



A Perfect Storm for IDD Service Providers

*Insufficient Rates, Challenging Economic Realities,
and New Regulations Put Unprecedented Pressures on a Strained System*

Alliance is a statewide association of Community Centered Boards (CCBs) and Program Approved Service Agencies (PASAs) that provide services and supports to individuals with intellectual and developmental disabilities.

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INTRODUCTION

Providers of community services offer intensive and critical supports for Coloradans with intellectual and developmental disabilities (IDD). These services are essential for people with IDD to live meaningful lives in homes and communities of their choice. Providers help people with daily activities like eating, bathing, dressing, finding and getting to employment, and connecting with friends and neighbors. Based on the trends and evidence discussed below, we believe that, in as few as five years, Colorado's provider shortages will be so severe that the results for people with IDD and their families could be devastating.

*Alliance believes in, and is striving to help create, a community-based system of services for Coloradans with IDD that is **sustainable**, makes **efficient** use of public funds, and is **prepared** to capitalize on the opportunities and weather the challenges of whatever the future holds. We believe the General Assembly has the power within the funds it has currently budgeted for IDD services to make significant strides toward this goal.*

COLORADO NEEDS REFORMS FOR A SUSTAINABLE SERVICE SYSTEM

For decades, the Colorado General Assembly has been committed to ensuring that quality community-based supports are available for people with IDD. As a result, Colorado has been ranked among the top states in the nation for positive outcomes for people with IDDⁱ and has been a leader in moving away from institutional placements. Despite these commendable results, Colorado's system of community-based supports has reached a tipping point. Without rates that reflect the cost of providing services, providers will fall further behind in their ability to fulfill their missions to provide the best services for the people they support. We believe the General Assembly, relevant State departments, community providers, advocates, and other stakeholders have a responsibility to ensure that these critical services are in place for many years to come.

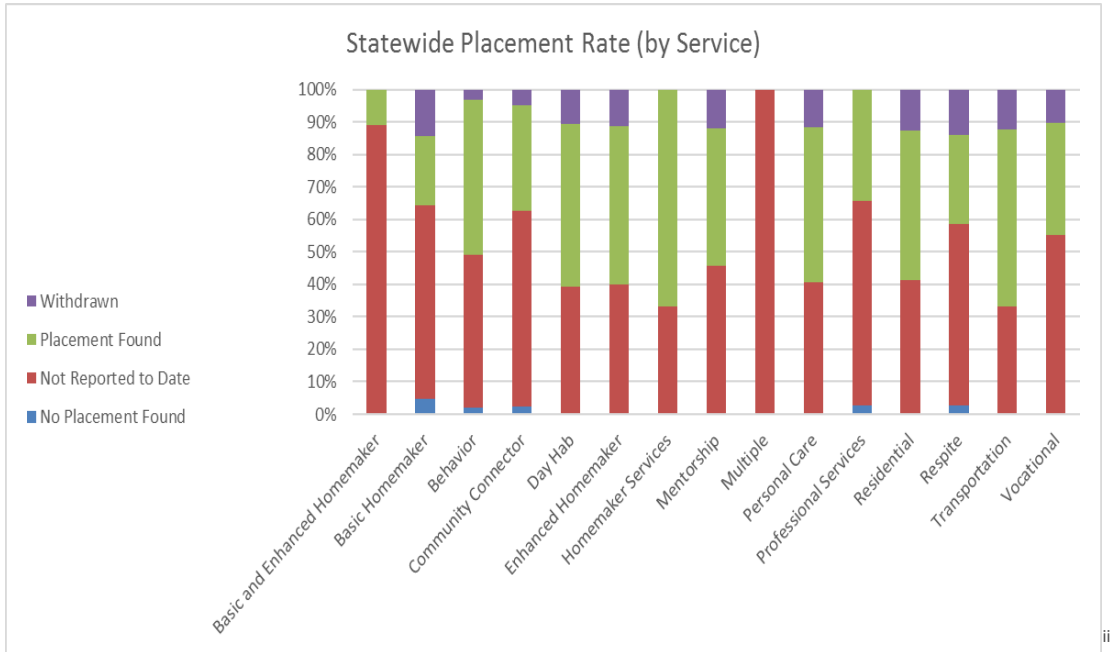
We recognize that efforts are underway to redesign Colorado's IDD service system and that federal policymakers are discussing ways to restructure and curb costs in Medicaid. Yet, while stakeholders work together to plan for these reforms, indicators of shrinking provider capacity are evident and growing. These indicators are evidence that our service delivery system, as it is currently funded, is unsustainable:

- An increasing number of people seeking services receive no response to requests for services (commonly referred to as RFPs) and have difficulty finding placements. For example, 49% of all RFPs sent out during May and June 2016 failed to result in individuals finding a service placement as of October 15, 2016, about four

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months later.ⁱⁱ By the same date, 20% of these RFPs had received no response from community providers, meaning there were no providers willing to offer those individuals the services they need. Figure 1 shows placement rates for May and June RFPs by service.

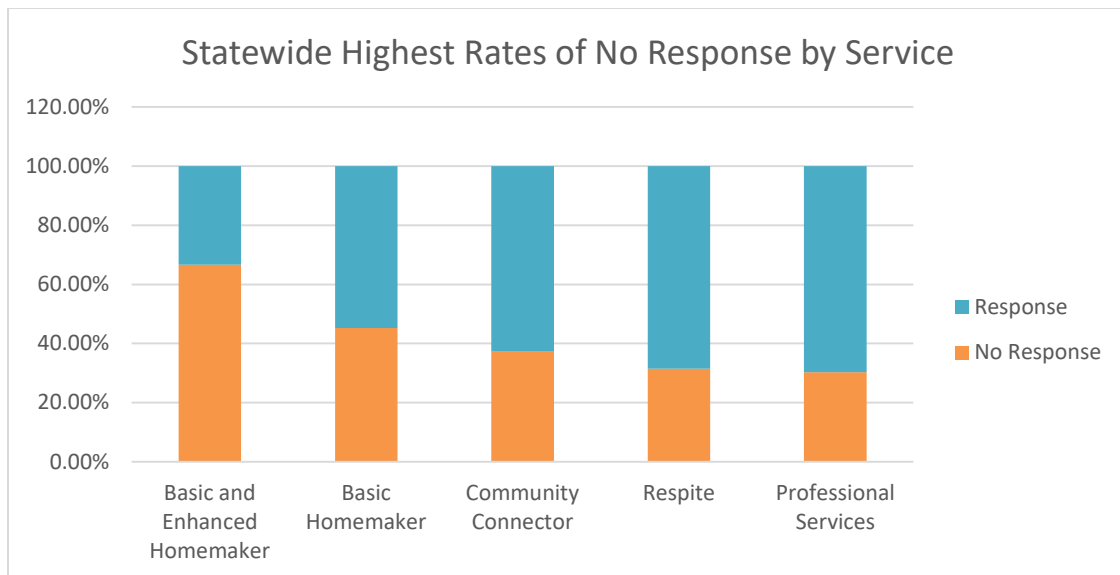
Figure 1



- An increasing number of providers are declining to provide Supported Living Services because the reimbursement rates do not cover the cost of delivering the services. For example, it costs providers an average of \$20.20 per hour to employ a direct support professional,^{iv} yet the rates for some supported living services are as low as \$14.92 (SLS Homemaker Basic^v) or \$19.80 (SLS Respite and Personal Care^{vi}) per hour. This discrepancy in reimbursement and the resulting lack of willing providers is borne out in RFP data. For example, for May and June RFPs, 34% of requests for homemaker services (including both Homemaker Basic and Homemaker Enhanced) did not elicit a single response from an agency willing to provide services four months later.^{vii} When considering only those requests that include Homemaker Basic, the rate of non-responsiveness jumps to 50%.^{viii} Likewise, 38% of Supported Community Connector requests and 32% of Respite requests received no response from providers.^{ix} Figure 2 shows the services that receive the lowest number of provider responses.

It costs an average of \$20.20 per hour to employ a DSP, yet some services rates are as low as \$14.92 and \$19.80 per hour. Providers lose money for every hour of these services they provide.

Figure 2



- Due to insufficient reimbursement rates, providers often struggle to provide supports such as

Because reimbursement rates don't cover the cost of services, many providers are declining to offer Supported Living Services in any fashion, and others are relying on grouped, rather than individualized, supports to maintain their programs.

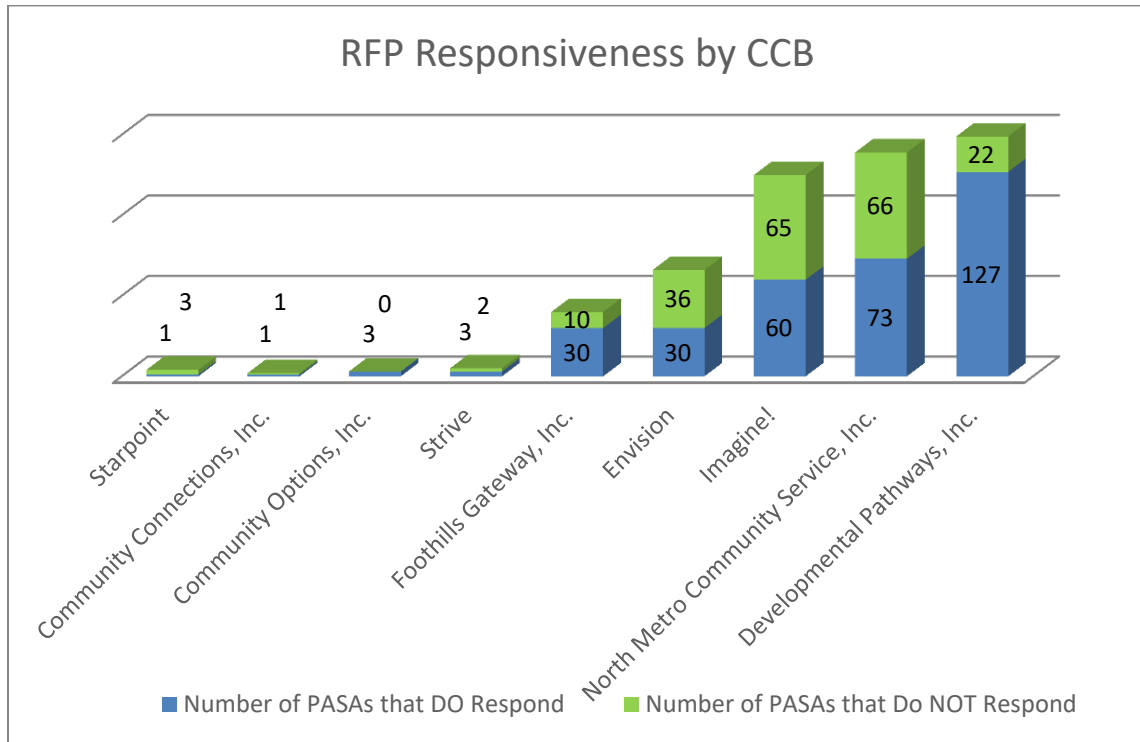
Homemaker Basic as a stand-alone service.

This limits provider options for individuals who are only looking for a single service. Similarly, individuals are often forced to accept a package of services from a provider, rather than choosing providers a la carte. These economic realities make it difficult to ensure that Colorado's service system is person-centered.

- Despite a growing number of certified providers, total provider capacity across the system does not appear to be increasing. Most

of these new providers only serve one or two people and, therefore, do not regularly respond to requests for services. For example, although there are 128 certified providers serving Boulder and Broomfield counties, only 56 provide at least one service to one person in that region^x. This is a typical scenario in Colorado's urban communities. Across nine Community Centered Boards (CCBs) that were able to fully report on RFP responsiveness, an average of 41% of certified providers do not regularly respond to RFPs.^{xi} Figure 3 shows the rate of non-CCB provider response to RFPs for nine CCB catchment areas.

Figure 3



- The variety of available service models is also on the decline as insufficient funding forces providers to reduce more costly models. For example, 14 group homes closed statewide during the last year,^{xii} and several more have closed since the conclusion of Alliance’s data collection efforts. While individual residential arrangements are preferable for most, group homes typically offer an emphasis on medical and behavioral supports. While efforts are always made to maintain community placement, in a worst-case scenario, group home residents may be referred for placement in state-operated Regional Centers when group homes close. Other service categories are impacted as well. Providers report that they are unable to offer the types of individualized supports that work best in services like Supported Community Connector and Supported Employment, and instead must rely on grouped service models to break even.

When considering these facts, the question of their cause arises. We believe the following are the biggest contributing factors to our sustainability problems:

- Community provider rates were reduced during the recession and were never restored to pre-recession levels. Despite modest IDD rate increases in recent years, rates continue to lag behind the rate of inflation and the cost of doing business continues to rise. The cost of living in the Denver metro area has

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- Existing rate methodologies are out of alignment with the current cost of delivering services, and, as described above, many services are reimbursed at rates below the cost of delivery.
- Over 90% of funding for home- and community-based services comes from state and federal Medicaid dollars, which providers cannot negotiate. Unlike some other federal programs, the rates are fixed. Providers cannot charge for their services and, therefore, have no way to pass on increasing costs to their customers.
- Alliance advocated for and fully supported the General Assembly's decision to eliminate the Supported Living Services waiting list. However, the influx of additional service recipients put strain on the already under-funded system, further compounding the impacts of service limitations and rate inequities.
- As discussed below, funding reversions in recent years have eliminated the ability to use a portion of appropriated dollars for needed services.

AVAILABLE FUNDS MUST BE USED EFFICIENTLY

By ensuring the most efficient use of public dollars, we believe that the General Assembly can ensure a more sustainable system within the funds it has currently budgeted for IDD services. Despite the fact that the IDD system has reverted unused funds in recent years, needs continue to go unmet. The following are indicators of system inefficiencies:

- Despite IDD system reversions, more than 2,300 people continue to wait for requested waiver services.^{xiii}
- Individuals are often enrolled into waiver services but wait months before receiving support due to the time it takes to find a provider willing to provide the requested services. Thus, the work of the General Assembly to eliminate waiting lists – while critical – has simply moved the point in the process at which individuals are waiting for services. Statewide, individuals wait an average of 47 days, or more than a month and a half, from a request for service to the individual starting service with their chosen provider. With service

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plans typically lasting 12 months, this represents 13% or more of the plan year without a needed service in place, and significantly more for service plans which may span only 8 or 9 months. This wait time results in months of unspent dollars that end up being lost to the system through reversions. Moreover, without timely access to services, people must rely on unpaid natural supports to fill the gap, creating a ripple effect of stress and strain on the support system. Figure 4 shows the average placement time by Community Centered Board.^{xiv}

Avg. Placement Time in Days (by CCB and Program)					
Row Labels	CES	DD	SLS	State SLS	Grand Total
Bluesky	49	39	40	42	41
DDRC	N/A	49	53	21	50
DP	52	52	48	30	50
Eastern	N/A	81	N/A	N/A	81
Foothills	38	79	59	53	58
Imagine	29	19	41	31	35
North Metro	19	37	34	N/A	33
Strive	N/A	0	84	N/A	42
Grand Total	48	48	48	32	47

- Service limitations established in 2011 on important supports such as day habilitation and behavioral services were intended to cut costs during the recession. Despite a strong economy and annual funding reversions, these limitations were never lifted. As a result, people are left with unmet needs and providers struggle to continue offering these services, even at reduced levels. At Developmental Pathways (DP), Colorado's largest CCB, 90% of individuals who have behavioral assessment services in their plan need levels at or above the service limitation. In the adult IDD waivers (Developmental Disabilities and Supported Living Services), 71% of DP customers receiving behavioral consultation services need levels at or above the limitation, and in the DD waiver, 66% of DP customers are at or above the 4,800 unit limitation for Specialized

The average turnover rate for Direct Support Professionals in Colorado is 38%. Staff turnover costs Colorado's IDD system millions each year and creates disruption in services.

Habilitation, Supported Community Connections, and Prevocational services combined.

- Current rates are insufficient to support wages needed to recruit and retain a qualified direct support workforce. The average turnover rate for Direct Support Professionals (DSPs) in Colorado is 38%, with some agencies experiencing upwards of 81%

DSP turnover.^{xv} According to national data, the cost of DSP turnover is \$4,872 per person.^{xvi}

Based on these figures and the number of DSPs employed by Alliance members, we estimate that staff turnover costs Colorado's IDD system more than \$6 million annually, just for DSPs. And these costs do not capture the most important impact of employee turnover: service disruption for people with disabilities.

COLORADO'S IDD SYSTEM MUST BE PREPARED FOR THE FUTURE

In addition to the sustainability and efficiency challenges listed above, a number of new federal regulations and state-level policy initiatives will result in increased costs to providers without additional funding. While we support many of these policies, their associated costs will undoubtedly result in negative impacts for the direct support workforce and the people with disabilities they support. They include:

- New federal rules for Home- and Community-Based Services representing the largest overhaul since the program's inception, requiring: person-centered planning processes; new standards for service settings and related provider surveys, site visits, and transition plans; and new conflict-of-interest requirements resulting in costly systems-change efforts.^{xvii} The costs of this rule are difficult to predict because the state is in the early stages of transition planning, but are likely to be significant.
- Steadily rising health insurance costs statewide, and especially in Western Slope communities, continue to strain provider budgets and make competing for qualified employees ever more challenging. From 2014 to 2017, health insurance costs in the small group and individual markets have risen 7.84% and 30.91%, respectively.^{xviii} One Western Slope provider's costs for insuring its employees have risen approximately \$350,000 over the past five years. At this agency, premiums have gone from \$575 to \$840 per month per person, in addition to increases in deductible and copay amounts for employees.
- Amendment 70 will increase the Colorado minimum wage to \$12 per hour by 2020, providing much-needed wage increases to Direct Support Professionals, but, at the same time, adding significant costs for providers. One Western Slope member estimates this change will cost its agency over \$120,000 in just the first year based on historical personnel data. When compounded over four years, the additional cost to the agency amounts to more than \$705,000.^{xix} Even agencies whose wages meet or exceed the new

For one Alliance member, meeting new minimum wage requirements will cost \$120,000 in 2017, and \$705,000 over four years, with no way to increase revenues to cover the costs.

minimum struggle to find workers willing to provide direct support services. As wages in other unskilled industries rise, this challenge will only grow. Workforce shortages in the direct support field are well-recognized and growing. The supply of workers available does not meet the demand, and this gap is projected to grow significantly as the nation's population ages in the coming years.^{xxi} Other states that have invested funds to increase DSP wages above the state's minimum wage have seen significant reduction in turnover, which reduced overall system costs and service disruption.^{xxii} With an increased minimum wage in Colorado and no commensurate increase in funding, agencies serving people with IDD will be left further behind in the effort to recruit quality staff.

- Implementation of the Workforce Innovation and Opportunity Act (WIOA) by the Colorado Division of Vocational Rehabilitation (DVR)^{xxiii} and recent U. S. Department of Justice guidance on employment supports^{xxiv} may create considerable disruption to day habilitation and employment services. New definitions in WIOA and interpretation by the DOJ indicate that a significant portion of existing day and employment services are out of compliance with federal requirements, putting funding for these supports at risk and exposing providers and the State to *Olmstead*-based lawsuits.
- New labor rules that more than double the salary threshold for exempting executive, administrative, and professional employees from overtime pay.^{xxv} The threshold will continue to increase at regular intervals. Among Alliance members, costs to implement the rule per agency in just the first year range from \$38,700 to \$150,000. Nationally, the rule is estimated to cost IDD providers between \$1 billion and \$1.87 billion per year.^{xxvi}
- New labor rules that prohibit providers from claiming the companionship exemption from minimum wage and overtime for certain workers further expose providers to what can be unpredictable staffing costs.^{xxvii}
- Ongoing efforts to reduce the census at the Colorado Regional Centers emphasize the transition of current residents to private, community providers. However, transitioning these individuals into an unsustainable community system will further exacerbate provider capacity issues and compromise the residents' success with their new providers. This is especially true because the Regional Centers receive significantly more funding to serve these individuals than community providers do when they transition.^{xxviii} If Colorado wishes to continue its commitment to deinstitutionalization and fulfill the promise of the *Olmstead* decision,^{xxix} it should increase community capacity to adequately serve Regional Center residents, who typically have significant needs.

THE GENERAL ASSEMBLY SHOULD USE REVERSION FUNDS TO ADDRESS UNMET NEEDS

Over the past three fiscal years, \$48 million in service delivery monies appropriated for IDD services have been reverted, despite unmet community need. In FY 2017-18, the Governor's office has projected that another \$18.6 million will be reverted.^{xxx} Once reverted, these monies are lost to the service system,^{xxxi} even though thousands are still on the waiting list for comprehensive waiver services, and those who are enrolled in services go without requested services, wait months to find providers, or manage with fewer services than they need. We are dismayed when we consider the number of individuals and families that could have been helped with these funds. We cannot let the General Assembly's commitment to Coloradans with IDD go to waste.

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While a variety of factors likely contribute to these reversions, the fact that current rates are not aligned with the cost of providing services is a large part of the puzzle. Unspent funds are not an indication of a lack of demand for services, but, rather, an indication of inadequate rates and other challenges resulting in a lack of willing providers.

Given Colorado's challenging budget climate, we recognize that finding solutions to all of the issues identified in this paper will be difficult, and will require commitment on the part of the General Assembly, the Department of Health Care Policy and Financing, community providers, and other stakeholders. However, we believe that the General Assembly can make significant improvements by capturing funds that would otherwise revert in the current fiscal year and reallocating them to provide system stability to Colorado's strained IDD system. In so doing, the General Assembly would be preserving its promise to Coloradans with IDD and their families and ensuring that the funding they have allocated remains available for its intended purpose.

The bottom line: Colorado's IDD system has reached a tipping point. If system funding issues are not addressed, providers will continue to face difficult decisions with compounding negative impacts. These will include scaling back on services, employee wages, or both, leading to disastrous consequences for the individuals they support.

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REFERENCES & ADDITIONAL INFORMATION

ⁱ United Cerebral Palsy, *The Case for Inclusion* (2016), <http://cfi.ucp.org/wp-content/uploads/2014/03/Case-for-Inclusion-2016-FINAL.pdf>.

ⁱⁱ Alliance Statewide RFP Data Collection (Fall 2016). Alliance collected statewide RFP data from all Colorado Community Centered Boards for RFPs sent out during the months of May and June 2016. Results of these RFPs were analyzed through October 15, 2016.

ⁱⁱⁱ Alliance Statewide RFP Data Collection (Fall 2016). For purposes of RFP Placement Times, only data from May – June, 2016 are used. Two CCBs were unable to participate in the RFP reporting process for these months.

^{iv} Alliance Member Data Collection (2015).

^v Colorado Department of Health Care Policy and Financing, *Home and Community Based Services DD, SLS, and CES Rate Schedules Fiscal Year 2016-17*, https://www.colorado.gov/pacific/sites/default/files/HCBS%20DD%20SLS%20CES%20Rate%20Schedules%20FY1617_3.pdf. Homemaker Basic Services consist of the performance of basic household tasks within the individual's primary residence (e.g., cleaning, laundry, or household care) when assistance is needed due to the individual's disability.

^{vi} *Id.* Respite Services provide short-term coverage needed because of the absence of, or need for relief for, the primary caregiver. Personal Care Services offer a range of assistance to enable the individual to accomplish tasks that they would normally do for themselves (e.g., hygiene, bathing, eating, dressing, bowel and bladder care, transferring).

^{vii} Alliance, *2016 Member Data Survey*. Forty-five Alliance members were surveyed across all Colorado communities on a number of topics including reimbursement rates, business practices, incarceration rates, and client satisfaction.

^{viii} *Id.*

^{ix} *Id.*

^x As reported in mid-October, 2016 by Imagine!, the Community Centered Board for Boulder and Broomfield Counties.

^{xi} Alliance, *2016 Member Data Survey*.

^{xii} Alliance, *2016 Member Data Survey*.

^{xiii} 2,310 individuals are on the "as soon as available" waiting list as of October 2016, as reported by the Division for Intellectual and Developmental Disabilities to Alliance.

^{xiv} Alliance Statewide RFP Data Collection (Fall 2016). For purposes of RFP Placement Times, only data from May – June, 2016 are used. 921 RFPs were sent during this time period. Five CCBs recorded 0 RFP requests sent out during the aggregation period and so are not included, and two CCBs were unable to participate in the RFP reporting process for these months.

^{xv} Alliance, *2016 Member Data Survey*.

^{xvi} American Network of Community Options and Resources, *2009 Direct Support Professionals Wage Study*, http://www.ancor.org/sites/default/files/pdf/ancor_wage_data_summary_2009.pdf.

^{xvii} 42 C.F.R. pt. 430 et seq., available at <https://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf>.

^{xviii} Colorado Health Institute, *Dramatic Price Increases: A Look at Colorado's 2017 Individual and Small Group Insurance Premiums* (2016), *Rates on a Roller Coaster: A Look at Colorado's 2016 Individual and Small Group Insurance Premiums* (October 2015), *2015 Colorado Health Insurance Rates* (September 22, 2014), <http://coloradohealthinstitute.org/key-issues/detail/health-coverage-and-the-uninsured/insurance-rates>

^{xix} Community Options, Inc. Minimum Wage Analysis (November 16, 2016).

^{xx} Additionally, this proposal will likely have unintended negative consequences for people with IDD seeking competitive, integrated community employment. It will cost more for employers to pay the minimum wage, likely leading to reduced service options and more sub-minimum wage placements.

^{xxi} Centers for Medicare and Medicaid Services, *Issue Brief: Opportunities for No Wrong Door/Single Entry Point Systems to Strengthen the Home and Community-Based Direct Service Workforce* (2013), available at <https://www.medicaid.gov/medicaid/ltss/downloads/workforce/issue-brief-opportunities-nwd-sep-systems.pdf>.

^{xxii} Harris-Kojetin, L., Lipson, D., Fielding, J., Kiefer, K., & Stone, R. I., *Recent findings on frontline longterm care workers: A research synthesis 1999-2003* (2004), available at <https://aspe.hhs.gov/basic-report/recent-findings-frontline-long-term-care-workers-research-synthesis-1999-2003#sectionIV>.

^{xxiii} Colorado Division of Vocational Rehabilitation (2016), *Service Delivery Policy*. pp. 127-133, <https://www.colorado.gov/pacific/sites/default/files/DVR%20Policy%20Manual%20September%202016.pdf>

^{xxiv} U.S. Department of Justice (2016), *Statement of the Department of Justice on Application of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C. to State and Local Governments' Employment Service Systems for Individuals with Disabilities*, https://www.ada.gov/olmstead/olmstead_guidance_employment.pdf

^{xxv} 29 C.F.R. pt. 541. A Texas court has awarded a temporary injunction in a lawsuit challenging the rule. Its implementation has been delayed pending the outcome of the case. While the rule may not survive the legal challenge or be overturned by the new federal Administration, some agencies had already come into compliance prior to the court granting the injunction. These providers will have difficulty reversing staffing decisions

^{xxvi} Avalere Health, *Cost Impact Scoring Memo*, March 2016, http://cqrcengage.com/ancor/file/usmhoUJ4DDK/ANCOR%20Cost%20Impact%20Scoring%20Memo_final.pdf

^{xxvii} 29 C.F.R. pt. 552.

^{xxviii} For example, the average annual cost to serve a Regional Center resident in a waiver-funded group home is \$105,960, yet the average annual cost for similar supports in a community placement is about \$52,644. (Regional Center Task Force Final Report, (2015), http://regionalcentersforum.weebly.com/uploads/2/4/8/8/24880735/hb14-1338_regional_centers_task_force_final_report_12-23-15.pdf)

^{xxix} *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999).

^{xxx} Governor's Office of State Planning and Budgeting, FY 2017-18 Budget Request (November 1, 2016), <https://drive.google.com/file/d/0B0TNL0CtD9wXTjBnQzRDd25CZE0/view>.

^{xxxi} Sec. 25.5-10-207 C.R.S. requires that any unexpended and unencumbered funds appropriated by the General Assembly for IDD services be transferred to the Developmental Disabilities Services Cash Fund at the end of the fiscal year for which they were appropriated. However, in recent years, a large portion of these unexpended dollars were reverted back to the state General Fund through the mid-year supplemental process, rather than being transferred to the DD Services Cash Fund. Once transferred to the General Fund, these monies are no longer available for use in the DD service system.