Health & Human Services Subcommittee of House Finance
House Bill 153 – April 6, 2011

Thank you to Chairperson Burke, Ranking Member Goyal and members of the Health & Human Services Subcommittee of House Finance for allowing me to testify today on House Bill 153. My name is Mark Davis, and I am President of the Ohio Provider Resource Association, a trade association representing community-based providers of services to individuals with intellectual and developmental disabilities.

I am here to discuss the state budget with regard to Medicaid services being provided by our members and other issues that impact Ohioans with developmental disabilities and our members. This includes both the ICF program and home and community based waivers. I will also provide recommendations for administrative simplification and sustainability. OPRA fully understands the difficult budget situation that the state of Ohio is currently facing. Providers are seeing similar difficulties and many have experienced losses in recent years as rates have not kept pace with inflation or have remained stagnant. The key findings of the 2009 Ohio Compensation, Benefits & Turnover Survey are attached to my testimony (Attachment 1). As you can see, this survey found 50% turnover among our direct support professionals, shrinking wages, wages significantly below public sector employee wages and 80% of reporting employers having employees on public assistance. Our workforce is fragile, even in these tight economic times.
Starting in the Spring of 2008, OPRA engaged its members and other stakeholders in strategic discussions about how our system may operate more efficiently. We continue to work collaboratively with individuals with developmental disabilities, the Ohio Department of Developmental Disabilities (DODD), county boards, family members and others to ensure the programmatic and fiscal sustainability of our service system. While reeling a bit from the cuts proposed in HB 153, we remain hopeful that together we can continue our work to build a sustainable system with diminished resources.

In addition to my testimony, you will hear from four of our members today. They will speak from their years of experience, on how the proposed budget falls short in a few areas. Their and my testimony is provided with the utmost respect for Directors Moody, Martin and McCarthy. We are grateful for their budget strategies involving individuals with developmental disabilities and providers. We are committed to working with the administration on sorting out the details of their strategies. For it is in the details, that the majority of our concerns exist.

ICF/DD

First, I will address issues relevant to the Intermediate Care Facility for the Developmentally Disabled (ICF) program. The ICF program has been historically funded through Medicaid’s 525 line item and provides a wide range of vital services to people 24 hours a day/365 days a year. ICFs range in size from small home settings with 4 individuals to larger facilities with over 100 beds that serve those with higher-level needs. Over 5,900 people reside in non-State operated ICFs in Ohio. More than 1,200 people live in state developmental centers.

ICF’s operate nearly at 100% capacity, and many providers have waiting lists. There is a clear demand for services. The program relies almost completely on Medicaid as a source of
funding. Very few individuals served have a different payment source. We are grateful for the support the ICF program has received over the years. However, we have identified issues in House Bill 153 that cause OPRA members some concern.

ICF reimbursement is calculated through a cost-based formula that is laid out in the Ohio Revised Code. Albeit complex, the ICF payment system is fair, logical and has long been a source of stability for the program. Eight language changes in the budget threaten the current system.

1. The FY 12 - 13 budget proposes to remove part of the ICF funding formula from statute and places it in administrative rule. This move brings unpredictability to a system that depends on Medicaid and removes legislative control of the ICF reimbursement formula.

   Solution: Keep the ICF formula in statute instead of moving parts of it to the administrative code.

2. HB 153 also proposes no change in the ICF formula for FY 12 - 13. Without change, the rollback in the formula will result in unintended consequences that will place services in jeopardy. For instance:

   • This rollback approach penalizes providers whose cost is at or under the cost ceilings while providing disproportionately more funding to those whose costs exceeds the ceilings.

   • Smaller facilities have less of their cost reimbursed than large facilities.

   Solution: Adopt the formula changes recommended by OPRA that remove the rollback over a 2-year phase in period.
3. HB 153 proposes a new reimbursement system for ICFs with no mention of the Individual Acuity Form (IAF) that drives reimbursement. It is our belief that the IAF needs to be revised first, before any other changes are done to the reimbursement system.

4. HB 153 would not authorize outlier payments to ICFs who admit people discharged from the state operated developmental centers. The bill includes this authorization if the person is discharged to a waiver setting, but not an ICF. This will create a significant roadblock to DODD’s goal of downsizing their developmental centers. Acuity data from DODD (Attachment 2) on the people served in developmental centers indicates a higher than average acuity level for people in developmental centers than for people served on the Individual Options waiver. We need to assure that people who want to live outside of the developmental center are allowed to do so with no roadblocks from our system.

5. HB 153 proposes possible changes to the ICF bed hold days. Payment for these days is critical to ICFs ability to maintain the living arrangement for a person who is admitted to the hospital or is on therapeutic leave. Otherwise, the ICF may be forced to discharge the person and to fill the bed with someone else from their waiting list. ICF’s are nearly 100% occupied and nearly 100% reliant on Medicaid. People who live in ICF’s are typically there to reside, not for “rehabilitation”.

6. HB 153 proposes the transfer of the ICF program to DODD. Our members have some concerns about the impact of this transfer on the long term viability of the
ICF program. We suggest that this transfer be clearly explained in statute and that the ICF program funds be kept in the 525 line item.

7. ODH and DODD both perform on-site regulatory reviews of ICF’s. The field has recognized for a long time that these reviews are a duplication of effort. We recommend the elimination of the duplication of reviews with ODH and DODD.

8. HB 153 would authorize the partial conversion of ICF to waivers yet proposes to require the ICF to talk with all residents instead of only those who are interested in waiver services. This would create confusion and diminish the number of ICF’s who would be interested in pursuing this option.

These requests do not require any changes to the current budget appropriation and the need for stability at this time is imperative.

**HCBS Waivers and Other Services**

I will now discuss home and community based waivers and other services. Across Ohio, approximately 28,700 individuals receive services through home and community based waivers. Our state’s DD system will be impacted significantly by the budget cuts in proposed in HB 153. Waiver service utilization, county board subsidies, APSI funding, family support funding are integral components of our already fragile system of care. Cuts to these areas will impact the services we are able to provide to Ohioans with developmental disabilities. Any further cuts would be devastating.

Director Martin and the administration were able to craft a proposed budget that does not include waiver provider rate cuts. We are very grateful that Director Martin understands the plight of our members and how provider rate cuts would destabilize an already fragile system.
The proposed funding levels are necessary to ensure health and safety is maintained for the over 80,000 individuals served by Ohio’s system of MR/DD. It will be challenging to remain flat in waiver funding, let alone achieve a 3% reduction in utilization. We are encouraged by Director Martin’s stated plan to propose “to CMS a small pilot project to test reducing utilization by increasing the size of the billing unit, thereby reducing administrative overhead and creating more flexibility to control utilization. Our experimentation with this project will help determine if this method can have positive statewide implications.” OPRA is actively involved with the county boards’ association on this work with DODD. Our common interest is in providing for the long-term fiscal sustainability of the system through efficiencies and less burdensome regulation.

APSI provides very important protective services to over 4,300 Ohioans with developmental disabilities. The number of people served by APSI has grown by 40% over the past ten years. Since needing to start a waiting list in 2009, the number of people waiting for service from APSI has grown from 44 people to 299!

HB 153 proposes changes in the waiver reimbursement statute, 5111.873, eliminating the statewide fee schedule and giving broad authority to DODD and ODJFS to set rates. This reverses the hard-fought statewide fee schedule requirement that the legislature mandated so as to have fees that were consistently calculated statewide. This proposed change may once again lead to significant discord among stakeholders, something we have worked hard to avoid.

Other Items

1. 5123.0420 as proposed would give broad reaching authority to the Director of DODD to take action and set policy that is “inconsistent with one or more provisions of this
chapter (5123), Chapter 5126 of the Revised Code, or a rule adopted under either chapter.” As this is not time-limited, does not require any rule or other public process, it has far reaching implications well beyond anyone’s imagination.

2. OPRA is recommending that providers and county boards who hold national accreditation be deemed certified and accredited, respectively, by DODD. This would eliminate the duplication of reviews and incentivize providers and county boards to hold national accreditation.

3. I have outlined a number of language issues that we have identified. As you well know the budget language is lengthy and just recently introduced. We are reviewing with all diligence. It is quite possible that I have missed something in my testimony that we subsequently would appreciate being addressed. We will approach those issues if they appear with your offices separately.

Thank you for allowing me to testify before you today. On behalf of the OPRA membership and individuals served in our system, I appreciate your consideration of our requests. I am happy to take any questions at this time.