



# Utah Division of Services For People with Disabilities

Legislative Report

## Budget Adjustment Update: Direct Care Staff Salary Increase

August

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## Intent Language

The following is intent language from the Utah State Legislature 2015 General Session, Senate Bill 2 concerning the DSPD Direct Care Staff Salary Increase:

**“The Division of Services for People with Disabilities (DSPD) shall:**

- 1) Direct funds to increase the salaries of direct care workers;**
- 2) Increase only those rates which include a direct care service component, including respite;**
- 3) Monitor providers to ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits;**
- 4) In conjunction with DSPD community providers, report to the Office of the Legislature Fiscal Analyst no later than September 1, 2015 regarding:**
  - 1) the implementation and status of increasing salaries for direct care workers,**
  - 2) a detailed explanation with supporting documentation of how DSPD providers are reimbursed, including all accounting codes used and the previous and current rates for each accounting code, and**
  - 3) a conceptual explanation of how DSPD community providers realize profit within the closed market of providing DSPD community services.”**

## Introduction to the Appropriations Received

The Utah Division of Services for People with Disabilities, DSPD, received two appropriations during the Utah State Legislature 2015 General Session. These appropriations are intended to raise wages for direct care service staff in its contracted private provider system. DSPD applied the first appropriation, a one-time immediate intervention rate increase up to the end of Fiscal Year 2015, effective April 1, 2015. DSPD applied the second appropriation to sustain the new rate increases, effective July 1, 2015.

The importance of these appropriations is well known to stakeholders in the DSPD system. The private provider system faces problems attracting staff to work with the vulnerable population in DSPD services. Additionally, retaining these direct care staff has become problematic. The issue of stagnate wages is evidenced by direct care staff turnover rates and the significant differences between starting wages in this critical industry when compared to unskilled entry level positions in other industries. Due to the concerns for quality of care in the system, many stakeholders helped craft and support an appropriation with the sole purpose of raising direct care service wages.

The current stakeholder effort is unlike previous appropriation requests for rate increases. In past years, the system requested and received appropriations for cost-of-living increases that could be applied by providers to the “various categories of staff.” However, providers and stakeholders acknowledged the need for a robust rate increase applied 100% to direct care staff wages. An appropriation to increase rates with direct care staff components was determined the best approach to increasing these wages.

### Services with Direct Care Worker Components and Attached Service Rates

There are several different services available to people participating in DSPD programs. Services such as ‘Respite’, ‘Supported Living’, or ‘Supported Employment’ all have a direct care component. Some services, such as ‘Adaptive Equipment,’ do not. Previous rate increases for DSPD programs were applied to all services. DSPD applied the two received appropriations only to those services with direct care components. This resulted in a 10.5% rate increase to services with a direct care component. Please see attached Table 1 for a list of those services with direct care components with the respective rate figures prior to and directly after the appropriated increase.

### Informing Providers

Many Providers were involved in promoting wage increases to direct care staff. However, once the two appropriations were authorized, the Division used one of two methods for informing all Providers that the Division had applied the increases:

- 1.) Memo:  
The Division formerly announced the rate increases to all providers with direct care service codes, at the time, with a memo detailing the changes and a customized list of the provider’s codes receiving a rate change. Please see the attached Memo 1.
- 2.) Provider Contract Amendments:  
For new providers or those providers not open to service codes with direct care components, the Division provided a contract amendment outlining rate changes to the end of Fiscal Year 2015. In Fiscal Year 2016, providers in either of these groups were given a new contact amendment with the rate structures. Please see the attached Amendment 1 for

contract amendments. Both the FY15 and FY16 contract amendments included the following information:

*“The Contractor shall use the increases awarded for the building block titled “DSPD-Direct Care Staff Salary Increase” in the FY2015 General Session, Senate Bill 2 (hereinafter collectively referred to as S.B.2) for the purpose of increasing the salaries of all Contractor staff positions which spend 60% or more of their time providing direct care to Persons (direct care staff positions). No portion of these increases shall be allocated to administrative functions or provider profits. The Contractor shall report back to DHS/DSPD on its use of the rate increases awarded pursuant to S.B.2 by providing information in the format agreed upon and within the time frames requested by DHS/DSPD. In the event any portion of the S.B.2 rate increases are used for any purpose other than increasing the salaries of the Contractor’s direct care staff positions, the Contractor shall be required to reimburse DHS/DSPD for that portion in accordance with the remedies stated in this Contract.”*

### **Methodologies for Monitoring Accurate Application**

Once the rate increase for services with a direct care component were appropriated in the 2015 General Session, DSPD and the Department of Human Services (DHS) Executive Director’s Office met with providers to establish reportable methodologies to ensure rate increases reached direct care staff. The average wages in the calendar year preceding the rate increases were determined to provide a baseline for tracking how the appropriations affected the wages of direct care staff. Quarterly reporting intervals were determined necessary to validate that the rate increases were being appropriately used by providers. For further information, please see the DSPD Provider Monitoring Tool used for quarterly reporting.

DSPD and DHS then met with the staff from the Office of the Legislative Auditor General (OLAG) and the Chairs of the Social Services Sub Appropriations Committee to discuss the proposed implementation plan and oversight. All parties agreed that DSPD should proceed with the proposed reporting requirements and tracking.

The submitted average wage of direct care staff will be analyzed for growth. If DSPD or DHS note irregular or nonexistent increase to the average direct care worker payroll, the Division will immediately investigate the discrepancy.

One measure for the success of this appropriation will be the percentage of the appropriated rates going to direct care staff. The complete utilization of appropriated funds will demonstrate 100% of funds were directed towards service codes with direct care components and not directed to service codes administrative areas.

### **Outcomes to date**

Providers have submitted their average wages from the calendar year preceding the rate increases to establish their baseline wages for direct care staff. DSPD and providers are presently gathering data before submitting an updated report of these wages since the rate increase. Once submitted, DSPD will review that proper fund administration occurred.

DSPD will also monitor the longitudinal effects to the stability of the direct care system by participating in the Staff Stability Survey as part of the National Core Indicators. DSPD hopes to see stabilization to the employee retention averages as direct care wages increase.

## How Providers Realize Profit

### ***Intent Language from item 4, number 3***

“a conceptual explanation of how DSPD community providers realize profit within the closed market of providing DSPD community services.”

### **Utah Private Providers**

The network of providers in DSPD services is located in the private sector. DSPD contracts with private providers to deliver services to Home and Community Based Service (HCBS) participants. After a participant’s Support Coordinator verifies that the authorized services have been delivered, the private sector providers may bill DSPD. Payment is made to the Provider through DSPD, then DSPD works with the Utah State Medicaid Agency to ‘draw down’ Federal funds through the Department of Health and Human Services. The Federal funds represent approximately 70% of every dollar spent to support HCBS participants. Providers realize profits by maintaining a positive margin between what is expended by providing services and the funding they receive from DSPD, private fund raising, donations, and other business ventures.

### **Private Provider Structures**

When creating a private provider agency, company owners have the freedom to structure the business organization as they feel will best suit their mission and goals. The community of providers serving Utah operates under various business structures including:

- a. public,
- b. volunteer,
- c. not-for-profit,
- d. for-profit,
- e. and hybrid structures

The choice of business structures may change through years to accommodate evolving goals and account for challenges and opportunities. Not-for-profit and public providers may take advantages of public saving schemes not offered to for-profit providers. Donations and grants may provide revenue for providers. These choices directly affect what expenses companies realize and what resources will be left for profit or reinvestment in the company

### **Service Rates**

The Utah Department of Human Services, in collaboration with the Utah Department of Health, community stakeholders, and providers develop what type of services are needed for HCBS participants, the type of rate structure(s), minimums and maximum rates allowable for those services, and other components necessary for delivering the services. The services, rates, and other components are then reviewed and approved by the Centers for Medicare and Medicaid Services (CMS) and audited to established standards. In this structure, national, state, and private interests review the effectiveness of service code rates when delivering a particular service needed in the State.

Services can be reimbursed at a daily, hourly, quarter hour, or session increments depending on the type of service being delivered. Administrative overhead is generally thought to account for 20% of the rate.

### **Realizing Profit within the Closed DSPD Market**

The success of an industry located in the private sector depends on many things, including the quality of personnel, adherence to a clear mission, financial prudence, and the ability to deliver cost-effective quality services. This is also true of the Utah's network of private providers. While the DSPD market of services has a "closed" single reimbursement structure through the Division, with contractual monitoring requirements for all providers, provider companies still face typical business challenges and decisions.

Utah's network of providers has variations in their business decisions, strategies, and environmental factors. These variables may lead to different profit margins between providers and between fiscal reporting cycles.