245**. Please contact Rod O'Connor, DDS Legislative Liaison, at 418-6130 with any questions.