

## Publications

### Pennsylvania ODP Rate Changes Coming February 26: What Providers Need to Know

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Upcoming changes to the rates paid to providers by Pennsylvania's Office of Development Programs (ODP) may have a major impact on intellectual disability and autism services providers across Pennsylvania. ***Providers should familiarize themselves with the rate determination process.*** Pennsylvania law provides all providers the right to appeal the rates paid to them, individually, but few providers take advantage of that appeal right.

#### Background

Yesterday, ODP announced that it will release the final updated fee schedule rates for services funded through the Consolidated, Community Living, and Person / Family Directed Support (P/FDS) Waivers and the Adult Autism Waiver via publication in the Pennsylvania Register on February 26, 2022.<sup>[1]</sup> ***Providers who wish to appeal their rates must file within thirty (30) days, which will mean appeals must be received by March 28.***

ODP published proposed rates and the cost assumptions behind those rates in late 2021. The various proposed rates and the underlying assumptions logs are available on the Department of Human Services (DHS) website ([click here](#)).

#### Questions for Providers to Consider:

- Are some of your services losing money (even if others are breaking even or making money)?
- Are existing rates preventing you from raising wages? Are the finalized rates enough to fix this issue for your agency?
- Are you experiencing a large number of open DSP positions and feel you will be unable to raise wages enough to fill the open positions even after the rates are increased?
- Are you losing mid and exec level employees? If so, do you feel the finalized rates are/are not going to be enough to address compressed wages and burnout that is causing employees to leave?

- Do you feel the finalized rates will allow you to ensure the health and safety of the individuals you support?

### Preparing For a Rate Appeal:

- Providers should keep in mind the strict thirty (30) day deadline once final rates are published.
- Providers should discuss with their board and/or executive team in advance, so that the organization is prepared to act quickly once the final rates are published.
- Providers should identify data that supports an appeal in advance (staff turnover, inability to recruit, financial losses).
- Providers should familiarize themselves with the rules governing appeals, 55 Pa. Code Chapter 41.
- Providers can reach out to their industry groups, such as PAR (Pennsylvania Advocates and Resources for Autism and Intellectual Disabilities), for guidance and support concerning rate appeals. PAR, which is a client of Vorys, has published its public comments to the proposed ODP rates here: <https://paroncloud.egnyte.com/dl/mQyZMUgty0>
- Providers should consider retaining an attorney familiar with the process. The appeal process is a legal proceeding that requires a level of sophistication and attention to detail where legal counsel can be helpful to providers as they navigate through the process.

Vorys has significant experience in representing intellectual disability and autism services providers and handling administrative appeals. To discuss a potential appeal of the upcoming ODP rates, please contact any of the listed attorneys for a complimentary consultation.

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[1] While the official publication is listed for Saturday, February 26, 2022, ODP typically posts the rates and comments online some time on the preceding Friday. Providers who wish to review the rates at their earliest opportunity should check the ODP website on Friday, February 25.