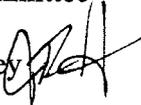


MEMORANDUM

November 30, 2017

TO: Health and Human Services Committee

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Worksession:** Bill 35-17, Finance – Payments to Service Providers

Bill 35-17, Finance – Payments to Service Providers, sponsored by Lead Sponsor Council President Berliner and Co-Sponsors Councilmembers Leventhal, Elrich, Katz, Floreen, Rice, Huckler, Council Vice-President Riemer and Councilmember Navarro, was introduced on October 31, 2017. A public hearing was held on November 28.

Bill 35-17 would:

- define terms related to the annual supplement to certain providers of services to persons with developmental disabilities (currently provided through the budget resolution);
- require that a payment be made to eligible providers each year, to the extent that funds are appropriated;
- require the Director of Finance, in setting the amount of the payment, to consider the State reimbursement rates to service providers and the additional operating support needed to allow each service provider to pay direct service workers, on average, 125 percent of the County minimum wage;
- establish eligibility standards for a provider to receive the payment, including demonstrating to the Department of Health and Human Services that it pays direct service workers at a rate specified in the Council's current operating budget resolution; and
- provide for the issuance of method (2) regulations to administer the law.

Background

For many years, Montgomery County has chosen to pay a supplement to certain providers of direct services to developmentally disabled individuals (“DDA providers”) in recognition that the State’s reimbursement rates do not take into account the higher cost of living in Montgomery County. For many years, this supplement (“DD Supplement”) was distributed based on the number of clients, the severity of their disability, and services required as determined by the State. Many years, the total amount of funding was increased by a percent or by an amount that recognized the increase in the number of people being served (expansion adjustment). Starting in FY13, the HHS Committee discussed in more detail how these funds were used by organizations.

While most organizations used the additional funding to increase wages, there was no requirement or reporting on whether the funds were being used for this purpose. The HHS Committee recommended, and the Council agreed, that starting in FY15, organizations would have to report to DHHS on the use of funds. There was a phase-in period for the requirement that these funds be used to ensure worker pay would be above the State minimum.

In FY16, additional funding was added so that the DD Supplement would allow DDA providers to pay workers at least 25 percent above the minimum wage. In FY17, the Council specified that 100 percent of the supplement was to be used to ensure that workers received, on average, at least 125 percent of the Montgomery County minimum wage.

The FY18 Operating Budget includes the following provision:

This resolution appropriates \$14,729,712 to the Department of Health and Human Services to provide a supplement to organizations providing direct services to clients of residential, community supported living arrangements, day habilitation, or supportive employment provided through the Developmental Disabilities Administration. In order to receive this supplement, an organization must demonstrate to the Department that 100% of the funding is being used to increase the pay of direct service workers in recognition of the higher cost of living in Montgomery County compared to other parts of Maryland. Each organization must document to DHHS that the funds are being used for this purpose. Section G of this resolution includes entities eligible to receive this non-competitive payment. For FY18, funds are expected to allow organizations to pay direct service workers, on average, 124% of Montgomery County minimum wage.

During the Council's recent consideration of Bills to increase the County minimum wage – first Bill 12-16 and currently Bill 28-17 – these organizations raised concerns about the impact of the proposed increases on their ability to retain employees. This Bill would codify the above-described longstanding practice of providing financial assistance to DDA providers. The Bill would require that determination of the amount of the assistance include consideration of the State reimbursement rates to these organizations and the additional support necessary to allow the organizations to pay direct service workers, on average, 125 percent of the County minimum wage.

Public Hearing

Nine people testified at the November 28 public hearing. All speakers supported the Bill, and two requested that the Bill be amended to expand the payment beyond DDA providers. Seth Morgan, Chair of the Commission on People with Disabilities, conveyed the Commission's strong support for the Bill, noting the importance of the services and the higher cost of doing business in the County (©5). Tim Wiens, Co-Chair of Inter ACC/DD, a coalition of service providers, also expressed support for the Bill (©6-8). Mr. Wiens noted that Inter ACC/DD's estimated a need for an additional \$21,564,666 in FY23 could be significantly reduced if the County is successful in obtaining a Medicaid match and the State increases its funding based on the recently-released results of a State Rate Study. Betty Bahadori (©9), Kathy Perlman (©10), and Whitney Ellenby (©11-12) all spoke in support of the Bill, telling the Council of their experiences as parents of

children with Autism, and of the critical need for service providers. Each mentioned the difficulty of caregivers' jobs and the importance of consistency in the provision of services to their children.

Afshin Abedi, on behalf of the Maryland Association of Adult Medical Day Services (MAADS), requested that the Bill be amended to include adult medical day care (AMDC) providers as recipients of the payment under the Bill (©13-16). Mr. Abedi described State and Federal restrictions on AMDC providers passing on increased costs to consumers or reducing services or staff, and asserted that the similar need for these services justifies the same payment as is made to DDA providers. Larry Bram of Easter Seals expressed support for the Bill, and requested a more limited amendment to the Bill, expanding the payment to “non-profit Medical Adult Day Service providers for whom the majority of their participants are supported by governmental funding” (©17-18).

Issues for Committee Discussion

1. *Is it necessary to codify provisions related to the payment?*

As previously mentioned, payment of the DD Supplement to DDA providers is a longstanding practice, with the amount of the payment calculated each year as part of the County budget process. The payment has been, and could continue to be, made without any requirement in the County Code. The Bill does not, and could not, bind future Councils to make an appropriation, but it does codify the historic purposes of the DD Supplement, and sets a benchmark expectation that providers of direct services to developmentally disabled individuals pay workers, on average, 125 percent of the County minimum wage. With the escalation of the County minimum wage to \$15 per hour and beyond under enacted Bill 28-17, recognition of this benchmark and provision for the payment, albeit “to the extent that funds are appropriated,” represents a higher level of County commitment to ensure that these providers of important services can continue to operate. Thus, while not technically necessary to continue making the payments, the Bill is not entirely without function.

2. *What is the fiscal impact of the Bill?*

Inter ACC/DD has supplied an estimated cost of continuing the payment using the 125 percent of County minimum wage benchmark (see ©8). The Inter ACC/DD projections use the approved FY18 approved DD Supplement to establish a baseline, and estimate additional funding above the approved FY18 amount necessary to maintain wages at 125 percent of the County minimum wage for fiscal years 2019 through 2023:

<u>Fiscal Year</u>	<u>Additional Funding Required</u>
2019	\$2,297,115
2020	\$6,768,112
2021	\$11,464,280
2022	\$16,393,700
2023	\$21,564,666

Tim Wiens of Inter ACC/DD did note in his public hearing testimony that these projections essentially represent a worst-case scenario, and that increases in the State reimbursement rate and potential Federal Medicaid matching funds could significantly reduce the burden on the County.

3. *Should the Bill be amended to provide for a similar payment to adult medical day care service providers?*

During consideration of Bill 28-17, and again at the public hearing for this Bill, representatives of AMDC providers indicated that they are in a similar situation as the service providers that would be eligible for payment under the Bill. At the public hearing, Afshin Abedi of MAADS requested the Bill be amended to expand the payments to all AMDC providers, and Larry Bram of Easter Seals requested that non-profit AMDC providers be eligible for the payment. In his written testimony submitted at the public hearing, Mr. Abedi suggested that the cost to the County to extend the payment to AMDC providers would be relatively low compared to the cost to make the payment to DDA providers, and he provided cost estimates FY18 - FY23 (see ©14). The source or basis of these cost estimates is not provided.

Council staff believes that the payment *provided under the Bill* should not be expanded without a firm understanding of the potential costs of making such a commitment. As has been previously noted, the DD Supplement has existed for many years without a legislative mandate, and the way the Supplement is calculated has evolved over that time. Similarly, a payment can be made to AMDC providers without a legislative mandate. If the Council believes that a payment similar to the DD Supplement is warranted for AMDC providers, it could consider the appropriate scope (*i.e.*, all AMDC providers vs. non-profit AMDC providers) and amount of such payment in the budget process. This would allow the Council to more fully evaluate the need and likely cost to the County of continuing the payments. If through this process the Council determines that a legislative commitment is necessary, it could then amend the law to so provide.

Council staff recommendation: Enact the Bill with the existing provision of a payment to DDA providers, and evaluate the appropriate scope and amount of any payment to AMDC providers through the budget process. Council staff notes that it took more than one year to fully develop the criteria for the current DD Supplement and that DHHS must monitor and ensure that organizations are properly using these County funds.

4. *Should the Bill be amended to require that the payment be calculated by the Director of Health and Human Services rather than the Director of Finance?*

Executive branch staff suggested that it would be more appropriate to provide that the Director of Health and Human Services calculate the amount of the payment, rather than the Director of Finance as the Bill currently provides. Council staff agrees with this suggestion, since it is the Department of Health and Human Services that is generally responsible for interaction with the DDA providers, and is charged with verifying that payment recipients are eligible. The Director of Finance would remain responsible for the actual making of the payment.

Council staff recommendation: Delete the definition of Director on line 13, and amend lines 19-24 of the Bill as follows:

(b) Payment. Each year, to the extent that funds are appropriated, the Director of Finance must make a payment to each eligible service provider in recognition of the higher cost of living in Montgomery County compared to other parts of Maryland.

(c) Amount of payment. In calculating the payment, the Director of Health and Human Services must consider:

5. *Should the Bill be amended to clarify that the calculation of the “amount of payment” is a recommendation, subject to appropriation?*

As drafted, the Bill requires the amount of the payment to be calculated using certain considerations (see lines 23-28). Because the amount of the payment is ultimately subject to appropriation under the Bill’s own terms, Council staff believes that the Bill should be amended to clearly state that this calculation is, in fact, a recommendation. In addition, Council staff believes that the total cost of providing services should be considered in addition to the existing considerations, State reimbursement rates and additional operating support needed to allow providers to pay direct service workers, on average, 125 percent of the County minimum wage. Requiring that this recommendation be made to the Executive and Council by February 1 of each year should ensure that the payment receives appropriate consideration in the budget process.

Council staff recommendation: amend lines 23-28 as follows:

(c) [Amount] Recommended amount of payment. [[In calculating the payment, the]] The Director of Health and Human Services must, by February 1 of each year, recommend to the Executive and Council the amount of the payment, [[consider]] considering:

- (1) the State reimbursement rates to service providers; [[and]]
- (2) the total cost of providing services, including wages; and
- (3) the additional operating support needed to allow each service provider to pay direct service workers, on average, 125[[%]] percent of the County minimum wage.

6. *Will the provisions for payments in the Bill interfere with the County's proposal for a Federal match for the DD Supplement?*

Montgomery County is proposing the State support a Medicaid match for the DD Supplement. If approved, Federal dollars could be used for approximately one-half of this supplement and the County would pay the other half (it is approximate because some clients will not be covered by the waiver). The County's funds would go to the State, which would distribute them as part of the Medicaid payment.

There are two issues at the State regarding the approval and implementation of the County's proposal. First, the State is in the process of creating a new rate structure that is not expected to take effect until July 2019. Second, the State's current information system is not able to process the County's Medicaid match billing activity. For these reasons, it is unlikely the County's proposal will move forward before Fall 2018 at the earliest.

The County contracted with Baldacci Consulting Group (BCG) for analysis and advice on how best to structure a Medicaid match proposal. BCG has made suggestions such as focusing on a match for residential services or seeking a rate differential for Montgomery County with the County contributing the difference between this rate and the rate in other regions in the State. BCG has cautioned against a proposal that specifically says the County is only supplementing a wage, as Medicaid reimbursement is considered payment in full by the Centers for Medicare and Medical Services.

Council staff recommendation: Because a Medicaid match will not be available for fiscal year 2019, Council staff believes the Council can enact this bill without an impact on next year's budget. The language in the Bill does not specify the payment is a wage supplement, but it requires any organization receiving the payment to demonstrate that it pays direct service workers at the rate specified in the Council's budget resolution (which would specify the 125 percent of County minimum wage or different amount). Council staff recommends removing from the Council's budget resolution the requirement that 100 percent of the payment be used to increase pay. As the County moves forward with a proposal for a Medicaid match, the Council may have to amend this law (if enacted) if it is not in compliance with Medicaid regulations.

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Bill No. 35-17
Concerning: Finance – Payments to Service Providers
Revised: 10/20/2017 Draft No. 4
Introduced: October 31, 2017
Expires: May 1, 2019
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Berliner
Co-Sponsors: Councilmembers Leventhal, Elrich, Katz, Floreen, Rice, Hucker, Council Vice-
President Riemer and Councilmember Navarro

AN ACT to:

- (1) provide for an annual payment to certain providers of direct services to persons with developmental disabilities;
- (2) require the Director of Finance to consider certain factors in setting the amount of the payment;
- (3) establish eligibility standards for a provider to receive the payment; and
- (4) generally amend the law governing payments to service providers.

By adding

Montgomery County Code
Chapter 20, Finance
Article XVI, Payments to Service Providers
Section 20-83

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Article XVI (Section 20-83) is added to Chapter 20 as follows:**

2 **ARTICLE XVI. Payments to Service Providers.**

3 **20-83. Payment to providers of direct services to persons with**
 4 **developmental disabilities.**

5 (a) *Definitions.* In this Section:

6 (1) *Developmental disability* means developmental disability as
 7 defined in Section 7-101 of the Health - General Article of the
 8 Maryland Code.

9 (2) *Direct service worker* means an employee of a service provider
 10 that provides direct treatment or services to persons with
 11 developmental disabilities for at least 50[[%]] percent of their
 12 work hours.

13 (3) *Director* means the Director of the Department of Finance.

14 (4) *Service provider* means an organization providing direct
 15 residential, meaningful day (including employment and
 16 community development services) or support services to clients
 17 through the Developmental Disabilities Administration of the
 18 Maryland Department of Health.

19 (b) *Payment.* Each year, to the extent that funds are appropriated, the
 20 Director must make a payment to each eligible service provider in
 21 recognition of the higher cost of living in Montgomery County
 22 compared to other parts of Maryland.

23 (c) *Amount of payment.* In calculating the payment, the Director must
 24 consider:

25 (1) the State reimbursement rates to service providers; and

26 (2) the additional operating support needed to allow each service
 27 provider to pay direct service workers, on average, 125[[%]]
 28 percent of the County minimum wage.

29 (d) Eligibility for payment. To receive a payment under this Section, a
30 service provider must:

31 (1) demonstrate to the Department of Health and Human Services
32 that it pays direct service workers at a rate specified in the
33 Council's current operating budget resolution; and

34 (2) meet any other eligibility standards set in regulation.

35 (e) Regulations. The Executive may issue regulations under Method (2) to
36 implement this Section.

37 *Approved:*

38

Roger Berliner, President, County Council

Date

39 *Approved:*

40

Isiah Leggett, County Executive

Date

41 *This is a correct copy of Council action.*

42

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 35-17

Finance – Payments to Service Providers

DESCRIPTION:

Bill 35-17 would:

- define terms related to the annual supplement to certain providers of services to persons with developmental disabilities;
- require that a payment be made to eligible providers each year, to the extent that funds are appropriated;
- require the Director of Finance, in setting the amount of the payment, to consider the State reimbursement rates to service providers and the additional operating support needed to allow each service provider to pay direct service workers, on average, 125% of the County minimum wage;
- establish eligibility standards for a provider to receive the payment, including demonstrating to the Department of Health and Human Services that it pays direct service workers at a rate specified in the Council's current operating budget resolution; and
- provide for the issuance of method (2) regulations to administer the law.

PROBLEM:

Providers of services to persons with developmental disabilities are concerned that proposed increases in the minimum wage will hurt their ability to attract and retain workers.

GOALS AND OBJECTIVES:

Provide County commitment to funding for certain service providers in recognition of the higher cost of living in Montgomery County.

COORDINATION:

Department of Finance

FISCAL IMPACT:

ECONOMIC IMPACT:

To be requested.

EVALUATION:

To be requested.

EXPERIENCE ELSEWHERE:

N/A

SOURCE OF INFORMATION:

Josh Hamlin, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES:

To be researched.

PENALTIES:

None



COMMISSION ON PEOPLE WITH DISABILITIES

Testimony

Montgomery County Council

November 28, 2017

Bill 35-17, Finance-Payments to Service Providers

My name is Seth Morgan, and I currently serve as Chair of the Commission on People with Disabilities. On behalf of the Commission, I strongly support Bill 35-17 and commend the Council for its broad support for this legislation. There are over 4,000 direct service professionals who work in the County. This bill has language that Direct Support Professionals will, be paid 125% above the County's minimum wage. This will help agencies to recruit and retain direct support workers who provide care for persons who have a developmental disability.

Persons who receive services are mostly persons who qualify for Medicaid funded Services. Agencies funded by Medicaid are not able to reduce their services nor can they charge higher fees for services. The State is not obligated to pay higher rates because of the County's new minimum wage law. The higher cost of doing business in the County makes this legislation critical for those most vulnerable members of our community dependent on the support services provided to them as a result of this initiative. This truly is a critical life-saving and life-enhancing program and resonates with our recommendations to the County Council of the last years.

Thank you for your long-standing support and attention to meeting the needs of people with developmental disabilities and their families.

Department of Health and Human Services

401 Hungerford Drive • Rockville, Maryland 20850 • 240-777-1246 • 240-777-1288 FAX

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montgomerycountymd.gov/311



301-251-4850 TTY

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Montgomery County InterACC/DD

(Jubilee Assn) 10408 Montgomery Ave. Kensington, Md. 20895

Voice 301-949-8628 x 105

Co-Chair; Tim Wiens (twiens@Jubileemd.org)

Testimony

Montgomery County Council

November 28, 2017

Bill 35-17, Finance – Payments to Service Providers

My name is Tim Wiens, and I currently serve as Co-Chair of Inter ACC/DD, a coalition of about 30 agencies serving adults who have intellectual and other developmental disabilities in Montgomery County. We employ over 4,000 direct service professional (DSP). We support Bill 35-17 which includes specific language that Direct Support Professionals (DSP's) will, on average, be paid 125% above the county minimum wage.

We share with you a goal to increase the wages of low income workers. It is an issue of economic justice for our employees. Our employees should not be considered minimum wage employees. Our direct service employees are earning an estimated average of \$14.26 an hour in FY18 based on the increase in the DD Supplement you provided for the current fiscal year. This legislation would continue what the County has done for us under the current County minimum wage law.

As State Medicaid funded agencies we do not have the ability to reduce our services, nor do we have the ability to charge additional fees for our services. The State is not compelled to provide additional funding for additional County requirements. Without your financial support we cannot meet the obligations of the new law.

Under current conditions we estimate that our agencies will need an additional \$21,564,666 in FY23 when the minimum wage is \$15 an hour for nonprofit agencies. Inter ACC/DD agencies have worked with the County Department of Health & Human Services (DHHS) to track our direct service wage numbers to come up with these estimates. As part of this testimony I have included a chart which shows our projections. We are also working with DHHS to obtain a Medicaid match on these dollars which would significantly reduce to the cost to the County. Additionally, earlier this month DDA released the results of a State Rate Study that calls for an average DSP wage of \$13.03 an hour in FY20. If enacted as part of the FY20 State budget this would reduce the County obligation under this bill by about \$5,000,000 a year.

We are aware of the unintended consequences of passing minimum wage laws like this, in other jurisdictions, without including the financial resources to fund the requirements and it is not pretty. Carve outs or extending the implementation of the minimum wage are of little value to us, since we must compete for employees in this wage market.

Abilities Network/EFRCR, The Arc of Montgomery County, CALMRA, CHI Centers, Community Support Services, Inc., Compass Inc., Full Citizenship, CSAAC, Head Injury Rehab and Referral, Jewish Foundation for Group Homes, J.P. Kennedy Institute, Jubilee Assn., R.O.I., SEEC, TransCen, The Rock Creek Foundation, Treatment and Learning Centers and other providers and government agencies serving individuals with developmental disabilities.

Montgomery County InterACC/DD

(Jubilee Assn) 10408 Montgomery Ave. Kensington, Md. 20895

Voice 301-949-8628 x 105

Co-Chair; Tim Wiens (twiens@Jubileemd.org)

We are delighted that each one of you have signed on as sponsors or co-sponsors. You have all been supportive of our efforts to raise the wages of our Director Support Professionals in the past and we are very grateful for that continued support.

Abilities Network/EFCR, The Arc of Montgomery County, CALMRA, CHI Centers, Community Support Services, Inc., Compass Inc., Full Citizenship, CSAAC, Head Injury Rehab and Referral, Jewish Foundation for Group Homes, J.P. Kennedy Institute, Jubilee Assn., R.O.I., SEEC, TransCen, The Rock Creek Foundation, Treatment and Learning Centers and other providers and government agencies serving individuals with developmental disabilities.

Backup for the Projected Impact of a County \$15/Hour Minimum Wage on the Value of the DD Supplement with Five-Year Rollout

PER FY17 WAGE SURVEY *	
4,890,058	FY15 hours
5,030,495	FY16 hours per FY17 wage survey (3% increase from FY15)
5,181,410	FY17 projection (assumes a 3% increase)
5,336,852	FY18 projection (assumes a 3% increase)
5,496,958	FY19 projection (assumes a 3% increase)
5,661,866	FY20 projection (assumes a 3% increase)
5,831,722	FY21 projection (assumes a 3% increase)
6,006,674	FY22 projection (assumes a 3% increase)
6,186,874	FY23 projection (assumes a 3% increase)

Based on FY16 Direct Service Hours Data from the FY17 Wage Survey										
Year	County Min Wage	County Min Wage*125%	DDA Wage Factor *	Difference between 125% of County Min Wage and DDA Wage Factor	Supplement Needed to Maintain Wages (on average) at 25% above Min Wage	FY18 Approved DD Supplement Allocation	Add'l \$/hr Funded by FY18 Base Supplement	% Above County Min Wage (based on current allocation)	Additional Funding Needed to maintain wages at 125% (on average) - using the FY18 approved amount (\$14.7M) as the base	
	7/1/2016	10.75	13.44	10.94	2.50	12,940,571	13,800,221	2.66	26.5%	FY17 Approved
FY18	7/1/2017	11.50	14.38	11.50	2.88	15,343,450	14,729,712	2.76	24.0%	FY18 Approved
FY19	7/1/2018	12	15.00	11.90	3.10	17,026,827	14,729,712	2.68	21.5%	2,297,115
FY20	7/1/2019	12.75	15.94	12.14	3.80	21,497,824	14,729,712	2.60	15.6%	6,768,112
FY21	7/1/2020	13.50	16.88	12.38	4.49	26,193,992	14,729,712	2.53	10.4%	11,464,280
FY22	7/1/2021	14.25	17.81	12.63	5.18	31,123,412	14,729,712	2.45	5.8%	16,393,700
FY23	7/1/2022	15.00	18.75	12.88	5.87	36,294,378	14,729,712	2.38	1.8%	21,564,666

* Assumes a 3.5% increase in FY19 and a 2% in FY20 -FY23
 Done in collaboration with DHHS, and edited by Tim Wiens for Inter ACC/DD.

Testimony to County Council November 28, 2017

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My name is Betty Bahadori. I am the mother of a 30 year old son, Cyrus, who has severe Autism. I am speaking to you today on behalf of Autism Society Montgomery County in a plea to support funding for nonprofit agencies who care for people with Developmental Disabilities.

For approximately three decades Montgomery County has budgeted money that supplements the state rates for direct caregivers of people with disabilities. Yet each year we hear how money is tight, and we reach out to you to remind you why these funds need to be part of the budget.

My personal story brings a historical spotlight to the subject.

When I was two, my mother was hit by a car crossing the road to get the mail. The severe brain injury she suffered led to her institutionalization at "The State Home" in Michigan where we lived. Every Sunday after Mass Dad took us six kids, ages infant to eight, up the elevator to see Mom. For over 25 years, we saw her in a visiting room, but we passed the cribs with metal bars on all sides and the top in which adults with developmental disabilities lay in white cloth diapers. And that was how it was.

In the 80s, we resisted the movement to place her in the community after almost 2 decades at the State Home. We were assured that the funding, the money, would follow. And she thrived in the group home and day placement. She took less medication. She started to feed herself and walk. She went to Walmart! She did this only because of the dedicated staff.

Now our son needs 24 hour care by quality, highly trained, dedicated staff. In order to attract and retain direct caregivers, agencies caring for these most vulnerable people must pay them more than minimum wage regardless of what that number is.

Direct caregivers wear many hats as direct support, advocate, educator, nurse and friend. With a possible crisis around the corner at any time, they must be highly trained and able to make independent decisions that have huge implications for the health and safety of the individual being supported. With consistent staff, my son, Cyrus, can lead a busy, healthy and happy life. With inconsistent staffing, we see increased distress, significant weight gain, escalated self injury, destruction of property, and limitations to his ability to function in his home and the community. It is so, so heart breaking.

Please continue the county's historical financial support of people with developmental disabilities.

Thank you.

Betty Bahadori, Board Member of Autism Society Montgomery County
301-802-8343
11820 Pittson Road
Silver Spring, MD 20906

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Testimony County Council 11/28/17

Bill 35-17
Kathy Perlman

My son, Jeremy Perlman, is a 27 year old young man who has DD, blindness and autism. He has been in the residential program at Community Support Services (CSS) since 2009. He also participates in vocational and recreational programs at CSS.

Jeremy has trouble processing transitions, managing emotions and anticipating and coping with changes. Consistency in care is of vital importance to helping people like Jeremy enjoy the same home and community-based activities as the rest of us. Without that consistency Jeremy's life becomes one anxious moment after another. When the anxiety becomes too severe, withdrawal, refusal of favored activities and self-injurious behavior can often be the result. Once that spiral of negative consequence begins it is extremely difficult to get him back on track.

Jeremy has been fortunate to have some long-term caregivers, several of whom have been with him since his placement at CSS. He has also, unfortunately, gone through periods of rapid turnover of teachers and caregivers. The effect on Jeremy's behavior when he is with people who are familiar with him is striking. People who know Jeremy and have seen him function over time are much better able to help him participate in so many of the small pleasures of life that we all take for granted such as visits to pools, parks, and bowling alleys.

It is very difficult for agencies to recruit and retain people for employment as personal caregivers. The job is challenging and demands patience and empathy. It is also a role that requires the ability to connect with people who present behaviors that can be difficult to manage safely. These employees are well deserving of a higher wage but it would be difficult for hiring agencies to provide the mandated increase in the minimum wage without help from the county. A decrease in wages would no doubt lead to even greater turnover. Greater turnover leads to greater turmoil in the lives of Jeremy and people like him and to a significant loss of quality of life.

I hope that I can count on you to continue the salary supplement for personal care employees for the DD population in Montgomery County.



Jeremy at his gardening job with the help of personal care staff.

7

Testimony in Support of Bill 35-17 – to codify the 125% supplement to providers
Whitney Ellenby, Esq & Founder, Autism Ambassadors

Thank you for introducing this bill to recognize that just as the minimum wage must rise to ensure that workers in our County can afford to live here, so must the living wage rise to acknowledge the extraordinary work of those who provide direct support for adults with developmental disabilities who cannot survive without them. I come to this issue from a threefold perspective – as the mother of a magnificent 16-year-old with Autism, Zack; a formerly practicing attorney; and as someone who runs recreational events for over 700 families impacted by Autism, and for service providers in Montgomery County.

As a parent, I know that Zack is so significantly impacted by Autism that he will never live an entirely independent life. His very life and safety will depend entirely on the workers at issue here. As someone who deals with hundreds of parents through my Autism Ambassadors events, the refrain is as haunting as it is common, “I cannot get sick. I cannot die. My child cannot survive without me.” That’s how terrifying it is to imagine our disabled children surviving in a world without us to protect them. And the frightening part is that it’s true, our developmentally disabled children cannot survive without a surrogate to watch over them. The painful truth is that at Age 21, our kids age out of the school system, the entitlements end, and then they live largely on whatever government support is available. Or risk “falling off the cliff” – meaning no school program, no college, no work, no consistent care. **Quite literally, the only thing that stands between a safe and productive life versus genuine danger for our kids are service providers and their ability to pay a competitive wage to their employees.**

This is not a minimum wage job. It is a job that requires specific training and fierce dedication. It’s also all-consuming -- when a client collapses into a seizure, the aide holds them tightly, rides with the ambulance and remains at the hospital. I’ve seen aides slumped over and exhausted because when a client is up sick all night, like a dedicated nurse or surrogate parent, they are also up all night. Direct service providers are how our kids get to work, to recreation, to doctors. And if we do not pay them what they are worth we risk losing them to jobs that are far easier to do for the identical pay. And we don’t have to wonder what will happen if they leave, the news headlines make it clear ~ our children will elope into the distance, sprint into traffic, they might fall out of windows. They might die.

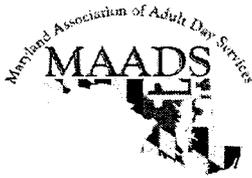
Please remember that direct service providers don’t do this because it pays well, it doesn’t pay nearly enough. I know because been on both sides. I was an attorney who made a high hourly fee, until I was a mother of an autistic child who was paid nothing to spend hours on my hands and knees scraping feces off walls. And now I know that nothing I ever did as a highly-paid attorney could compare with what service providers so do every single day for a fraction of what I was paid. And there’s nothing just about it. If we’re all being honest, if we

faced with the challenges they face, most of us would gladly pay that 125% above the minimum wage *NOT* to have to do their jobs. It's that hard.

I applaud the recent decision of the Council to be on the side of workers, I believe that was correct. **But if we are really on the side of the workers, we must acknowledge those extraordinary workers who do the job no one else is qualified to do, and that most of us cannot handle. When we raise their wage above the minimum it is not charity; it is an acknowledgment of what they deserve to be paid.** As a County, it's incredibly important that we let these workers know how much we value them and their daily hard work. And as a parent, whose son's life will soon depend upon them, I know we can't afford *NOT* to pay them what they are worth.

Thank you for introducing this very worthy bill. Montgomery County is uniquely known for being fully inclusive, and since my son's life depends upon that principle, thank you for looking out for our most vulnerable citizens. Thank you for raising the issues contained in this bill, I hope you will all support it.

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11/28/17

Honorable Council members,

On behalf of the Maryland Association of Adult Medical Day Services (MAADS), whose members provide Medical Day Care Services throughout the State and in particular in Montgomery County, we would like to provide the Council with additional information and feedback regarding Bill 35-17, Finance - Payments to Service Providers. **It is our request that potential modifications be made to the language to include Medical Day Providers in the scope of this bill.**

As you are all aware, we have consistently raised our concern about the County's increase in the **minimum wage rate** over and above the State's minimum wage for two main reasons:

1. Medicaid rules strictly prohibit Adult Medical Day Care Providers (AMDC), like Loving Care, from passing the associated increase in labor costs to their consumers. This is a sharp contrast from other businesses that simply can pass the additional costs onto consumers.
2. State licensing regulations prohibit AMDC Providers from reducing staff or limiting services due to staffing ratio requirements and other requirements. Again, this is in sharp contrast to other businesses that have the ability to adjust their product lines.

Now that the council has passed legislation to further increase the minimum wage to reach \$15 by 2023, AMDC Providers, which are the State's and County's partners in providing much needed care and support to our disabled and senior populations are in serious need of a guaranteed supplement to cover these increased costs. For Medical Day Cares, if we were to simply count on Medicaid alone to increase its reimbursement rate to cover the costs for the new Montgomery County minimum wage, the amount of funding gap needed to pay for the increased minimum wage costs by 2023 (which is just 6 years from now) is expected to take Medicaid more than 20 years to come by (based on Medicaid's previous historical reimbursement data from the past two decades). **This is cause for serious concern**, and demonstrates the need for the County to provide assistance to AMDCs to ensure their viability through this rapid cost increase transition period.

Recognizing the cost associated with legislation like Bill 35-17, we applaud the council's proactive initiative to set in stone its unwavering support for entities providing services to the developmentally disabled. The big question that arises here is **Why is the council not extending the same benefit to AMDCs who also provide care to the county's frail and vulnerable populations and are subject to similar Medicaid funding shortage and challenges?**

We see absolutely no valid justification for excluding Medical Day Cares from the language of this bill. These programs are basically branches of the same tree, or arms to the same body. COMAR defines AMDCs as providing services to **Adults with Medical Disability** and DDAs as providing services to **individuals with Developmental Disability**. Furthermore, because developmental disability is a form of medical disability, many people living with developmental disabilities use and depend on AMDC services for their daily life. All applicable

Medicaid Waiver programs enable an individual with developmental disability to use services by an AMDC for their needs.

Therefore we respectfully request that Bill 35-17 be amended to include Adult Medical Day Care Providers in the County, such that our labor costs are kept steady as the minimum wage is phased in.

It does not cost much to cover the AMDCs budgetary shortage as compared to the DDA programs. The amount projected for the next few years is shown in this table. This represents as little as 4.2% increase over the current DDA program funding for the 2018 year, yet it ensures viability of the AMDC programs. **Clearly such a small investment is more than justified considering the importance of having such services for the disabled and the elderly whose population is expected to increase significantly over the next two decades.**

FYR	Min. Wage	Year-by-Year Difference	Cumulative Budget Shortage
2017	\$ 11.50		
2018	\$ 12.00	\$ 651,012.46	\$ 651,012.46
2019	\$ 12.75	\$ 976,518.69	\$ 1,627,531.15
2020	\$ 13.50	\$ 976,518.69	\$ 2,604,049.84
2021	\$ 14.25	\$ 976,518.69	\$ 3,580,568.53
2022	\$ 14.50	\$ 325,506.23	\$ 3,906,074.76
2023	\$ 15.00	\$ 651,012.46	\$ 4,557,087.23

It is essential that the County Council deliberate on the policy implications of excluding AMDCs from the bill. **Exclusion of the AMDCs from the bill signals to the community that our county does not support those who provide services to the elderly and adults with medical disability.** Further, not addressing this problem makes it harder and harder for existing AMDCs to continue providing much-needed services in the County. **Projecting this into the future will render our county with deficiency in services for elderly and those with medical disability.**

To better demonstrate how AMDCs are such an Integral and inseparable Part of the services used by DDA and other Adults with Disabilities we are providing a number of cases below. To maintain the privacy and dignity of individuals their names are not included in the report. Each case presented represents an individual who is utilizing and depends on AMDC services at the time of this report.

Note: In the below case studies the participant's identity is not revealed for privacy and security reasons. They are all active participants in AMDC program in Montgomery County as of the time of this document.

Case 1:

J.R. is a 35 yrs old Spanish speaking young man who loves to listen to music and educational Read Aloud books, and he attends his church and his adult medical day care religiously. He has Contracture of left hand, Intellectual Disability/ID, a history of retinoblastoma of the right eye, and is Legally blind. Although he is blind in his eyes, J.R. can see so much more than most of us. He is an example of an individual who is in the DDA program and has chosen to attend AMDC every day.

His AMDC program is a place where he feels completely safe and no longer has to worry about getting hurt by others who don't have full control of their actions or mean him harm. Since he joined his AMDC, he no longer wets himself, he does not throw up, and no longer suffers from severe nervousness due to years of anxiety over not knowing who may attempt to hurt him while in a room or in the bathroom. J.R. is safe and happy and brings

joy to everyone around him. His AMDC program has provided him with not just Life, but a better Quality of Life.

Case 2:

R.Y. is a 47 year old former auto parts salesperson. Just a short while ago he used to work and provide for his family of four children (ranging from teenage on down) and his wife. R.Y. is a victim of Stroke. One day due to high blood pressure he had a stroke and then everything in his life changed completely. He is a fighter, and even though he is against severe odds he is working his way toward getting better each day. It's not easy for him to stay in his DDA group home with two other people all day long. So, R.Y. attends AMDC program to become immersed in the larger community, overcome his severe depression, and gain the energy and will to fight and get back on his feet again. R.Y. is one of many individuals for whom the option to attend an AMDC makes the difference between hope and defeat.

Case 3:

P.S. is 52 years young. She loves to dance and listen to music and bring joy to her friends and loved ones. P.S. has developmental disability as well as other medical conditions that require a Nursing Level of Care. She attends AMDC not only because her medical needs are taken care of but also because she can have a rewarding experience awaiting her each and every day. She loves to work on Puzzles, and other cognitive activities of her choosing. The flexibility of the AMDC program and the loving environment that welcomes P.S. each and every day is beyond measure to her family. The AMDC program provides for P.S. a perfect combination of services that she needs, enjoys, and depends on.

Case 4:

J.C. is as wonderful a person as you could possibly know and meet. At 72 yrs of age, this honorable veteran has a partial left hand amputation related to bomb injury during the Vietnam War. Despite having global aphasia and multiple strokes due to his unstable hypertension, resulting in weakness of his right side of the body, J.C. attends his AMDC program every day on the dot. He brings smile to all his friends and in turn benefits from the blessing of life and love that spans the atmosphere and provides him with the best defense against depression, fatigue, and giving up. He is not only a great fighter, but through his AMDC extended family he also has more to fight for.

Case 5:

M.T. is a 91 yr young retired teacher with memory loss, diabetes, and unstable hypertension. She lives with her daughter but due to her medical and cognitive conditions she cannot be left alone. Her family desperately sought a solution where M.T. could be cared for while her daughter worked. Before joining the AMDC program, M.T. was bored, tired, and depressed. After they signed up with her AMDC something amazing happened in their lives. M.T. now gets up at 4AM every day, puts on her nice dresses, and says **"I'm going to work!"** M.T.'s AMDC has given her a renewed energy for life, and to her daughter the option not to choose between family and work.

Case 6:

H.I. is a 99.5 yr old male with impaired memory, stroke, hypertension, blindness in the right eye, depression, and convulsion. He lives with his daughter and has unsteady gate. He cannot be left alone. His condition requires one-on-one assistance with meals, toileting, and other activities of daily living. The AMDC has been a blessing in his life as well as his family members, enabling them to attend to their work during the day while Dad is being cared for at the Center.

There are thousands of cases such as these where AMDCs provide much needed care and services to the most vulnerable populations of our great County each and every day.

On behalf of more than 2,000 Montgomery County participants, the 17 providers of AMDC services and more than 500 employees and their families, we respectfully ask the County Council to amend the Bill 35-17 to include a guaranteed supplement for Adult Medical Day Care Providers to ensure their viability as the County minimum wage continues to increase.



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Testimony
Montgomery County Council
November 28, 2017
Bill 35-17, Finance – Payments to Service Providers

My name is Larry Bram and I am the Senior Vice President for Innovation at Easter Seals. We are here to support the bill and to advocate for an amendment to include direct service staff from *“non-profit Medical Adult Day Service providers for whom the majority of their participants are supported by governmental funding”* (including Medicaid, OHS, and the VA).

Medical Adult Day Centers are licensed at the levels of nursing homes, yet keep people out of nursing homes at a fraction of the cost. Those of us serving the highest acuity individuals and most in-need communities are already doing it at a loss. We have a \$15 gap for every client, every day—and it is difficult for us to fill that gap. The rising minimum wage is going to make it even more difficult, but as a non-profit, we are committed to providing access to those most in need. In many cases our audience is similar to those supported by the DDA providers, just with a different funding source. At Easter Seals, approximately 1/3 of our daily census is individuals with intellectual disabilities, many of them coming to us from the group homes supported by the supplement. The rest of our participants are senior citizens living with strokes, dementia, and other age-related disabilities. We toilet and feed almost 30 people each day, and serve nearly 70.

I trust that you all agree that these amazing hard working individuals are worthy of pay well beyond minimum wage. Without this supplement, we are not only competing for talent with McDonald’s but also with the DDA providers. A basic principle—equal pay for equal work. And the work of our direct service staff is most certainly at least equivalent to those of DDA providers.

I’m sure you are concerned about the cost of adding to the supplement. Unfortunately, ADS providers don’t have the same type of coalition as InterACC/DD, so I have attempted to provide some information for estimating the cost.

- There are 1,000 ADS waiver slots available in the state, so Montgomery County has approximately 250 of those
- There are 19 ADS programs in the County, but a number of them are private pay supported
- Easter Seals might be the largest Medicaid-based provider in the County (particularly since we absorbed most of the clients from the Support Center last year).

We provided your staff with an analysis of the effect on Easter Seals. The cost to the organization will be about \$50,000 per year at the current minimum wage. That gets

everyone up to that 125% level. It does not include the costs to the organization of raises for those at slightly higher wages or deal with equity across our multi-jurisdictional organization.

Many of the ADS providers in the County would not meet the definition of serving the low-income/Medicaid population, so I'm pretty confident that the annual cost to the County to add this provision would be well below \$1 million per year. Probably less than half of that.

But the effect would be profound on an organization like ours that is highly regulated, so we can't increase productivity and don't have the ability to raise prices. It will allow us to keep great employees, lower turnover, and provide a better quality of care and life to the many adults and seniors with disabilities that we serve throughout the community, and important respite and peace of mind to their family caregivers.

Thank you.

Larry Bram
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