



# AZTAC NOTES

**December 14, 2011 ICF/MR TASK FORCE**

*Prepared by Mary Anne Haschert*

Kathy Deans  
Chief of the Division of MR Planning and Accountability

Ms. Deans opened the meeting and addressed a few topics, as summarized below:

## Miscellaneous items

- Due to difficulty in obtaining conference rooms, the location of the Task Force meetings as well as the day of the week may change in the future.
- Joshua Kauffman is now the supervisor of the section, filling the position vacated by Larry Finck. Tammy Leister and Nathan Nguyen work in this section under Joshua, and they are also planning to hire another person.
- They are considering setting up an "ICF/MR Listserv," which will be used to send out Task Force information as well as other general information. They will be sending a form to the administrators, upon which you can sign up as many people as you want.
- ODP is considering sending out the rate correspondence and the OMAP (OLTL) rate letters electronically in pdf format. You should be sure that ODP has the correct contact information at your agency, and remember to update that information when necessary.
- There were 178 ICF/MR cost reports. When Larry revised the forms, he tried to remove merged cells so that the data could be more useable.
- Kathy has 71 weeks until she retires.

## Conversions

Regarding conversions, Ms. Deans said the most important thing is that you must have a Community MR cost report that generates the unit cost that is used as the basis for the ratesetting so that they can see the W-Code and what the conversion will cost. You must show eligible and ineligible codes and you have to break down other services that are under ICF/MR, but "unbundled" under Community MR. Ms. Deans said to simply include another piece of paper that shows other services that you purchase and what they cost. All conversions must be state-dollar neutral—only the state money transfers between appropriations in the conversion. Also remember you have to subtract the ICF/MR assessment from the calculations.

*(MAH notes: Our experience in preparing conversion proposals has been that considerably more detail is required than what is described above. The proposal needs to include comparisons between ICF/MR and waiver, explanations of any differences, and possibly more information depending on what they ask for, such as details about the individuals, therapies, day programs and staffing. You must also obtain the current federal and state percentages, and calculate the federal and state dollars. Conversion proposals must be submitted one full year in advance. And it is important to follow-up on the status of the proposal to be sure*

that it has been included in the Governor's requested budget. (Contact Mary Anne at [mahaschert@aztacinc.com](mailto:mahaschert@aztacinc.com) if you need assistance in the preparation of a conversion proposal or if you would like to generate some rough calculations just to see if it is feasible.)

### Day Program Rates for ICF/MR consumers

Ms. Deans began by saying that this was an announcement for information purposes and that she would not be taking any questions nor discussing the issue.

The following statements are quotes and paraphrases of what Ms. Deans announced, followed by AZTAC explanation and comments .

- The ODP was instructed to develop rate setting process that was consistent. They (ODP) discovered something that should have been brought up in 2009 (when the first cost-report rates were implemented). In the past, contracts were for days, rate, total cost. Currently, under Community Waiver you can only bill for services provided. The unit of service changed from a day to a 15-min unit of service. The rate for the day program is based on the waiver cost report. When ODP announced that the rate for waiver consumers and base-funded consumers had to be the same, the intention was that this would be true for all MA recipients.
- If an ICF/MR consumer is provided the same service , they must be at the same rate.
- When they reviewed the FY 2010-11 ICF/MR MR46 cost reports, they found that not all the rates matched. They did not make any one change the costs in the cost report. What they are thinking is how they are trying to resolve the issue. They are going to have more internal discussions.
- In the MR46 cost report, they are going to create and add a Schedule 12A only for the day program services, to show a breakdown of the costs. They will be discussing this again at the ICF/MR Task Force meeting in March. They want the name of the day program provider, even if it is you, the MPI#, the waiver rate, the W-Code,/the level of service. There are no W-Codes for ICF/MR so you have to use the waiver services W-Code. They are going to check the reported information against what is in PROMISE. They also want to know the number of people in each WCode. They are going to look at the number of services utilized. They don't think they are asking for anything that you don't have.
- Ms. Deans can't promise they won't use this new Schedule 12A form for other things, but she doubts it.
- They have approved increased costs in day program waiver requests over the

last few years. They want to be sure of what they are getting. They want more information about the programs, and they will compare the information to PROMISE.

- ODP expects Older Adult to be the FFS (fee for service) rate.
- The day service providers must charge 15-min rate, not half days or days.
- Send questions to the ratesetting mailbox at: [RA-ratesetting@pa.gov](mailto:RA-ratesetting@pa.gov) and they will use those emails in their discussion. If permitted by the Deputy Secretary, she will publish the Q and A .
- It is expected that the same service provided in the same location will be the same rate.
- There may be a push in the future to make ICF/MR and Waiver programs more similar. There may be changes under ICF/MR. There is talk about changing the ICF/MR regulations. As long as the ICF/MR program is a choice you can select in the state plan, it's not going anywhere.
- If they find out they are wrong, she will come back and say so.

*(MAH notes: As most providers know, ODP questioned day program costs reported in the FY 2010-2011 MR46 cost reports, specifically on the Schedule 12 Miscellaneous Personnel Costs schedules. ODP requested the MPI# and service location code for all day service providers whether they were "in-house/related party" or outside vendors. This information was not always easy to obtain, which in some instances, caused delays in getting the MR46 cost reports approved. After providing the information to ODP, ODP then looked up the waiver-approved rates for those day service providers, and if the ICF/MR reported a different rate, an explanation was requested. In some instances, the provider was told that they were being reported to BFO. There was quite a bit of frustration for providers in that this information was being requested after the cost reports had been prepared and submitted, it was information not previously requested, nor was it included in the schedules or instructions. Ms. Deans' perspective was that a problem was noticed and it needed to be promptly dealt with.*

*At this time, ODP began saying that the ICF/MR rates must be the same as the waiver-approved rates. Some day service providers disagree, saying not only do they not have to charge the ICF/MR the same rate, but they also don't have to use the 15-minute unit. Some day services were still billing ICF/MR programs at day rates even after being asked to change to a 15-minute unit rate. I suggested to ODP staff that if the ICF/MR provider has to tell the day service provider that their invoices must be prepared using the waiver rate and the 15-minute units, they need something in writing, such as the regulation or the bulletin, to give to the day service provider as proof that they have to comply. I was told nothing was in writing and if the day service provider did not comply with the request, the ICF/MR should choose another day service provider.*

- *Is ODP correct that the day service providers must apply the waiver-approved rates to ICF/MR consumers?*
- *Are the waiver service definitions applicable to ICF/MR?*

*In ODP's defense, I agree that it might make sense that an ICF/MR consumer should not be charged a different rate than a waiver consumer—after all, same service, right? I was asked by an ODP staff person if I agreed that it was reasonable to charge an ICF/MR consumer the same rate as a waiver consumer—I answered "Perhaps yes, if the waiver rates are reasonable, but currently, waiver rates are 6% less than actual costs from two years ago. Therefore, I am not sure ODP is correct."*

*When ICF/MR consumers receive day services from the same agency—i.e., related party or "in-house" program, the maximum charge allowed is actual costs. While a rate may be charged throughout the year between the day program and the ICF/MR program, actual costs must be reconciled at the end of the year.*

*It might also have been applicable that the maximum charge was lesser of actual costs or rates charged to other consumers—i.e, the “market rate.” Now that waiver rates are no longer “market rate,” but rather, in many instances, below actual costs, and therefore not “reasonable,” are related party day programs also limited to the waiver-approved rates? I think ODP is saying yes.*

- *What if a day service provider, related or not, serves only ICF/MR consumers and does not have waiver approved rates?*
- *What if a day service provider was assigned a rate by ODP due to an incomplete cost report submission, or incorrect service location codes---is it reasonable that the assigned rates are applicable to the ICF/MR consumers?*
- *Why can't the day service provider charge a “reasonable” rate to the ICF/MR? Why should the ICF/MR programs bear the burdens (i.e., 6% RAF) of the waiver program?*
- *Is ODP right or wrong to apply the waiver approved rates to the ICF/MR programs?*

*Finally, it is of great concern that this issue is not going to be “discussed” again until the March ICF/MR Task Force meeting. Do you need to revise your day program contracts now? How will this impact your ICF/MR audits? Will BFO disallow day program costs back to July 1, 2009 if your consumers were charged more than the waiver approved rates?*

*I don't know the answers to the questions that I raised above. We were not allowed to ask questions at the December 2011 Task Force meeting. I strongly encourage you to write to ODP with your questions and comments, because it is clear that ODP intends to enforce this requirement. Perhaps with constructive comments from you, there can be productive discussion, and a reasonable resolution can be reached so that everyone knows what is required and what is applicable. Your comments and questions should be sent to: [RA-ratesetting@pa.gov](mailto:RA-ratesetting@pa.gov). The RA ratesetting mailbox was established for waiver program issues, and it is handled by Kathy Deans. It is the email address that she requested you use for these questions and comments. Kathy Deans regular email address is: [Kdeans@pa.gov](mailto:Kdeans@pa.gov).*

*I will appreciate a copy of the comments and questions that you send to ODP. If you prefer to send your comments and questions directly to me, I will be happy to submit a combined list of comments. Send to [mahaschert@verizon.net](mailto:mahaschert@verizon.net) or [mahaschert@aztacinc.com](mailto:mahaschert@aztacinc.com) with ICF/MR Day Program Rates in the subject line.)*

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Genean Hart  
ODP Statewide Licensing Coordinator

Ms. Genean Hart provided two updates:

- ICFs/MR do not need to complete the ISPs for consumers attending day program. ODP issued Informational Packet 136-11 on October 13, 2011 to provide further clarification and which regulations will be not be measured during monitoring. ODP will be revising the regulations but they are not sure when.

*(MAH notes: This was follow-up to many previous discussions about whether ISPs were required for ICF/MR consumers attending day programs. The ISP requirement is a waiver program requirement, not an ICF/MR requirement, and it is somewhat duplicative of the IHP, which is required for ICF/MR individuals. Contact [marilyn@aztacinc.com](mailto:marilyn@aztacinc.com) if you need a copy of Informational Packet 136-11.)*

- ODP is on track to implement the licensing and certification system. A more formal announcement will be out around January. Another announcement will be out in March.

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Joshua Kauffman  
Supervisor, Fiscal Accountability Section

Joshua Kauffman reported the following:

- 90% of the cost reports are completed for approval
- They will be issuing standard interim rates in January.
- Waiver requests are about two months behind.
- Assessments are about a week late and will be issued Friday or Monday. All checks should be sent to Kathy Deans or Josh Kauffman's attention. If you have questions about ACH, contact Joshua on how to do that.
- They are currently interviewing for Budget Analyst II. The others in the section are Nathan Nguyen and Tammy Leister.

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Anne Marie Cawley, ODP consultant, gave a PowerPoint presentation entitled "Rights and ICF/MR Regulation Expectations."

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The meeting was ended at 1:40 pm. The next Task Force Meeting is on March 7, 2012.

*(MAH Notes: The following people were unable to attend even though they were on the agenda: Pam Kuhno, Jill Morrow, and Orlando Hernandez. Kathy Deans left immediately after her announcements.*

**Special note: The above notes are prepared to the best of my knowledge and are based upon my own understanding of the discussion at the ICF/MR Task Force meeting. The primary purpose of these notes is to provide you with a summary of the information and discussion, particularly if you or co-workers were unable to attend the meeting. These notes have not been confirmed by the Office of Developmental Programs. Be advised that you should seek additional confirmation if intending to make major decisions that impact your program(s), which are in part, based upon the information contained in these notes. Additionally, the MAH Notes which appear in italics and/or parentheses are my own comments and opinions for your information and thought provocation. MAH Notes do not represent the statements or opinions of anyone speaking in a Task Force meeting.**