

# FY 2021 Legislative Priorities

## INTRODUCTION

*The COVID 19 crisis has profoundly altered the lives, economy and work for all citizens across our nation and in Delaware. This impact has been particularly devastating to all persons with intellectual and developmental disabilities (I/DD), their families, and their service providers.*

*The COVID 19-related economic collapse gravely threatens both national and state revenues and budgets across our nation. We must ensure that any related budget reductions and cuts do not further imperil already critically underfunded I/DD services in Delaware and across the nation.*

*As COVID infections and hospitalizations continue or increase across Delaware and the nation, we are anticipating that the COVID pandemic will continue for at least many months to come.*

### **1. Delaware and/or national policy makers must ensure that DDDS consumers and their family, Direct Support Professionals and others who care for them are mandated and/or offered priority for regular (preferably weekly) COVID testing, prompt results and vaccines as available.**

- Medical experts agree that testing as widely possible for COVID represents one of our most important and effective tools in the containment of the pandemic.
- A recent New York state study showed that persons with I/DD were 4 times more likely to get the disease than non-disabled persons and 2 times more likely to die from it.
- Frequent, mandatory COVID testing promotes the following critical containment outcomes:
  - Identifying asymptomatic persons who can and do infect other persons.
  - Isolating and treating of infected persons more quickly and effectively.
  - Faster and therefore more effective completion of contact tracing.
  - Much more accurate and timely data collection and analysis of COVID infections within the DDDS system.
- Advantages of regular testing are underscored by the policies that have been adopted for frequent mandatory COVID testing for nursing homes and other Long Term Care (LTC) facilities in Delaware and throughout our nation, in which active staff members are required to be tested, as well as the facility residents who consent to testing.
- To be effective in containing the COVID pandemic, test results must be available within 1-3 days.
- Currently, DDDS only requires COVID testing for employees and consumers in active service who exhibit symptoms or who are identified through “contact tracing” as having a probable exposure to a person identified as positive for the COVID infection.
- Each day that infectious asymptomatic persons are not diagnosed within the DDDS system represents the potential for additional dangerous exposures for all other persons having contact with them.
- As DDDS day services reopen, both the persons who attend these services and their DSPs/caretakers and families will have a greatly increased risk of becoming infected.

## RECOMMENDATIONS

- *The Governor and state policy makers (and/or their federal counterparts) must mandate that DSPs and support persons who have contact with DDDS consumers, and consumers in provider-managed residences, receive priority consideration for access to and immediate funding for: Personal Protective Equipment (PPE); mandatory regular testing (without the mandatory quarantine of those tested unless they are symptomatic at the time of testing); and rapid reporting of test results. Similarly, this mandate should ensure that all consumers who are receiving other*

# FY 2021 Legislative Priorities

DDDS services and their caretakers are offered and encouraged to complete testing (with appropriate consent, etc.) with comparable frequency. Testing should be preferably offered on site (at least for DDDS congregate settings), with appropriate medical oversight. Finally, these same parties should be given priority for any COVID vaccines that are ultimately approved and offered in the United States.

- COVID testing should be required with proof of negative test results for all DDDS/Provider/DSP staff and consumers prior to their first day returning to any reopened DDDS Day Service programs.

- DDDS and providers must also consensually develop and implement definitive, viable plans and strategies to mitigate the loss of impacted DSPs and essential professionals which may result from increased COVID testing and quarantining of infected individuals.

## **2. Because DSPs were designated essential personnel who are required to continue working during the pandemic, and because they have demonstrated bravery by reporting to work despite the risks to their own (and their families') health, it is past time to pay them appropriately. Federal and state funding must be increased for Medicaid-funded Home and Community Based Services in Delaware and across the nation; and the Delaware Michael McNesby Act must be fully funded by or before FY 2023.**

- All Division of Developmental Disabilities Services (DDDS) providers have been dealing with decades of chronic underfunding within the DDDS system before the COVID pandemic began. DDDS provider rates currently average just 68% of the full funding promised by the Michael McNesby Act (passed in Delaware in 2018).
- During the COVID pandemic, DDDS providers have had to deal with crippling shut downs; personnel lay-offs; loss of revenue (for most Day Service Providers); much longer hours of service and increased costs (for DDDS residential providers); PPE shortages; and many increased costs have gone unreimbursed.
- After the Burns & Associates Rate Comparison study is completed and shared with stakeholders, a prioritization of funding for rates paid to all DHSS contractors will take place. Subsequently, the DHSS Secretary will make recommendations to Governor Carney for the FY 2021 budget.
- On October 1, 2020, the minimum wage in Delaware will be \$9.75/hour. Competition for DSPs will increase on a regional basis (to Delaware's great disadvantage), as the states surrounding Delaware increase their minimum wage levels to \$15/hour.
- State investment in I/DD services multiplies and injects economic activity into local communities. Every dollar invested by Delaware in disability services was matched by \$1.38 in federal pre-pandemic dollars (there is a temporary increase of 6.2% in federal matching funds during the COVID emergency). An additional \$10 million investment by the state in these services would create 460 jobs outside the social service system, resulting in \$20 million in earnings by those job holders, which would bring in \$1.4 million more in state tax revenue. These effects are even greater with the additional federal matching dollars available during the pandemic.

### **RECOMMENDATIONS**

- The DHSS Secretary must meet promptly with I/DD stakeholders to gain a better understanding of their needs and the struggles that providers are experiencing in attracting and retaining qualified DSPs.
- The Delaware General Assembly must amend the McNesby Act to require full funding of the DDDS rate system no later than FY 2023. Additionally, the statute should be amended to require the state to conduct regular rate rebasing studies at least every three years, or as the need arises due to unforeseen cost increases, and to specify that the rates must be kept at 95% or above the level of funding recommended in the most recent rebasing study.
- The United States Congress must offer greater federal financial participation (i.e., a higher level of federal Medicaid matching funds) for states that increase funding for Home and Community-Based Services to bring DSP wages up to a level that is competitive in local labor markets.

**Achieve with us.**

**For more information: [thearcofdelaware.org](http://thearcofdelaware.org)**



The Arc of Delaware  
2 South Augustine Street  
Suite B  
Wilmington, DE 19804  
(302) 996-9400 or  
(844) 344-6524 toll-free