

## Publications

### New ID/A Rates Coming in 2024: What Pennsylvania Providers Need to Know

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#### CLIENT ALERT | 4.19.2024

On Friday, April 19, 2024, Pennsylvania's Office of Development Programs (ODP) provided public notice of the new fee schedule rates for services provided under Pennsylvania's Medicaid waiver programs to individuals with intellectual disabilities and/or autism. The rates and rate assumptions have been made available for public comments, and comments will be accepted by ODP from April 20th to June 4th. While ODP has not stated when the rates will be published as final, the rates are proposed to be **effective** as of July 1, 2024.

The eventual publication of the rates as final some time later this year will trigger a short (30 day) window for providers who disagree with the rates to file administrative appeals with the Bureau of Hearings and Appeals (BHA) at the Department of Human Services.

Providers who may be interested in appealing the rates should begin preparing for those appeals now. **Vorys is proud to represent numerous ID/A providers in rate appeals pending before BHA and is accepting new clients who wish to appeal the July 1, 2024 rates.**

### Background

Services to the ID/A community are funded through a mixture of federal dollars and state-budget dollars through Pennsylvania's approved Medicaid waiver(s) with the Centers for Medicaid Services (CMS). As there is no significant private payor or third-party payor system for these services in Pennsylvania, ODP (as the state agency that oversees the waiver programs for ID/A services) acts effectively as the single payor for the industry.

Services funded through Consolidated, Community Living, and Person/Family Directed Support (P/FDS) Waivers and the Adult Autism Waiver are paid based on published fee schedule rates, which are typically updated roughly every three years. ODP most recently updated the fee schedule rates paid for certain services (Community Participation Services, Transportation Rates, Group Equine Therapy, and Group Music Therapy) in November 2023. Prior to that, the last wholesale fee

schedule rate update became effective on January 1, 2022.

The proposed rates and cost assumptions are available on the Pennsylvania Bulletin here: [Consolidated, Community Living, and P/FDS Waivers 54 Pa.B. 2182](#) and [Adult Autism Waiver 54 Pa.B. 2179](#).

## Public Comments

ODP typically receives extensive public comments from the ID/A industry whenever it publishes new proposed rates. Pennsylvania is home to a number of trade associations and industry groups, in particular, which typically provide public comments to new proposed rates.<sup>[1]</sup> Providers who are interested in submitting public comments can work with any trade associations to which they belong. In addition, providers (and any other interested persons) can submit comments to ODP at [ra-ratesetting@pa.gov](mailto:ra-ratesetting@pa.gov). Comments may also be sent to ODP as follows:

*Comments about rates for services in the Consolidated, Community Living, and P/FDS Waivers and base-funding should be addressed to Department of Human Services, Office of Developmental Programs, Division of Provider Assistance and Rate Setting, 4th Floor, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.*

*Comments about rates for services covered in the Adult Autism Waiver should be addressed to Jamie Bonser, Department of Human Services, Office of Developmental Programs, 625 Forster Street, Room 510, Harrisburg, PA 17120.*

*Comments received by 11:59 pm on June 4, 2024, will be reviewed and considered for revisions.*

## Rate Appeals

Pennsylvania law (Title 55, Chapter 41 of the Pa. Code) provides every ID/A provider the legal right to appeal any ODP agency action impacting that provider, including the setting of fee schedule rates. Recent decisions by Pennsylvania's appellate courts have upheld that the provider's right to appeal rates to BHA is a mandatory administrative remedy, making BHA rate appeals the provider's sole avenue to challenge any aspect of the rate setting process. While the issuance of new fee schedule rates triggers a 30-day window for every Pennsylvania ID/A provider to file an appeal, few providers (estimated at less than 10%) do so, historically.

Vorys has extensive experience representing ID/A providers in BHA rate appeals and other administrative challenges. Vorys is happy to offer a free consultation to any ID/A provider(s) who are unfamiliar with the rate appeals process and would like to discuss a potential appeal of the July 1, 2024, proposed rates.

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<sup>[1]</sup> Vorys is proud to serve as legal counsel to Pennsylvania Advocates and Resources for Autism and Intellectual Disabilities (PAR), Pennsylvania's oldest and largest trade association for the ID/A industry.