MY LIFE, MY COMMUNITY

PROVIDER RATE STUDY
PUBLIC COMMENTS AND RESPONSES

– PREPARED FOR –

VIRGINIA DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

PREPARED BY:

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PROJECT BACKGROUND

The Virginia Departments of Behavioral Health and Developmental Services (DBHDS) and Medical Assistance Services (DMAS) are in the process of making a number of changes to the Intellectual Disabilities (ID), Individual and Family Developmental Disabilities Support (DD), and Day Support waiver programs. This effort includes a review of the provider rates for many of the services provided through the waivers. Burns & Associates, Inc. (B&A), through a subcontract with the Human Services Research Institute (HSRI), is providing assistance in this review.

This review incorporated several tasks, including:

- Establishment of a provider advisory group to provide input throughout the project
- A detailed review of service requirements and DBHDS' policy objectives
- Development of a provider survey that all providers were given the opportunity to complete in order to collect information regarding service delivery and costs
- Identification and research of other available data to inform the development of rate models
- Analyses of claims data as well as assessment results for individuals included in the Supports Intensity Scale (SIS) 'sample'

Based on this work, detailed rate models were developed for each service ultimately included in the scope of this review. These rate models include the specific assumptions regarding the costs that providers face in the delivery of each service, such as direct support workers' wages, benefits, and billable time; staffing ratios; travel; and agency overhead.

DBHDS emailed the proposed rate models and related documentation to providers and other stakeholders in November 2014. A webinar was held to explain the proposals and respond to questions. A recording of the webinar was posted online for those who were unavailable when it was held.

Interested parties were asked to submit their comments in writing to a dedicated email account. The comment period lasted for approximately one month, until December 15, but comments submitted after the deadline were also considered.

In total, comments were received from more than 250 members, caregivers, advocates, providers, and other interested parties. DBHDS reviewed all submissions. The comments have been summarized and responses to each have been prepared. Several changes to the proposed rates have been made in response to these comments.

Comments were thoughtfully written and constructive, and DBHDS appreciates all those who took time to provide feedback.

DOCUMENT SUMMARY

In total, 85 unique comments were received. The comments were summarized and organized into topical areas as follows:

- Multiple Services (beginning with comment 1)
    - Direct Support Staff Wages, Benefits, and Productivity (beginning with comment 7)
    - Agency Overhead, Transportation, and Other Costs (beginning with comment 12)
    - Tiered Rates and the Supports Intensity Scale (SIS) (beginning with comment 17)
    - Agency Operations (beginning with comment 25)
- Case Management/ Support Coordination (beginning with comment 29)
- Personal Assistance/ Companion Services/ Respite (beginning with comment 31)
- Service Facilitation (beginning with comment 32)
- In-Home Residential Supports (beginning with comment 33)
- Congregate Residential (beginning with comment 34)
    - Group Home (beginning with comment 41)
    - Supported Living (beginning with comment 48)
    - Sponsored Placement (beginning with comment 49)
- Day Activities (beginning with comment 54)
    - Supported Employment (beginning with comment 59)
    - Day Supports (beginning with comment 65)
- Skilled Nursing (beginning with comment 81)
- Therapeutic Consultation (beginning with comment 83)

Based upon the comments received, DBHDS has made a number of revisions to the proposed rate models:

- Adopted the latest Bureau of Labor Statistics (BLS) wage data for May 2014.
- Recalculated wages for the rest of State rate models by removing northern Virginia from the statewide BLS data.
- Reduced assumed day activity participation for the Tier 4 Group Home and Supported Living rate models from 30 hours per week to 20 hours per week.
- Reduced the member attendance assumption for Day Supports and Supported Employment – Enclave/ Work Crew from 90 percent to 88 percent and made conforming changes to the Group Home and Supported Living rate models.
- Increased mileage reimbursement rates from $0.56 to $0.575 per mile to reflect the Internal Revenue Service's 2015 allowance.

- Eliminated mileage from the center-based Day Supports rate models and increased mileage in the community-based rate models.
- Increased the assumed Tier 4 Sponsored Placement provider stipend from $6,250 per month ($75,000 annually) to $6,750 per month ($81,000 annually).
- Revised the Sponsored Placement rate models to include the provider stipend in the calculation of agency administration costs.
- Expanded the professions permitted to bill the Therapeutic Consultation rate for therapists to include board certified behavior analysts, licensed behavior analysts, and rehabilitation engineers.

The remainder of this document provides DBHDS' responses to each comment.

MULTIPLE SERVICES

1. Several commenters offered support for proposed rate increases for a number of services, including In-Home Residential Services, Day Supports – Community Access, Nursing, and Therapeutic Consultation. One commenter objected to the cost of the proposed rates.

DBHDS appreciates the support for many of the proposed rate models. Although the cost to implement these rate models is substantial – a net increase of $58.3 million compared to fiscal year 2014 expenditures, with $29.2 million coming from State funds – DBDHS believes that adequate provider rates are a necessary ingredient of high-quality community services.

The rate models are intended to support several objectives, including supporting members in their own homes and communities; aligning intensity of services and provider rates with members' levels of need; and supporting access to nurses, therapists, and other clinical professionals. These objectives, in turn, are critical to responding to many of the issues confronting the waiver programs, including the settlement agreement with the Department of Justice, aging members and caregivers, the federal home and community based service rule, and waitlists for waiver slots.

Details regarding the specific changes to the rates for each service – not all of which are increasing – are included in the Final Rate Models and Estimated Fiscal Impact of Proposed Rate Models documents.

2. One commenter noted that, although personalized rates are not feasible, the rates should be flexible enough to respond to a reasonable range of localized conditions. Another commenter stated that Assistive Technology funds should be more flexible.

The needs of individuals with intellectual and developmental disabilities vary and systems of supports, including service definitions and provider rates, must be flexible enough to meet these needs. DBHDS believes that the rates provide this flexibility.

In order to develop rate models, assumptions must be made regarding various costs, such as direct support professionals' wages, benefits, and non-billable responsibilities; staffing ratios; travel-related costs; agency overhead; etc. These assumptions are intended to reflect a reasonable approximation of the cost of providing each service, but for any individual provider, some costs will be higher than assumed and others will be lower. The rate model assumptions, therefore, are not prescriptive. Providers have the flexibility to design and operate their programs to best meet the needs of the

members they serve, within the total rate and consistent with the service requirements and members' plans of care.

Other changes are intended to offer further flexibility. For example, the establishment of per diem rates for residential services will allow providers more flexibility in designing programs to meet members' needs rather than tracking hours of support provided to each member at a residential site, excluding hours of 'general supervision', etc.

Additionally, although individualized rates are not practical, the rate models for certain services, including residential services and Day Supports, are 'tiered' so that payment rates for members with more significant assessed needs are higher than those with lesser needs. These tiered rates are intended to compensate providers for the more intensive supports they deliver to those with greater needs.

Finally, DBHDS is unable to comment on the specific Assistive Technology issue that was described without additional information. It is not clear why the request mentioned by the commenter may have been denied. DBHDS is currently reviewing service definitions and will consider this comment as part of the review process.

3. Several commenters expressed concerns with the use of 2013 data to inform the development of rate models, particularly given that implementation will occur in calendar years 2015 through 2017. These commenters suggested that inflation factors be considered. Other commenters asked whether rates will be subject to annual adjustments.

The rate models were informed by data from a variety of sources. Stating the obvious, DBHDS can only work with data that is available. As the commenters observed, this results in the use of somewhat dated information. That said, even with the use of retrospective data, the new fee schedule is projected to increase the cost of existing services by $58.3 million as described in the response to comment 1. Further, the detailed nature of the rate models allow the cost factors to be regularly updated, although implementing the new fee schedule and any subsequent rate increases is subject to the availability of funding.

In general, the data used to develop the rate models are from 2013 and 2014. Bureau of Labor Statistics (BLS) data from which wage assumptions were derived are from May 2013. Similarly, the various data points that informed the estimated cost of health insurance were originally from 2013. Provider survey information reflected providers' costs and practices from 2013 and 2014. The mileage reimbursement rate used the Internal Revenue Services' mileage rate for 2014.

The rate models have been developed in a manner that allows any individual assumption to be updated if necessary. For example, since publication of the proposed rate models, both the BLS and IRS released new data and the rate models have been updated accordingly. Rate model wage assumptions are now derived from the BLS's May 2014 data. Similarly, the mileage rate was increased from $0.56 to $0.575 per mile, including an increase from $0.22 to $0.24 per mile for depreciation.[1] Similar adjustments can be made if newer data becomes available. DBHDS will consider potential updates – along with other organizational priorities – as part of the State budgeting process. Ultimately, the ability to make adjustments will be a function of the availability of funding and the State's priorities (for example, funding rate adjustments or reducing the waiting list).

[1] Note that the proposed rate models incorrectly included an assumed $0.23 per mile for depreciation, which was the amount in 2012 and 2013.

4. Other commenters questioned the reliability of data from the provider survey due to low participation in some instances and apparently erroneous responses.

Rate model assumptions were developed considering multiple data sources. Although provider survey results are informative and used as a basis of comparison, they were not the primary determinant of most assumptions so the issues with the survey that are cited by the commenters do not undermine the rate models.

Survey results were not the only consideration in the development of rate models for a number of reasons, including incomplete participation in the survey, an inability to audit responses, and the fact that survey data is often a function of current reimbursement rates rather than a reflection of what costs 'should' be.

As noted in the provider survey analysis packet, 82 providers submitted a survey, representing 13 percent of all providers. However, those who did submit a survey accounted for 38 percent of all waiver spending, indicating that larger providers serving more members were most likely to participate in the survey. This is further evidenced by the fact that 42 percent of the largest 100 providers by revenue submitted a survey. Since the survey was voluntary, there is no way to know whether providers who participated are representative of all providers.

Several steps were taken in order to ensure quality responses to the survey. Detailed instructions were written, a webinar was conducted to explain the survey, B&A responded to all requests for technical assistance, and submitted surveys were hand-reviewed with clarifying questions emailed to providers as necessary. Despite these actions, some of the submitted responses are likely erroneous. For example, some providers reported that their overhead costs alone exceed their revenue or that they pay wages that are less than minimum wage. A further statistical test was applied, with responses that were more than two standard deviations from the mean identified as 'outliers'. In general, data was reported both with and without the outliers included.

5. Several commenters suggested that there should be a larger differential between the rates for services delivered in Northern Virginia and those provided in the 'rest of the State' (that is, these commenters stated that the proposed rates for Northern Virginia should be higher). Commenters made reference to a variety of reports and sources including cost of living differentials and suggested that Northern Virginia rates should be between 30 and 45 percent greater than the rest of the State.

The current rates generally include a 15 percent differential for services in northern Virginia. Rather than apply an across-the-board differential, the new rates for the area are built 'from the ground up' separate from the rate models for the rest of the State. For some factors, the cost assumptions are the same; mileage costs are an example. In cases in which relevant data sources support a higher cost in northern Virginia– such as staff wages, facility space, and agency overhead – the rate models incorporate these differences. In general, the assumptions in the final rate models result in northern Virginia rates that are 14 to 20 percent greater than rates for the rest of the State. For the services included in this rate review, northern Virginia providers' revenues are estimated to increase 8.5 percent.

Many of the commenters included data regarding differences in the cost of living and real estate in northern Virginia. However, these data points are not entirely on-point for waiver services. For example, the single largest cost for most waiver services are the wages paid to direct support staff. As discussed in the response to comment 8, the rate models rely on Bureau of Labors Statistics data,

which covers all industries and both public and private sector workers, to set wage assumptions in the rate models. In response to these comments, the wage assumptions were reconsidered. Specifically, the proposed rate models used statewide wages, which includes the 'metropolitan statistical area' (MSA) that covers northern Virginia. Since the rest of the State rates do not apply to northern Virginia, the wage assumptions should also exclude this area. To adjust the wage assumptions for the rest of the State rate models, northern Virginia data was excluded from the statewide figures and average (mean) wages were recalculated. Additional information regarding these adjustments is included in Appendix A of the rate model document. Even after making these adjustments, wages for the types of staff providing waiver services are generally not 30 percent higher in northern Virginia than elsewhere in the State.

Overall, the data included in the rate models do not demonstrate the need for differentials of the magnitude suggested by the commenters.

6. Two commenters expressed concern that assumed benefit rates are lower in the Northern Virginia rate models compared to the rest of the State models.

The benefit rates for direct support staff are calculated as a percent of wages. As the wage increases, the benefit rate declines. Since wages for direct support staff in northern Virginia are higher than the rest of the State, the benefit *rates* for the northern Virginia rate models are lower, but the benefit *amounts* are higher.

The rate models include a number of assumptions regarding the benefit package for direct support workers, including mandatory benefits such as Social Security, Medicare, unemployment insurance, and workers' compensation, as well as $375 per month for health insurance and $100 per month for other benefits. These assumptions are then converted to a percent of wages. Since certain costs are fixed – such as unemployment insurance, health insurance, and the allowance for other benefits – the benefit rate declines as the wage increases. To use health insurance as an example, $375 per month translates to $4,500 per year. If an employee is earning $20,800 per year ($10 per hour), the health insurance cost translates to 21.6 percent of their salary. For an employee earning $24,960 ($12 per hour), the same health insurance cost is equal to only 18.0 percent of their salary.

Since the wage assumptions in the northern Virginia rate models are greater than those in the rate models for the rest of the State, the benefit rates in the northern Virginia rate models are smaller. However, the actual benefit amounts in the northern Virginia models are greater. For example, the In-Home Residential Support rate model for the rest of the State assumes a direct support staff wage of $11.62 per hour and a benefit rate of 32.7 percent, which provides $3.79 per hour for benefits. The northern Virginia rate model assumes a wage of $13.49 and a benefit rate of 29.3 percent, which translates to $3.95 per hour for benefits.

Direct Support Staff Wages, Benefits, and Productivity

7. One commenter stated that a full-time workforce is preferable to hourly staff, but that the proposed rate models are based on provider survey data that reflects a significant number of part-time staff.

The rate models are not predicated upon part-time staff, but are intended to support full-time direct support workers.

As the commenter notes, the provider survey demonstrated that a significant portion of the direct support workforce is employed part-time. Responding providers reported that about 35 percent of

their direct support staff work part-time. It was further reported that part-time employees have limited access to benefits, with less than 40 percent receiving holidays or paid time off and less than 10 percent receiving health insurance. However, as discussed in the response to comment 4, the provider survey was only one source of data that was considered when developing rate model assumptions.

As discussed in more detail in the response to comment 8, the wage assumptions in the rate models are derived from Bureau of Labor Statistics data for Virginia. This data reflects payment levels across industries and incorporates both full- and part-time workers.

In addition to mandatory benefits such as Social Security and Medicare, unemployment insurance, and workers' compensation, the rate models include 30 days of paid leave, $375 per month for health insurance, and $100 per month for other benefits. The rate models assume that 85 percent of direct support workers receive these benefits. The participation rate acknowledges that there will likely be some staff who do not receive a given benefit because they are new hires not yet eligible, they receive health insurance coverage through their spouse or another source, or for other reasons. Overall, the benefit assumptions are intended to allow agencies to employ a primarily full-time workforce. As a point of comparison, provider survey results suggested 86 percent of full-time workers receive paid time off and 66 percent receive health insurance. In other words, the rate models provide equal or greater access to benefits than was reported through the provider survey and does not make any further adjustment to reflect the proportion of the workforce that is part-time and do not receive benefits.

The wage and benefit assumptions in the rate models should support a full-time workforce, although providers will retain the flexibility to make staffing decisions that are appropriate for their organizations and the members they serve.

8. Several commenters expressed concern with the use of Bureau of Labor Statistics (BLS) data to develop direct support staff wage assumptions in the rate models. Some commenters suggested basing wage assumptions on the State employee salary schedule or a living wage approach. Another commenter did not object to the use of BLS data, but suggested that the rate models use the BLS' 75th percentile wage– rather than the median wage – due to challenges in working with persons with intellectual and developmental disabilities. Still another commenter suggested that the wage assumption for all direct support workers be raised by $4.00 per hour. One commenter suggested that the rate models be revisited assuming a $10.10 per hour minimum wage.

Direct support workers are perhaps the most critical determinant of the quality of home and community based services provided through the waivers. It is therefore important that wages, benefits, and employment supports are adequate to attract and retain staff.

The rate model wage assumptions in the rate models are derived from Bureau of Labor Statistics (BLS) data for Virginia. The BLS publishes wage levels for a variety of occupations across industries. The BLS job descriptions were compared to service requirements to determine which occupations best reflect the responsibilities of direct support workers. In most cases, waiver services include aspects of several BLS-defined occupations so multiple occupations were selected and weighted in order to account for these varied functions.

After selecting the appropriate occupation or occupations for each service, the wage assumptions were set at the median wage reported in the BLS data. The median wage is the value at which half of the individuals in that occupation earn less and half earn more. The rate models for northern Virginia

use the wages for the 'Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Division', while – as discussed in the response to comment 5 – the rest of the State rates rely on the statewide wages adjusted to exclude the northern Virginia jurisdictions.

As is true for the rate model assumptions overall, it is expected that some staff, such as new hires, will earn less than the amounts assumed in the rate models and some staff will earn more, such as those with more relevant education or experience. DBHDS believes, though, that the median best reflects the market wage for a given job.

The wages assumed in the rate models are generally greater than those reported by private providers that participated in the provider survey, particularly outside of Northern Virginia. Conversely, Community Service Boards and the handful of private northern Virginia providers that participated in the survey generally reported higher wages than assumed in the rate models.

The alternative wages suggested by commenters would result in wages significantly higher than the current market. Although laudable, the fiscal implications of establishing wages that are significantly in excess of the broader market make these proposals impracticable.

Additionally, it is important to look at total compensation. As discussed in the response to comment 7, the rate models assume relatively generous benefits, including 30 days of paid time off annually as well as access to health insurance and other benefits. Considering both wages and benefits, DBHDS believes that the total compensation assumptions compare favorably to similar private sector positions. As noted, the rate model assumptions are not mandates upon providers and an agency could choose, for example, to pay higher wages but provide less generous benefits if the wage is more important to their workers.

None of the rate models include a wage that is less than the $10.10 minimum wage that has been debated at the federal level. Thus, an increase in the minimum wage would not necessarily require an increase to any of the rate models. However, the median wages for some of the BLS occupations used to develop the wage assumptions are less than $10.10. Further, it is acknowledged that an increase to the minimum wage would result in greater competition for entry-level workers. DBHDS will continue to monitor this issue and will consider whether any changes to the rate model assumptions are appropriate if there is a change to the minimum wage.

The detailed rate model wage assumptions can be found in Appendix A of the rate model document.

9. One commenter stated that direct support staff wages should increase based upon the members' SIS-based level because of additional staff qualifications required by licensing.

Staff qualifications for a given service are the same regardless of the level of need of the individual served. Implementing such a policy would be particularly problematic for group-based services in which members with varying degrees of need are served together. In all cases, staff are expected to have the training and skills necessary to serve the members to whom they provide services regardless of an individual's level of need. As a result, there are not different wage assumptions based on members' levels of need.

As discussed in the response to comment 2, the rate model wage assumptions are not prescriptive. In fact, it is expected that some staff will earn more than the wages assumed and others will earn less. Providers therefore have the flexibility to assign higher-paid staff to members with greater needs as appropriate.

10. Several commenters suggested that $375 per month for health insurance is too low. One commenter suggested a rate differential for medium- and large-sized agencies that are subject to the health insurance requirements of the federal Affordable Care Act.

The rate model intends to allow providers to offer health insurance coverage for their direct support staff. Several data sources were considered when developing the assumed employer share of the cost of health insurance. As described in Appendix B of the rate model document, these included:

- The Bureau of Labor Statistics' 2013 National Compensation Survey, which reported an average monthly employer cost of $349 for participating employees amongst private employers in the South Atlantic region. The 2014 data has since been released and reports an average employer contribution $363.31.[2]
- The United States' Department of Health and Human Services' (DHHS) 2013 Medical Expenditure Panel Survey (MEPS), which reported an average monthly employer cost of $347 for private employers in Virginia.[3]
- Various reports on the cost of 'benchmark' silver plans offered through the federal health insurance exchange in Virginia. Considering data from U.S. DHHS, Kaiser, and the Urban Institute, the average monthly premium was less than $300 per month for persons under 40 years old (the cost varies by age and location, but was always less than $300; for those 50 years of age or older, the benchmark premiums were between $300 and $500).

Based on this information, DBHDS continues to believe that the assumed health insurance cost of $375 per month is reasonable.

Additionally, the rate models assume that 85 percent of all staff participate in employer-sponsored health insurance, so the effective cost per employee is $318.75. In comparison, private agencies participating in the provider survey reported that their average monthly health insurance premium is $399, but only 46 percent of their full-time staff actually receive health insurance, resulting in an effective cost of $183 per month per employee (Community Service Boards reported 85 percent participation and an average monthly contribution of $513 for an effective cost of $436 per employee).

11. Several commenters expressed general objections to productivity assumptions. Several of these commenters noted that staff cannot complete any documentation while providing services. One commenter noted that the models do not include time for breaks.

The rate models include 'productivity adjustments' to account for direct support workers' responsibilities other than the provision of care. Examples include attending training, driving from one member to another, and paid time off. Providers generally must pay staff for time associated with these activities, but cannot bill directly for these hours. The productivity adjustments serve to 'inflate' DSP's wage and benefit costs in order to account for these costs.

For example, assume that the wage and benefit cost of a direct care worker is $15.00 per hour. If they work a 40-hour week, the agency must pay them $600 per week. Further assume that the worker spends five hours per week driving to members' homes, attending staff meetings, and completing paperwork. After accounting for these responsibilities, the worker provides only 35 hours of billable

[2] http://www.bls.gov/ncs/ebs/benefits/2014/benefits_health.htm. See Table 11.
[3] http://meps.ahrq.gov/mepsweb/data_stats/quick_tables.jsp. See Tables II.C.1 and II.C.2.

services per week. If the agency is only able to bill those 35 hours at $15.00 per hour, its revenue would be $525, less than its actual cost of $600. Since these other functions are legitimate, they should be included in the rate. So, the $600 cost is divided by 35 billable hours, producing a billable rate of $17.14 per hour. This inflated rate covers the full $600 cost over the 35 billable hours.

Each rate model includes productivity adjustments. Many rate models include an adjustment for progress notes and medical records. This adjustment included a parenthetical note that stated 'not in member's presence' to specify that it does not include any note-taking that occurs during the course of service provision, which does occur. It is not clear, but the comments may have been reacting to the omission of a progress notes and medical records adjustment in the Group Home and Supported Living rate models. The adjustment is not included in these models because they are per diem rates that are already intended to account for all staff time. The only productivity adjustments in the Group Home and Supported Living rate models are activities that take staff out of the home or otherwise require additional onsite staff to relieve them while they perform that activity. Such substitute staff should not be necessary to allow DSPs to complete any necessary documentation.

As noted by one commenter, the rate models do not include productivity adjustments to allow for paid breaks. For group-based services such as residential services and Day Supports, there is adequate flexibility in the service requirements and rate models to allow for such breaks (since these services usually have multiple staff, there is an ability for the other staff to cover for a worker who takes a short break). For individual services such as the new Day Support – Community Access service, almost by definition the worker cannot take a break from providing service as there is not a second DSP available to cover for the first.

Other comments related to the productivity adjustments associated with specific services are included in the section of this document for the applicable service.

Agency Overhead, Transportation, and Other Costs

12. Several commenters stated that they do not believe assumptions regarding vehicle costs take into account larger vehicles or wheelchair accessible vehicles. One commenter suggested that the assumed 35 percent salvage value is too high.

Many of the rate models include assumptions related to mileage traveled by direct support workers as part of the delivery of services. The rate models for larger group services include a higher per-mile reimbursement rate to reflect higher vehicle acquisition costs. In order to develop this capital acquisition cost, the rate models make assumptions related to the purchase price, useful life, and salvage value of the vehicle.

For services typically delivered one-to-one or to small groups, the rate models use the Internal Revenue Services' 2015 standard mileage rate of $0.575 per business mile to estimate the cost of mileage. The IRS mileage rate is inclusive of both fixed costs (such as acquisition/depreciation) and variable costs (such as gasoline and insurance). The depreciation cost is intended to be applicable to all four-wheel vehicles weighing less than 6,000 pounds. However, in order to recognize the greater acquisition costs of vans used to transport larger groups of individuals, the rate models for Supported Living, Group Homes, Supported Employment – Enclave/ Work Crew, and group Day Supports include a higher capital component.

The IRS does not detail the specific components of the standard mileage rate except for depreciation, which is $0.24 per mile in 2015. Rather than this amount, the rate models for larger group-based

services assume that vehicles cost $40,000, are driven for 100,000 miles and have a 35 percent salvage value. These assumptions translate to a capital cost of $0.26 per mile (the net cost of $26,000 – which is $40,000 less the 35 percent salvage value – divided by 100,000 miles). This is added to the operating cost component of the IRS rate, which is $0.335 per mile after removing $0.24 for depreciation from the $0.575 total.

When establishing the vehicle purchase price, both provider survey results and independent data sources were considered. The average purchase prices reported by survey participants for Group Home, Supported Employment – Enclave/ Work Crew, Pre-Vocational services, and Day Supports were generally between $24,000 and $42,000. Reviewing prices from local vehicle dealers and Kelly Blue Book data, the typical price for 12- or 15-passenger vans was typically between $32,000 and $35,000 while smaller vehicles were less expensive. The rate models used a higher $40,000 cost to recognize that some vehicles will require modifications. It is true that $40,000 will likely not be adequate to purchase a vehicle with a wheelchair lift, but not all vehicles require lifts. The $40,000 price is intended to represent a reasonable average cost across all vehicles, some of which will have lifts and some of which will not.

The salvage value estimates are also derived from various published sources of used vehicle prices. Considering vehicles that are four-to-five years-old with around 100,000 miles, typical resale prices are generally between $14,000 and $18,000. The rate models use the low end of this range, which is equivalent to 40 percent of the assumed $40,000 purchase price.

13. Several commenters objected to the mileage assumptions included in various rate models, particularly group services. One commenter noted that the number of members assumed per vehicle is not necessarily related to the group size.

The rate models for group-based services assume that multiple members share access to vehicles. As discussed in the response to comment 75, the Day Supports rate models have been revised to increase mileage for community-based services and to eliminate mileage in the center-based rates. Otherwise, DBHDS believes the transportation assumptions are reasonable.

Before considering the rate model assumptions, it is important to recognize what is intended to be covered. Transportation to Medicaid services is not the responsibility of waiver providers so the rate models do not include this mileage. Rather, the rate models are only intended to account for in-program transportation that is not covered by the transportation broker.

The Group Home rate models for smaller (less than four-person) homes allocate 75 miles of transportation per member per week. The rate models for larger homes include 50 miles per member per week to account for certain economies of scale, such as the sharing of trips or the fact that certain staff responsibilities (grocery shopping, for example) are the same so that these mileage costs are spread across more members in larger homes.

Among day activities, the rate models for Supported Employment – Enclave/ Work Crew allocate 60 miles per member per week. More specifically, the rate models assume that a vehicle dedicated to this service is driven 300 miles per week and shared across five members. Some commenters questioned why this would be true for smaller groups. However, the rates are based on staffing ratios (the number of members per staff person) rather than the number of members. Thus, there may be five members on a work crew, but if there are two direct support workers, the service would be billed at the rate for fewer than three members per staff. Reviewing provider survey results, respondents reported a median value of 200 miles per vehicle per week (150 miles in northern Virginia). Thus,

even if there are fewer members per vehicle than assumed, DBHDS believes that the per-person allocation is reasonable. For Day Supports, the rate models now allocate 80 miles per member per week for community-based services.

It is acknowledged that actual mileage will vary by provider. The rate model is intended to provide a reasonable approximation, but it is expected that some providers will have higher costs than anticipated and others will have lower costs. As noted in the response to comment 2, the rate model assumptions are not prescriptive. Thus, providers with higher travel costs than assumed are able to offset these amounts in other areas in which their costs are less than assumed.

14. Several commenters objected to the amount of funding built into the rate models for program support and administration. Some commenters noted a number of regulatory requirements that increase costs while one commenter suggested that interpretations differ across DBHDS and DMAS. One commenter expressed concern that providers participating in the provider survey were primarily large agencies that are not representative of all providers. Commenters suggested alternatives to the 11 percent administrative rate assumed in the rate models that ranged from 13 percent to 15 percent.

The proportion of the overall rate assumed to be associated with agency overhead (administration and program support) varies by service, with group-based services assumed to have greater overhead rates. For example, the rate model for Tier 1 center-based Day Supports includes approximately 46 percent for overhead while the Skilled Nursing rate model for registered nurses includes 16 percent. The average across all services is about 21 percent, which is less than the 26 percent average reported by participants in the provider survey. However, these comparisons may be misleading due to how costs are classified and because other cost assumptions in the rate models are generally increasing.

The administration portion of the rate model is calculated as a percent of total costs while program support is included as a flat per-day amount. This approach to program support is employed to ensure that group-based services are sufficiently funded. Specifically, the rate models include 11 percent of the total rate for agency administration and $18 per day ($20 for northern Virginia) on a per-member or per-staff person basis.

The 21 percent average overhead rate included in the rate models cannot be directly compared to the 26 percent average reported by respondents to the provider survey for a couple of reasons.

First, some of costs reported by participants in the provider survey are separately funded elsewhere in the rate models, such as program-related transportation and program space for Day Support programs.

Second, the important figure related to administrative costs is not the percent of the total rate, but the amount of funding that is actually provided. To illustrate this point, consider a rate that is currently $10. If overhead costs account for 26 percent of the total, the overhead share of costs is $2.60. However, the average rate increase for services included in the rate review is 8.6 percent so the total rate would increase to $10.86. At a 21 percent rate, the overhead share of costs is $2.28, which translates to almost 23 percent of the current rate. This is still less than the overhead rate reported through the provider survey, but the difference is less dramatic than it initially appears.

Finally, as discussed in the response to comment 2, the assumptions included in the rate models are not limits that providers must follow. Since providers are not limited by the specific assumptions in the rate models, they are able to allocate dollars in different ways, such as directing a greater portion of the rate to their overhead expenses.

15. One commenter suggested that each rate be bifurcated with a fixed rate for agency functions and the other portion of the rate to account for direct support costs in order to ensure that proposed rate increases are not directed to agency administration.

The desire to ensure that additional funding be devoted entirely or mostly to direct support costs is well-intentioned, but DBHDS does not intend to use the rate models to place additional dictates upon providers. Rather, DBHDS believes providers should have flexibility in the management of their operations within the rates paid for each service, consistent with service requirements and members' plans of care.

16. One commenter suggested that electronic health records be mandated.

DBHDS appreciates the suggestion and recognizes the benefits of electronic health records, but at this time has no plan to mandate their use.

Tiered Rates and the Supports Intensity Scale (SIS)

17. Some commenters stated that the proposed rates are biased towards members with the most complex needs while other commenters suggested the rates are oriented to those with the least needs.

Rates for several services, including Group Home, Supported Living, Sponsored Placement, and Day Supports are tiered, with higher rates paid for members with more significant needs based on their Supports Intensity Scale (SIS) assessment and their resulting assignment to a SIS-based level. Tiered rates are not intended to 'favor' one group or another, but to reflect the costs of providing services, which often vary based on members' needs.

In general, individuals with more significant needs require more intensive supports. For example, members with relatively more needs usually require more supervision in their homes and are served in smaller groups in their day programs compared to individuals with lesser needs. Providing more intensive services is more costly to providers and the rate models are intended to reflect these differences.

Establishing a single rate for everyone could result in providers refusing to serve individuals with greater needs if the rate was too low or in the overpayment for members with lesser needs if the rate was set too high. Tiered rates avoid these dilemmas. This approach is not new to Virginia; currently, the number of residential support hours are determined on a member-by-member basis (which, in theory, should result in individuals with greater needs receiving more supports) and there are 'regular' and 'high' intensity rates for Day Supports. The new fee schedule maintains this philosophy, while establishing a more consistent and objective process for making these determinations.

18. Several commenters expressed support for the use of the Supports Intensity Scale to increase consistency in the level of supports that members receive. Several of these commenters asked when a new SIS assessment can be requested due to a change in a member's circumstances as well as how members will be able to request an exception or otherwise question the result of a SIS assessment. One commenter expressed concern that level assignments would be based on assessors' subjective perspective. Still another commenter stated that the use of the SIS will add complexity for support coordinators.

DBHDS appreciates the comments of support for using the Supports Intensity Scale to establish groups, or 'levels', of members with similar needs. From these levels, 'tiered' rates are established for certain services in order to provide members the amount of care that they need and to fairly compensate providers for supporting individuals with greater needs.

As discussed in the response to comment 17, the concept of tiered rates is not new to Virginia. The use of the SIS to assign members to levels of need is intended to establish a more consistent approach to this principle.

The SIS has been demonstrated to be a valid and reliable tool. Current SIS assessors have received training on the administration of the SIS from the instrument's publisher, the American Association on Intellectual and Developmental Disabilities (AAIDD). Although some discretion must be applied to a SIS assessment, it is a much more objective process than planning team meetings, for which the State has historically provided limited guidance.

The use of the SIS for assigning levels and rate tiers is a significant change to existing practices. DBHDS is currently working on informational and training materials for members and their families, case managers, providers, and other stakeholders. These materials will discuss how the SIS is used for determining levels of needs as well as how it can support service planning.

DBHDS recognizes that no assessment will accommodate every individual enrolled in the waivers and that members must have an opportunity to request that the State consider other information. To this end, DBHDS is developing procedures by which members and their representatives can request a new assessment or an exception from the rate tier to which they would otherwise be assigned. These procedures will be released for comment as they are completed.

19. One commenter stated that the SIS does not adequately take into account challenging medical and behavioral support needs.

The Supports Intensity Scale (SIS) captures medical and behavioral supports needs in a variety of ways. First, the assessment measures the frequency, duration, and type of support that individuals need for a variety of activities regardless of whether the need results from their intellectual or developmental disability or due to medical or behavioral issues. Second, section 3 of the SIS captures specific information regarding certain medical and behavioral needs and conditions. Third, Virginia has added supplemental questions to the SIS in order to identify members with significant medical or behavioral issues that were not otherwise identified in the assessment. Overall, DBHDS believes that the SIS is generally appropriate for measuring members' support needs – including those driven by medical or behavioral issues – as it relates to assigning members to SIS-based levels and rate tiers.

However, no assessment is infallible and there will be a process for members or their families to request an exception from their SIS-based rate tier if they feel that their needs will not be met.

Finally, DBHDS acknowledges that, by itself, the SIS will not identify the types and amounts of professional supports, such as Skilled Nursing or Therapeutic Consultation, that members may need and is not using the assessment for this purpose.

20. One commenter stated that the use of rate 'tiers' is less person-centered than the current approach to rate determinations and noted that there are a range of individual needs for members within each tier.

DBHDS disagrees with the statement that the new rates are not person-centered. Tiered rates for Group Home, Supported Living, Sponsored Placement, and Day Supports have been established to acknowledge that there are a range of needs amongst individuals with intellectual and developmental disabilities. Those with comparatively greater needs require more intensive supports. The tiered rates recognize the higher costs associated with meeting these individual needs.

At the same time, DBHDS believes that individuals with similar needs should have access to similar amounts of support. The Supports Intensity Scale (SIS) is a valid and proven tool for assessing individuals, allowing for the establishment of 'levels' of members with comparable needs. Members' SIS-based levels will determine the rate tier for their residential and Day Support services. Using the SIS to assign members to levels and rate tiers – coupled with an exceptions process that DBHDS is developing – is a more consistent and objective process that will increase fairness across individuals.

Rates for Day Supports are already tiered in the sense that there are 'regular' and 'high' intensity rates; in fact, the creation of four rate tiers actually provides greater differentiation amongst members compared to the existing two rates. The use of standardized tiered rates for residential services will produce more consistent rates compared to current practices.

Level assignments, however, only determine the rate that a provider will receive. It is true that there will be a range of needs across the members within a rate tier so the rate models are intended to reflect the typical effort and cost associated with serving a member in a given tier. That said, the delivery of services must still be a function of a person-centered planning process. For both residential services and Day Supports, providers will not be mandated to deliver the specific staffing levels assumed in the rate models, giving them flexibility in tailoring services to each individual. In the case of residential services in particular, the establishment of per diem rates are intended both to streamline the tracking and billing of services and to offer flexibility in the structure and delivery of services.

21. One commenter asked why there are seven SIS-based levels, but only four rate tiers. This commenter suggested that there be an additional level for individuals with both extraordinary medical and extraordinary behavioral needs.

As the commenter notes, there are seven SIS-based levels, but only four different rates for services with tiered rates. Specifically, Level 1 receives Tier 1 rates, Level 2 receives Tier 2 rates, Levels 3 and 4 receive Tier 3 rates, and Levels 5, 6, and 7 receive Tier 4 rates. The levels are designed to provide meaningful descriptions of the individuals assigned to each, but there are commonalities in the support needs among the levels that are combined into a single rate tier.

Levels 3 and 4 are combined in Tier 3 because both groups have above average support requirements, either due to behavioral issues (Level 3) or the need for assistance associated with home and community living (Level 4). Similarly, Tier 4 includes members with the most significant needs

associated with assistance for home and community living (Level 5), medical issues (Level 6), or behavioral issues (Level 7).

As noted in the response to comment 20, there are ranges of need within each level and certainly across levels, but in general, DBHDS believes that the tiered rates include reasonable approximations of the typical effort and cost associated with serving members in each tier.

At this time, a new level for members with both extraordinary medical and extraordinary behavioral issues is not being established. There will be, however, an exception process for the relatively few members for whom their assigned rates are not adequate and it is likely that a number of these exceptions will be individuals with both sets of needs.

22. One commenter noted that the SIS sample did not include individuals residing in the training centers and predicted that most of these individuals will be assigned to higher levels of need.

The commenter correctly notes that the sample of Supports Intensity Scale assessments did not include members residing in the training centers. This fact, however, does not affect the rate models or the fiscal impact for the current waiver population.

Rates for Group Home, Supported Living, Sponsored Placement, and Day Supports are tiered, with higher rates paid for those with the most significant needs. The highest Tier 4 rates are intended to reflect the staffing and costs associated with serving those with the greatest needs. Level (and tier) assignments are a function of members' needs, not their residential placement.

DBHDS has evaluated the needs of individuals who have exited the training centers in comparison to those still residing in the centers and has determined that the groups are comparable in terms of their needs. Further, members transitioning from the training centers to waiver services will receive a SIS assessment and a resulting assignment to a SIS-based level and the corresponding rate tier. Thus, while it may or may not be true that individuals transitioning from the training centers are more likely than the current waiver population to be assigned to a higher SIS-based level, all members will receive an intensity of service appropriate to their level of need. As training center transitions occur, DBHDS will monitor their assessment results and placements in order to accurately budget for these costs.

23. One commenter asked how much notice providers will receive of members' SIS-based level assignments.

Procedures for informing providers of members' Supports Intensity Scale (SIS)-based level assignments are still in development. At a minimum, DBHDS hopes to provide notice to providers at least 60 days prior to a member's initial transition to the new rate schedule. In the absence of a change in condition, an individual will only receive a SIS assessment every three-to-four years so subsequent notifications will only be necessary if a member has received a new assessment. Level assignments will also be available during annual plan or care meetings.

24. One commenter stated that members will be required to change services and providers based on their level of need.

It is unclear what changes the commenter envisions. It is true that the rates paid for a given service for a given member may change, but there is nothing in the new fee schedule that require members to change providers or services. If a provider decides that it will no longer provide services to a member, the existing processes for terminating services will be followed.

Agency Operations

25. One commenter asked what additional opportunities stakeholders will have to provide feedback to proposed changes to the waiver programs.

DBHDS remains committed to involving members, families, providers, and other stakeholders in all aspects of the *My Life, My Community* initiative. DBHDS continues to engage workgroups exploring various issues and envisions comment periods regarding other forthcoming proposals. In terms of the new fee schedule in particular, the changes will be included in waiver amendments, which will be posted for public comment prior to submittal to the federal Centers for Medicare and Medicaid Services. Additionally, conforming changes to service definitions will go through the public rule-making process.

26. Several commenters noted that managing two rate systems will be administratively burdensome. One commenter suggested that the new Day Supports rates should be implemented en masse rather than rolled-in by member.

DBHDS continues to explore options for implementing the new fee schedule. Preliminarily, it is expected that there will be a specific date for each residential service (Group Home, Supported Living, and Sponsored Placement) on which the rates for all members in that placement will transition to the new fee schedule. This approach has been deemed necessary because these services are currently reimbursed on an hourly basis, which is fundamentally different than the per diem rates in the new fee schedule.

Although sympathetic to the complications created by operating under two fee schedules for Day Supports, DBHDS believes that the best implementation approach is to transition members according to their plan years.

First, although Day Supports are currently reimbursed based on a 'unit' and the new fee schedule will reimburse on an hourly basis, the two approaches are comparable. The current units are already based on specific numbers of hours of support. That is, one unit is billed for up to 3.99 hours of service, two units are billed for between 4.00 and 6.99 hours of service, and three units are billed for more than 7.00 hours of service. Providers should therefore already be tracking the number of hours of service they provide to each member. The only change, then, is that providers will be billing for the number of hours of service that they provide rather than converting those hours to units.

Second, the new rates for Day Supports are tiered based on members' levels of need according to their Supports Intensity Scale (SIS) assessments. Thus, transitioning to the new Day Supports rates at once would require that all SIS assessments be completed, which is not expected until sometime in 2017. DBHDS does not wish to unnecessarily delay implementation of the increased Day Support rates.

Transition approaches and timelines have not been finalized. The State will engage providers as part of its decision-making process.

27. One commenter proposed protections for providers in the event of payment disruptions during the transition from the old fee schedule to the new one.

The State recognizes the need for regular, timely payments to support a stable provider network. DBHDS and DMAS will work together to assure minimal disruption to provider payments. Any issues that may occur will be addressed as they arise.

28. One commenter suggested that DBHDS and DMAS track merger and acquisition activity and that the Departments provide technical assistance to agencies that seek to combine.

The State does not have specific plans to more actively monitor mergers and acquisitions amongst providers. DBHDS' provider development staff remain available to provide technical assistance as necessary, though this assistance will be focused on waiver-related functions rather than providers' business operations.

CASE MANAGEMENT/ SUPPORT COORDINATION

29. One commenter expressed concern regarding the impact of a more complicated waiver structure on support coordinators. This commenter also expressed support for the proposal to expand the time that Case Management/ Support Coordination can be billed for individuals transitioning into the community from 30 days prior to transition to six months prior. Another commenter proposed that rates for Support Coordination services provided to DD Waiver enrollees be the same as the rate for Case Management for ID Waiver enrollees.

The difference in rates for Case Management for ID Waiver enrollees and Support Coordination for DD Waiver enrollees, as well as the length of coverage for transition services, are issues currently being considered by DBHDS and DMAS, but are outside of the scope of this rate review.

30. One commenter objected to the lack of a new, higher rate for enhanced case management.

As part of the State's settlement agreement with the federal Department of Justice, certain members receive enhanced case management based on defined criteria. Among other requirements, enhanced case management includes more frequent visits. The commenter reports that these requirements have increased costs by 27 percent. As discussed in the response to comment 29, case management is not part of the scope of this rate review. DBHDS and DMAS are considering issues related to Case Management and Support Coordination and will include providers and other stakeholders as part of this process.

PERSONAL ASSISTANCE/ COMPANION SERVICES/ RESPITE

31. Several commenters expressed concern that no changes were proposed to the existing rates for Personal Assistance, Companion Services, and Respite. A number of commenters also stated that rates for these services should be tiered based on members' levels of need.

Personal Assistance, Companion Services, and Respite are covered by several programs in addition to the ID, DD, and Day Support waivers. A review of the rates for these services must therefore encompass all applicable programs. Since this rate review was limited to the ID, DD, and Day Support waiver, these services were held outside of its scope. DBHDS and DMAS are aware of the concerns related to the reimbursement rates for these services and will consider options for addressing these services.

SERVICE FACILITATION

32. One commenter expressed concern that no changes were proposed to the existing rates for Service Facilitation services.

As with the Personal Assistance, Companion Services, and Respite rates discussed in the response to comment 31, Service Facilitation impacts a number of programs in addition to the ID, DD, and Day Support waivers. As a result, these supports were excluded from the scope of this rate review. DBHDS and DMAS will consider options for conducting a comprehensive review of these services.

IN-HOME RESIDENTIAL SUPPORTS

33. Several commenters expressed support for rate increases for In-Home Residential Support. One commenter stated appreciation for the inclusion of staff benefits and mileage.

DBHDS appreciates the support for higher rates for In-Home Residential Support. The northern Virginia rate would increase 30 percent and the rate for the rest of State would increase 32 percent. DBHDS hopes that the higher rates will increase the availability and quality of this service, which allows members to remain in their own homes.

As with all of the rate models, the In-Home Residential Support model is intended to provide a reasonable approximation of the costs that providers incur in the delivery of this service. As mentioned in the response to comment 7, all of the rate models include a comprehensive benefits package for direct support workers. The In-Home Residential Support does include mileage costs to account both for staff driving to members' homes as well as any mileage driven when supporting individuals in the community (for example, taking a member grocery shopping).

CONGREGATE RESIDENTIAL

34. One commenter expressed support for the establishment of fixed per diem rates, which will be administratively simpler than the current approach to reimbursement.

DBHDS appreciates the comment in support of the implementation of per diem rates for Group Home, Supported Living, and Sponsored Placement services.

Congregate Residential Support is currently an hourly rate with the number of hours that an individual receives determined on a person-by-person basis. Providers must track each hour of service that each member receives. Also, since the service is billed hourly, agencies are not permitted to bill for 'general supervision' even when they must provide staffing in the event that a member needs support.

The transition to per diem rates is expected to produce several benefits. As noted by the commenter, this approach should be administratively simpler for both providers and the State. Rather than determining and authorizing varying hours of support for every individual, the provider will receive a fixed daily rate for each member. There are four rate tiers to account for differences in members' levels of need tiered rate, which will produce more consistency in supports and payments across members and providers. Per diem rates offer providers greater flexibility in designing and staffing their programs rather than 'chasing' hours that a member may not need. Further, the rates will be

more aligned with actual staffing support rather than billing the same staff hour for multiple members, distinguishing between active support and general supervision, etc.

35. Several commenters expressed confusion regarding the 344-day billing limit for Congregate Residential services, remarking, for example, that providers would "not [be] paid for services rendered". One commenter stated that the policy will result in providers restricting members' days away from the program. Others commenters expressed support for the policy because it ensures that providers are compensated for up to 21 absences annually.

The 344-day billing limit is intended to protect providers against lost revenue due to members' occasional absences. In brief, the rates are "inflated" so that providers are fully compensated for 365 days of service over 344 billing days.

Congregate Residential providers deliver nearly constant support to individuals. When a member is out of the home to spend time with their natural family, due to hospitalization, or for any other reason, most of the providers' costs do not change. Staffing is shared across members so there is often little ability to reduce staff hours. To some extent, agency administration and program support costs are similarly fixed. Thus, if there is no absence factor built into the rate model, providers lose money that they can never recoup every day that a member is absent and they cannot bill. Additionally, providing for an absence factor actually removes a financial incentive for providers to discourage members from participating in activities that may result in an absence (for example, spending a weekend with their natural family) because the provider does not wish to lose any billing days.

The rate models therefore include an absence factor. For example, based on the rate model assumptions for a Group Home with four or fewer beds, the cost to serve a Tier 1 member is $1,331.02 per week, or $190.15 per day. This translates to $69,404.75 annually. The rate model divides this annual amount by 344 days, which results in an inflated rate of $201.76. This approach allows providers to earn the full annual cost of services – $69,404.75 in this instance – over 344 days of billing. Because providers have been fully reimbursed for a full year of support once they have earned $69,404.75, their billing is limited to 344 days. In short, providers are 'overpaid' for 344 billing days – because they are billing $201.76 rather than $190.15 – so that they are fully reimbursed even if a member is absent for as many as 21 days.

Based on provider survey results, members are only absent from their homes about eight days per year. However, the rate models use a greater assumption – 21 days – so that providers are not losing revenue for members who may be absent more often than average and to ensure that members have flexibility to spend some time away from their Congregate Residential homes.

Eliminating the absence factor or assuming a lesser number of absences as suggested by several commenters would guarantee reductions in provider revenues. Continuing the example above, allowing providers to bill more than 344 days at the inflated $201.76 rate for a Tier 1 Group Home with four or fewer beds would result in them earning more than the $69,404.75 cost of providing services. Thus, if there was no billing limit, the rate would be set at the 'actual' $190.15 daily cost (again, $69,404.75 divided by 365). Providers would earn $69,404.75 if a member was in the home for all 365 days, but if that member was absent for even one day, the provider would lose revenue.

Providers will need to budget their revenues appropriately, realizing that they are receiving an inflated rate for the first 344 days of services for a member, but then nothing for any remaining days in the year. That said, the billing limit will apply to each member's plan year so that members do not all reach their billing limit at the same time.

36. Several commenters asked how the billing policy would address members who move from one provider to another mid-year after having used a significant portion of the 344 billing days in their planning year.

As discussed in the response to comment 35, the rate models include an absence factor that results in providers being fully compensated over 344 billing days. Since providers earn a full year of revenue in 344 days, they will not be permitted to bill more than 344 days. This approach works well when a member stays with the same provider for the entire year, but can be problematic if that member changes providers mid-year. In the most extreme example, a member may be with the same provider for the first 344 days of their plan year, allowing that provider to bill for those 344 days. If that member then switches providers and their authorization is unchanged, the new provider would be unable to bill for the first 21 days that they are serving the member. This is an unreasonable outcome.

Though likely to be very rare, DBHDS wants to ensure that providers are compensated fairly. In order to avoid these cases, a change of residential provider will trigger a new plan year for that member. In the extreme example outlined above, this would mean that the member's original plan year would be cut-off at 344 days and a new plan year would begin, restarting the billing limit for that individual. Thus, that member's providers would bill 365 consecutive days of service. Arguably, the first provider will have been overpaid, but DBHDS believes that is a better outcome than the second provider being underpaid.

37. Two commenters asked if additional 'periodic supports' such as one-to-one attention or taking members to medical appointments can be added to the rate models or billed separately.

As discussed in the response to comment 34, congregate residential services will be reimbursed using standard per diem rates. These rates replace the current hourly rate and a person-by-person determination of the number of hours to be authorized. The rate models are intended to provide a reasonable approximation of the intensity of supports that a member requires. The rate model assumptions are not prescriptive and providers will have flexibility in designing their programs so it is expected that some homes may have somewhat less staffing than assumed in the rate models and others will have somewhat more.

The rate models are intended to accommodate the types of supports mentioned by the commenters. For example, the Supported Living rate models include specific assumptions regarding one-to-one supports for members. Similarly, the Group Home rate models include 'floating' staff hours in addition to the regular shift staff to account for various circumstances that create the need for additional supports, including one-to-one attention.

The per diem rates – which are 'tiered' based on members' levels of need – are fixed and will not be determined on a person-by-person basis. Further, there is not a separate hourly residential habilitation service to augment the Group Home, Supported Living, or Sponsored Placement rates. That said, there will be a process for members and guardians to request an exception from their assigned rate to meet unique circumstances.

38. One commenter stated that congregate residential services should be equipped to accommodate persons who require behavior support.

DBHDS agrees with the commenter's premise; members who require behavior supports should have access to congregate residential services. It is unclear whether the commenter had specific concerns,

but the rate models and related processes are intended to allow providers to meet members' behavioral needs.

Individuals with significant behavioral issues would be assigned to SIS-based Level 7 and would receive the highest Tier 4 rates. These rates provide for the most intensive direct support staffing. As is currently true, members who also require professional supports have access to therapeutic consultation, which can be delivered in the residential setting. As described in the response to comment 83, the rates for Therapeutic Consultation are being substantially increased, which should expand the pool of professionals willing to provider services. Finally, there will be an exceptions process for instances in which members need a level of support in excess of what the rate will allow.

39. One commenter offered feedback related to rent subsidies.

DBHDS recognizes the challenges associated with home rental costs in the State and continues to explore options to provide assistance in this area. Unfortunately, such assistance is not available through the Medicaid program and is outside the scope of this rate review.

40. One commenter expressed disappointment that there was not more emphasis on technological solutions such as remote monitoring and communication systems.

DBHDS is committed to exploring technological solutions that support members' independence in a cost-effective manner. Home-based technology, however, was not included in the scope of this rate review. DBHDS is currently reviewing the service array within each waiver; this process will include consideration of the types of services mentioned by the commenter.

Group Home

41. Two commenters stated that the proposed rates are not consistent with an emphasis on group homes with four or fewer beds. One commenter stated that the proposed rates will make smaller residences more viable compared to the existing system that incentivizes large residences. Another commenter argued that the proposed rates do not provide enough support for larger group homes – those with five or more beds – when compared to smaller homes. This commenter compared staffing ratios for Tier 3 homes.

The rate models are intended to reflect the costs faced by providers in the delivery of services. In terms of Group Home services, the largest cost relates to direct support staff. Operating larger group homes requires more staffing, but also allows for certain economies of scale. As a result, the *rate per person* is lower for larger homes, but the *total home funding* is greater. For example, the Tier 1 per diem rate for a four-person home outside of Northern Virginia is $237.62, which provides a total of $950.48 per day for the home, while the Tier 1 rate for a five-person home is $221.80 which translates to a total of $1,109.00.

In addition to home size, the staffing assumptions take into account members' level of need as determined by the Supports Intensity Scale (SIS). The staffing assumptions are detailed in Appendix D of the rate model document. The commenter noted that the Tier 3 rate models for four-person and five-person homes both assume that there are two staff on shift during the daytime hours. The commented concluded that the four-person rate model provided a staff-to-member ratio of one-to-two while the five-person rate model provided only one staff for every 2.5 members. The commenter, however, did not consider the additional 'floating' staff built into the rate models. For a five-person

home, an additional two staff (80 hours per week) are included in the rate, which could conceivably provide a third staff person on shift during almost all daytime hours. Overall, the four-person Tier 3 rate model assumes a total of 246 staff hours per week, while the five-person Tier 3 model assumes 362 hours.

The rate model staffing assumptions appear to compare favorably to the staffing levels reported in the provider survey. Participants in the provider survey reported average weekly staffing of about 230 hours for a four-person home. It is challenging to compare the survey results to the rate models because the models are tiered and complete assessment data for the homes reported through the survey is not available. The reported 230 hours falls between the Tier 2 (222 hours) and Tier 3 (247 hours) rates and, given that the results of the SIS sample suggest that 80 percent of group home residents will receive the Tier 2 or Tier 3 rate, the model appears consistent with current practices. For five- and six-person homes, providers participating in the survey reported an average of about 250 to 260 weekly staff hours, which is fewer than even the Tier 1 rate model.

Overall, DBHDS continues to believe the assumed staffing levels are appropriate.

42. One commenter suggested that the rates for group homes with more than four residents be reduced by two percent each year such that, eventually, the lower rate for larger homes would result in no change in total revenue when an additional member moves into the home. The intent would be to increase incentives for smaller homes.

As noted in the response to comment 41, the Group Home rate models assume additional staffing as the size of a group home increases. The additional staffing does assume that some economies of scale are realized (that is, the allocated number of staff hours for each person is reduced as the home size increases). As a result, per-home funding increase for each additional member, but the per-person rate decreases.

Under the commenter's proposal, the per-home amounts would eventually become fixed regardless of the size of the home. To illustrate the commenter's point, consider a $100 per-member per diem rate for four-person homes, which would translate to $400 per day for the home. The commenter's proposal would eventually result in an $80 per diem per-member per diem rate for a five-person home so that the home would still receive only $400 per day.

DBHDS supports the continued development of smaller community homes. However, provider survey results suggest that more than two-thirds of members currently reside in homes with five or more beds. These larger homes – which will have to comply with home and community-based requirements – will, therefore, continue to be an important part of the waiver system for the foreseeable future.

43. One commenter stated that the Tier 4 rates are not sufficient for members with the most significant needs and that the proposed rates are less than the rates that DBHDS uses for individuals transitioning to the community.

Members with the greatest support needs as based on the results of a Supports Intensity Scale (SIS) assessment, including those with significant medical or behavioral issues receive Tier 4 rates. As discussed in the response to comment 44, the Tier 4 rate model has been adjusted to assume that members participate in day activities 20 hours per week (17.6 hours after accounting for an 88 percent attendance rate) rather than the previously assumed 30 hours. With this change, DBHDS believes that the Tier 4 Group Home rates are appropriate, though there will be exceptions.

The Group Home rates vary by the size of the home. For a Tier 4 member in a four-person home, a provider would receive annual payments of $108,484 ($128,405 in northern Virginia); for a five-person home, payments would total $94,552 ($111,938); and payments for a six-person home would be $92,096 ($109,007). As discussed in the response to comment 41, per member rates decline as home size increases.

These amounts were compared to the fiscal year 2013 congregate residential payments for members who resided in group homes, were included in the SIS sample, and would receive Tier 4 rates. The comparison is inexact because the size of a group home cannot be easily determined from claims data. There were 17 such members outside of northern Virginia. Their Congregate Residential payments ranged from $57,720 to $135,224 with an average of $79,330. There were seven members in northern Virginia with payments ranging from $56,073 to $110,705 and averaging $88,518. Noting again that home size information is not available for those included in the claims, the comparison suggests that the new rates are, on average, higher than the existing rates for those who will be assigned to Tier 4.

It is acknowledged, however, that the Tier 4 rates will not be sufficient for some members (which is also true of each of the other tiers). For this reason, there will be an exceptions process through which members can access a rate higher than that to which they would otherwise be assigned.

44. One commenter disagreed with the assumption that members participate in day program activities 27 hours per week.

The assumption regarding participation in day activities was keyed to the attendance assumptions included in the Day Supports and Supported Employment – Enclave/ Work Crew rate models. As discussed in response to comment 57, the original assumption of 90 percent attendance was reduced to 88 percent. Consistent with that change, the Group Home (and Supported Living) rate models have been revised to reflect a 12 percent absence factor, which results in attendance of 26.4 hours per week. Additionally, DBHDS considered comments that members with the most significant needs will, on average, be less able to participate in day activities. In response, the Tier 4 rate model was revised to assume that members are scheduled for 20 hours of day activities per week. With an 88 percent attendance assumption, the rate model effectively assumes 17.6 hours of day activity participation per week. These changes increase group home staffing and, thus, the rates.

As further discussed in the response to comment 57, claims data was reviewed to offer some sense of current attendance levels. In fiscal year 2013, members residing in group homes who participated in day activities use an average of 9.5 'units' per week. Assuming 2.75 hours per unit (see the response to comment 55), these individuals receive 26.1 hours of day activity services per week, similar to the 26.4 hours now assumed in the rate models.

This assumption is intended to reflect reasonable expectations. It is true that some members will participate in fewer hours of day activities and others will participate in more. As discussed in the response to comment 2, the rate models assumptions are not requirements and providers' staffing patterns may vary from what has been assumed. Even for members who do not participate in any day activity, the rate models would support 24-hour per day staffing (that is, all models provide for at least 168 hours of weekly staffing). Given the flexibility offered to providers in terms of their staffing and existing utilization patterns, DBHDS believes the revised assumptions are adequate.

45. One commenter objected to the requirement that group homes have awake staff during overnight shifts, particularly for homes that only serve individuals assigned to SIS-based Levels 1 and 2.

The rate models assume, and provide funding for, awake staff during overnight shifts. It is true, however, that there are some individuals who may not require awake staffing, although it is unknown the extent to which there are homes in which no one requires such staffing. DBHDS will consider potential changes to these requirements as it reviews the relevant licensing regulations.

46. Two commenters suggested that the rate models should include time for shift changes.

DBHDS agrees that effective 'hand-offs' between shifts contribute to the consistency of care in group homes, but believes that there is sufficient flexibility in the rate models to allow for these hand-offs without adjustments to the rate models.

Rather, shifts can be staggered so that staff on one shift are not arriving and leaving at the same time. In most cases, the rate models include more than one staff person on each shift so staggering shifts could be accomplished, for example, on the second shift with one employee starting at 4:00 PM and the second employee starting at 5:00 PM. Staffing in this manner would result in overlap between shifts thereby supporting continuity. It is noted that the Tier 1 and Tier 2 rate models for four-person group homes only assume one staff on each shift, but they also include additional 'floating' staff hours that could be scheduled in a fashion similar to the example.

These examples are presented only for illustrative purposes. The staffing assumptions included in the rate models are not prescriptive and providers have flexibility in staffing their group homes. As discussed in the response to comment 41, the rate models assumptions appear consistent with the current staffing levels reported by provider survey participants.

47. Several commenters disagreed with various productivity assumptions:

- ***Several commenters noted that documentation requires a significant amount of time. One commenter stated that two hours of every eight hour shift is dedicated to progress notes.***
- ***One commenter stated that there should be time for program preparation/ set-up/ clean-up.***
- ***One commenter stated that there should be additional time for plan of care meetings.***
- ***One commenter suggested that employer/ 1:1 supervision time is inadequate because it only allows for 13 hours annually while DBHDS regulations require 24 hours of 1:1 supervision.***

As discussed in the response to comment 11, productivity adjustments are intended to account for staff time for which agencies are not permitted to bill. Productivity adjustments are particularly relevant for services billed by the hour because any staff time that is not billable is 'lost' to the agency. That is, the agency cannot bill for the worker's entire shift. In the case of per diem rates for Group Home services, however, the rate models already account for all staff hours, paying for the entire shift of each employee. For this service, then, productivity adjustments are only necessary to account for time when staff are away from the home (for example, to attend training) or when substitute staff are otherwise required.

DBHDS acknowledges that significant time is necessary to complete documentation (though it is hoped that this will be at least somewhat reduced by the conversion to per diem rates). However, it is assumed that staff complete this work during the course of their shift and substitute staff are not required. Similarly, staff undoubtedly have responsibilities related to program preparation and clean-up, but it is assumed that these activities do not require substitute staff.

The rate models include 0.10 hours per 40-hour workweek for plan of care meetings. For four-person group homes, this translates to between 7.8 and 12.2 hours per member per year. To illustrate how this can be determined, consider the Tier 1 rate. It includes 60.3 hours per member per year, which translates to 3,136 hours per year. Dividing by 40 hours, there are 78.4, 40-hour workweeks per member per year. Providing 0.10 hours per workweek produces 7.8 hours per member per year. Since there are fewer hours per member per year in the larger homes, there will be fewer hours per person for plan of care meetings, but overall, DBHDS believes that more than sufficient time is included for plan of care meetings.

The rate models include 0.50 hours per 40-hour workweek for employer time such as one-to-one supervision. This equates to 26 hours per year, rather than the 13 hours stated by the commenter. Although this exceeds the 24-hour obligation cited by the commenter, DBHDS is unsure of the requirement to which the commenter is referring.

Supported Living

48. Several commenters suggested that Supported Living rates should be equivalent to Group Home rates.

Supported Living is a different model for delivering residential habilitation services. Members in a supported living environment generally receive less intensive support. Reviewing fiscal year 2013 claims data, individuals in group homes received an average of 13.8 hours of Congregate Residential Support per day compared to 11.0 hours per day amongst members living in supported living placements (for those who received In-Home Residential Support, the average was 6.4 hours per day). A review of utilization for members included in the Supports Intensity Scale (SIS) sample suggests these differences exist even when accounting for levels of need. Accordingly, the Supporting Living staffing assumptions outlined in Appendix E of the rate model document are less intensive than those for group homes. Supported Living rates, as a result, are lower than Group Home rates.

Sponsored Placement

49. Numerous commenters objected to reductions in Sponsored Placement rates. In particular commenters discussed the quality of services and the costs faced by the home providers. Some commenters compared the service to Group Homes while others stated this was not an appropriate comparison.

Sponsored Placement is an important component of the system of supports for individuals with intellectual and developmental disabilities. It is part of a comprehensive system of residential options for members, which also include group homes, supported living, and supports for individuals living independently. The proposed rates were estimated to have resulted in an average reduction to the daily Sponsored Placement payment of about 11 percent. In response to the comments that were received, DBHDS made two changes to the rate models that, overall, result in payments that will be nearly equal to current totals.

From a rate-setting perspective, the service differs from group homes. Fundamentally, a group home is assumed to be staffed 24 hours per day with employees subject to minimum wage and overtime requirements, payroll taxes, etc. In contrast, the payments to Sponsored Placement home providers

are assumed to be 'stipends' that provide to account for the additional costs associated with the member residing in their home.

The Sponsored Placement rate models are 'tiered' based on members' levels of need as determined by the Supports Intensity Scale (SIS). The stipend amount varies across tiers, with higher payments assumed for members with more significant needs. The first change to the rate model is the increase in the assumed stipend for members assigned to Tier 4 from $75,000 per year to $81,000. The other assumed stipends – $30,000 for Tier 1, $45,000 for Tier 2, and $60,000 for Tier 3 are unchanged. These stipends are intended to account for many of the costs cited by a number of commenters, including back-up staff, mileage, and supplies. It is also noted, though, that some other costs reported by commenters are not necessarily intended to be part of the stipend. For example, room and board related costs (such as the share of the home mortgage attributable to the member, their food, etc.) should not be part of the stipend; rather, home providers should also receive a portion of members' SSI or SSDI benefits (if applicable) to cover these costs. More broadly, some commenters reported total costs associated with, for example, property taxes, utilities, or vehicles. The stipend, however, should not be expected to cover these entire costs, but only the portion attributable to the member (that is, the additional cost that exists due to the member residing in the home).

DBHDS also made a significant change to the portion of the rate related to agencies' costs. In the original rate model, administrative costs were calculated as 11 percent of total costs excluding the stipend to the Sponsored Placement home provider. This calculation has been revised to include the stipend paid to the home, substantially increasing the cost base and resulting in a higher administrative amount. For example, the administrative funding amount assumed in the Tier 2 rate for the rest of the State increased from $1,332.13 in the proposed model to $6,848.37 in the final model. DBHDS believes that this treatment is more consistent with other residential services, which include the direct care in the cost base against which the administrative rate is applied.

With these changes, the average Sponsored Placement rate is estimated to be $237.52 per day, which is expected to be about 0.4 percent less than current daily payments. It is important to note that the actual rate change will vary by individual, with the rate for some members increasing and for others decreasing by more than 0.4 percent.

The estimated average daily Sponsored Placement rate is greater than the anticipated average daily group home rate of $235.78 and appears to be significantly higher than in most states for comparable services. A cursory review of the waiver applications and other available documents for the other states in the Centers for Medicare and Medicaid Services' (CMS) Region 3 was conducted. Delaware reports an average daily rate of $38.48 for Shared Living Arrangements, the District of Columbia reports $178.97 for Host Home services, Maryland reports $76.25 for Shared Living, Pennsylvania reports $97.76 for Family Living, and West Virginia reports $136.32 for Specialized Family Care. Service definitions were not reviewed in-depth so there may be differences in requirements, but these amounts suggest that Virginia's rates are significantly higher than others. Additionally, since Sponsored Placement is, in many regards, analogous to foster care (a number of states refer to this service as adult foster care), the Department of Social Services' foster care rates were reviewed. Considering the highest basic maintenance payment, clothing allowance, and the highest enhanced maintenance payment for children with the most significant needs, the maximum foster care is equivalent to $89.41 per day.

Finally, DBHDS agrees with many commenters who suggested that some regulatory and documentation requirements should be reduced and will work with agencies and home providers to consider possible changes.

50. One commenter asked why the Sponsored Placement rate model did not include wage assumptions based on Bureau of Labor Statistics data for home providers.

As noted in the response to comment 49, the Sponsored Placement rate is not based on an 'employment' model. That is, the home providers are not paid an hourly wage or subject to minimum wage or overtime requirements. Rather, the rate model provides for a stipend to account for the additional care that a member requires due to their disability.

51. One commenter expressed concern that the actual homes will experience reductions in excess of the 11 percent average included in the fiscal impact analysis if agencies do not reduce their costs and pass the entire reduction on to their contracting homes. To avoid this outcome, the commenter suggested that the rate be bifurcated, with separate payments for the agency and for the home.

With the changes to the rate models described in comment 49, it is anticipated that the average payment will be nearly equal to current levels. Rates will, however, decline for some placements and DBHDS appreciates the commenter's suggestion to ensure any reductions to home payments are proportional, but believes that providers should have the flexibility in the design of their programs. Thus, the rate model assumptions – including home payments – are not prescriptive. Agencies may therefore establish agreements with homes that provide for payments that are more than or less than the rate model assumptions.

52. One commenter asked whether payments will vary based on whether members participate in a day program.

As discussed in the response to comment 34, the rates for all congregate residential services, including Sponsored Placement, are being converted to per diem rates. These services will no longer be authorized by the hour and the per diem rates do not change based on participation in day activities.

53. One commenter suggested that payments to home providers be subject to income taxes and the resulting State revenues used to fund more waiver slots.

DBHDS has no authority over tax policy. As a result, this issue is outside of the scope of this project.

DAY ACTIVITIES

54. Several commenters objected to billing Supported Employment – Enclave/ Work Crew and Day Support services in hours rather than in partial-day 'units'. Two commenters asked in what fractions the hourly rate would be billed (for example, would services be billed in 15-minute increments?).

The shift to hourly billing for Supported Employment – Enclave/ Work Crew and Day Supports services is intended to better align payment with services provided. This is also consistent with most other waiver services, which are reimbursed on an hourly basis (the exceptions include full-time residential care, which will use daily rates).

Supported Employment – Enclave/ Work Crew and Day Supports are currently billed in 'units', with one unit billed for services between 1.00 and 3.99 hours, two units billed for between 4.00 and 6.99 hours of service, and three units billed for more than 7.00 hours of service. Thus, a provider receives the same payment for providing one hour of service as for three hours and 59 minutes. A provider

delivering four hours of service receives double the payment as a provider delivering three hours and 59 minutes. Billing for services on an hourly basis will eliminate these incongruent outcomes.

The hourly rate will not be broken down into smaller units. That is, service time will be rounded to the nearest hour rather than billed in 15-minute increments. Providers will be expected to track the hours of service provided to each member, total these amounts over a week or month, and then round to the nearest hour for the purposes of billing. Since the current units are already tied to hours of support, DBHDS expects that providers are already tracking service time, and billing for hours of support should not result in a significant administrative burden.

55. Several commenters disagreed with the assumption that the current 'units' of service are equivalent to 2.75 hours. One commenter stated that each unit is equivalent to 3.99 hours while others suggested that each unit represents between 2 and 2.5 hours.

DBHDS acknowledges the uncertainty regarding the amount of Supported Employment – Enclave/ Work Crew and Day Supports services that is provided. As discussed in the response to comment 54, Supported Employment – Enclave/ Work Crew and Day Supports services are currently billed in 'units' that correspond to somewhere between one minute and three hours and 59 minutes of service. The resulting uncertainty regarding the amount of service actually provided is one of the reasons for the shift to hourly units.

The assumption regarding the amount of service currently provided does not impact the Supported Employment – Enclave/ Work Crew and Day Supports rate models, which were constructed to reflect a billing unit of an hour. It does, however, affect the fiscal estimate. Forecasting the cost of the new rates required an estimate of the number of hours associated with each current 'unit'. A couple of data points were considered when developing the estimate. Participants in the provider survey generally reported that a member receives six hours of service per day, though this varied somewhat across service. Six hours would translate to two units, or three hours per unit. The Department of Medical Assistance Services (DMAS) conducted a 2007 provider survey that found the average unit translated to between 2.46 and 2.66 hours of service.

Based on these data points, DBHDS believes that 2.75 hours per unit is a reasonable estimate. The actual amount may be somewhat more or less, which will affect the fiscal impact. Further, the impact for each provider will be determined by how much service they are actually delivering. If a provider is delivering 3.99 hours of service for each unit (unlikely because it is only possible if they always provide exactly three hours and 59 minutes of service), they will experience a larger increase in revenue than estimated. Conversely, if a provider is delivering 2.00 hours of service for each unit (which is also unlikely), they will realize a change in revenue less than estimated.

56. Two commenters asked whether transportation costs are included in the billable hours.

Supported Employment – Enclave/ Work Crew and Day Supports providers are not responsible for transporting members to and from their day activity. Rather, this is the responsibility of the transportation broker. Day activity providers may choose to provide transportation to and from the program, either through an agreement with the transportation broker or not, but these costs are not included in the rate models for these services.

In-program transportation, such as transporting members to their worksite or to a community activity, is the responsibility of the day activity provider. Assumptions regarding the associated mileage costs are therefore included in the Supported Employment – Enclave/ Work Crew and community-based

Day Supports rate models. There are no productivity adjustments for in-program transportation because this time is billable (that is, providers can bill for the time during which members are being taken to their worksite or activity).

57. One commenter stated that the 90 percent attendance rates assumed in the Supported Employment – Enclave/ Work Crew and Day Support rates are too high. Alternative suggestions ranged from 82 percent to 85 percent.

As the commenter notes, the rate models for Day Supports and Supported Employment – Enclave/ Work Crew assume that members attend 90 percent of their scheduled hours. In response to this and related comments, the rate model assumption has been reduced to 88 percent.

The original assumption was derived from provider survey results. Respondents reported that, on average, members attend 90 percent of the days that their Day Support program operates (80 percent in northern Virginia), 92 percent of Pre-Vocational days (83 percent in northern Virginia), and 87 percent of Supported Employment – Enclave/Work Crew days (91 percent in northern Virginia).

DBHDS evaluated claims data to attempt to validate the assumption. As discussed in the response to comment 54, however, these services are currently billed in part-day 'units', making it difficult to determine how many hours per week a member participates in day activities. On average, users of these services utilize an average of 8.5 units per week. As noted in that earlier response, it is assumed that each unit is equivalent to 2.75 hours, which would translate to 23.4 hours per week. Even accepting this figure, though, it is unknown how many hours per week members are scheduled to attend.

With the shift to hourly billing, DBHDS will be better able to monitor utilization and attendance. In the meantime, the assumed attendance rate has been reduced to 88 percent, which increases the rates for these services because there are fewer billable hours across which costs are being spread. As utilization data becomes available, DBHDS will determine whether subsequent adjustments are appropriate.

58. Several commenters stated that the wage assumptions for Supported Employment – Group and Day Supports are too low. One commenter suggested that these wages should be equal to the reported average wage for Supported Employment – Individual services reported by provider survey participants.

DBHDS supports competitive wages and benefits for the direct support workers providing waiver services. However, each of the services referenced by the commenter has different requirements so the comparisons are not applicable. The commenter notes the providers of Supported Employment – Individual services that participated in the survey reported an average wage of $24.86 per hour in northern Virginia and $18.78 in the rest of the State. However, DBHDS does not believe that these are appropriate benchmarks for staff providing Supported Employment – Group or Day Supports services.

The wage assumptions are intended to be consistent with the education and abilities required of staff providing each service. As discussed in the response to comment 8, the rate models rely on Bureau of Labor Statistics data that provide cross-industry data for a variety of occupations. Based on assumptions regarding the occupations that best meet the requirements of each service, the Day Supports rate models assume a wage of $11.99 per hour for ($14.64 in Northern Virginia)and the Supported Employment – Group rate models assume $14.58 ($16.25). These wage levels are

generally consistent with the current wage levels reported by private providers that participated in the provider survey, but less than the wages reported by Community Service Boards. Additionally, the rate models include a comprehensive service package as described in the response to comment 7. Overall, DBHDS believes that the wage and benefits assumptions for these services are sufficient and competitive.

Supported Employment

59. One commenter noted that no changes are proposed for Supported Employment – Individual rates and asked what the current rate is and how this compares to Day Support. Another commenter suggested that the waivers accept the rates that providers have negotiated with DARS for Supported Employment – Group, Pre-Vocational services, and Day Support.

Providers of Supported Employment – Individual services are reimbursed at the same rates as their agreements with the Department for Aging and Rehabilitative Services. These rates are provider-specific; the average paid in fiscal year 2014 was $58.51 per hour. It is difficult to compare this rate to Day Support rates because Day Support is generally a group service and it is reimbursed on a 'unit' (part-day) basis rather than hourly.

At this time, DBHDS is not proposing any change to the use of DRS rates for Supported Employment – Individual services. DBHDS does not intend, however, to adopt DRS rates for other waiver services.

60. Several commenters stated that Enclave/ Work Crew group sizes should not be determined by members' level of need. One of these commenters further suggested that a work site should have members with varying levels of need. Another commenter suggested that these rates should be tiered. One commenter stated that the rates for a group of three-to-four members per direct support worker are different than those for a group with five or more members per direct support worker although 'the same amount of staff support [is] needed in both.'

Rates vary because the number of members across whom costs are shared is different. For example, the per-person rate for a group of more than five members is less than for a smaller group because the provider is billing for more members.

DBHDS, however, agrees that group size should not be a function of members' level of need and that members with varying needs should be able to work together. It is expected that the appropriate group size will be a function of the requirements of the job and the needs of the individuals served. Thus, individuals are not restricted to any particular group size; members assigned to any SIS-based level may be served in any group size.

61. One commenter suggested that the label for the largest Enclave/ Work Crew group size should be changed from "Groups of More Than 5 Members per Staff" to "Groups of 5 to 8 Members per Staff".

The current service definition for Group Supported Employment establishes a maximum group size of eight members. This requirement is not changing. As suggested by the commenter, the label for the rate model for groups of five or more members has been revised to 'Groups of 5 to 8 Members per Staff' in order to eliminate potential confusion.

62. Several commenters noted that staffing ratios may vary from day-to-day – or even during the day – which will complicate billing. One of these commenters asked whether individuals who are not receiving services through a waiver program will be included in the group size determination.

As discussed in the response to comment 60, the rate models for Supported Employment – Enclave/ Work Crew are not tiered based on members' levels of need as are the rates for Day Supports. Rather, the Enclave/ Work Crew rates vary based on staffing ratios to reflect differences in costs due to economies of scale. This approach is intended to ensure that providers have the flexibility to tailor their programs to the requirements of the job, which may not be a direct function of levels of need.

However, this approach does complicate the tracking of staff and member time in order to ensure that the appropriate rate is billed. As discussed in the response to comment 54, providers are going to have to put in place systems to track members' attendance in order to bill on an hourly basis. Accounting for the staffing ratio during each hour of service will need to be requirement of each provider's strategy for instituting these solutions.

The determination of group size is to include all service recipients, whether or not they are served through a waiver program. DBHDS is willing to work with providers to discuss approaches to streamline these requirements.

63. One commenter stated that the assumption that members receive 1,125 hours of Enclave/ Work Crew services per year will disincentivize part-time opportunities.

The proposed Supported Employment – Enclave/ Work Crew rate model included the assumption that members receive 1,125 hours of support per year. This estimate assumed that members participate in 225 days of service (90 percent of 250 non-holiday weekdays) for an average of five hours per day. As discussed in the response to comment 57, assumed attendance has been decreased to 88 percent, reducing assumed days of service to 220. This change produced a modest increase in the rates.

The assumption regarding annual attendance hours does not discourage part-time employment. This assumption impacts only one component of the rate model: the calculation of the mileage cost. Specifically, the assumed annual mileage cost is spread across the presumed number of hours of service. Thus, if a member's attendance is less than assumed, the provider will not recoup the assumed annual mileage cost. However, it is reasonable to assume that there will be less mileage associated with members working part-time so the cost would be less than assumed.

64. One commenter suggested that the Enclave/ Work Crew rate model should provide for one hour per week of one-to-one supervision and employer time and 1.25 hours per week for training.

The Enclave/ Work Crew rate model includes 0.50 hours per week for employer time such as one-to-one supervision and 0.75 hour per week (39 hours per year) for training. These assumptions are consistent with those included in the rate models for other services and DBHDS believes that they are appropriate.

Day Supports

65. Several commenters stated opposition to cuts in the rates for Day Supports. Commenters variously objected to each of the proposed tiered rates.

Rather than being reduced, DBHDS estimates that Day Supports rates will increase by 10.9 percent, on average. The actual impact will vary by provider based on length of program, amount of time spent in the community, members' levels of need, and current use of 'regular' and 'high' intensity rates.

Day Supports will have four rate tiers, based on members' Supports Intensity Scale (SIS)-based levels. These tiers are intended to recognize that members with more significant needs generally require more intensive services. The current rates incorporate a similar approach with regular and high intensity rates. Providers serving a relatively higher proportion of members with significant needs would see a larger increase in revenues compared to those with a greater proportion of individuals with lesser needs.

The rates for services delivered in the community will be higher than those provided at a center so providers with more community-focused programs will experience a larger increase in revenues than those with more center-focused programs.

Finally, as discussed in the response to comment 54, Day Supports will be billed in hours rather than the current part-day 'units'. The fiscal impact estimate assumes that each current unit is equivalent to 2.75 hours of service. Providers delivering less service than estimated will realize a smaller increase in revenues compared to those delivering more service than assumed.

66. One commenter offered support for combining Pre-Vocational Services with Day Supports.

DBHDS appreciates the support for the elimination of Pre-Vocational Services as a standalone service and the incorporation of Pre-Vocational activities into the Day Supports service definition. These services share a number of similarities; including them in a single service definition is intended to simplify program administration for both the State and providers.

67. One commenter objected to prescriptive staffing ratios. Another commenter asked how staffing requirements will be determined.

As discussed in the response to comment 65, the Day Supports rates are tiered based on members' level of need, as determined by the Supports Intensity Scale (SIS). There are higher rates for members with more significant needs to reflect the more intensive supports they typically require. Specifically, the rates vary based on assumed staffing ratios with members with greater needs assumed to be served in smaller groups. These assumptions represent an appropriate level of support for each SIS-based group, but are not mandates on providers. For example, the Tier 2 rate for center-based services assumes a ratio of one direct support worker for every four members, but providers will not necessarily be required to operate at exactly this staffing ratio. Rather, providers will have flexibility in designing their own programs, consistent with members' plans of care. In no case, however, may a program exceed seven members per direct support worker for center-based services or three members per direct support worker for community-based services (the maximum ratios assumed in the Tier 1 rates).

68. One commenter stated that staffing and tracking hours for center-based and community-based services will be challenging.

As noted in the response to comment 65, separate rates will be established for Day Supports provided at a center and services delivered in the community. The community rates are higher to reflect the greater staffing that is usually required in less-controlled environments. DBHDS believes it is important to recognize these higher costs in order to properly encourage community-based services. DBHDS does acknowledge, though, that there will be added effort for providers.

In terms of staffing, the response to comment 67 noted that the assumptions included in the rate models are not prescriptive so that providers have flexibility in the design of their programs. As a result, it is expected providers will develop their staffing schedules based upon the needs of the members and services provided, as is assumed to be true today.

Services will be billed based on where they are delivered. So, a portion of a member's day may be billed at the center-based rate and a portion of that same day may be billed at the community-based rate. Providers, therefore, will need to develop processes to track where members are throughout the day, if they do not already do so. This manner of tracking and billing hours does add complexity, but DBHDS believes this is outweighed by the benefits of rates that appropriately reflect the costs of delivering services in the community.

As discussed in the response to comment 26, the new Day Supports rates will be rolled in gradually, beginning sometime in fiscal year 2017, allowing time for providers to become accustomed to the new requirements. Additionally, the response to comment 65 notes that Day Supports rates are estimated to increase 10.9 percent, on average, which should help to accommodate additional costs that providers incur as part of this transition.

69. One commenter stated that the wage assumption in the Day Supports rate models does not support staff with a bachelor's degree. Another commenter suggested that an increasing emphasis on community integration will require staff with more training and education because they receive less supervision (compared to, for example, staff working in group homes).

The wage assumptions in the Day Supports rate models are not intended to support staff with bachelor's degrees because this is not a requirement. The center-based and community-based rate models do include the same wage assumption, largely because it is expected that many staff provide services both at centers and in the community. However, as with all assumptions, the wage is not prescriptive and providers have the flexibility to pay more or less than assumed, including paying higher wages to staff delivering services in the community. As discussed in the response to comment 58, DBHDS believes that, overall, the wage assumption for Day Supports workers is appropriate.

70. Several commenters disagreed with various productivity assumptions.

- ***Some commenters suggested that the rate models should allow for between 10 and 20 minutes per member per day for documentation requirements. Another commenter suggested that the models should include 45 minutes per day per direct support worker.***
- ***One commenter suggested that the rate models should include 20 minutes per day per direct support worker for program preparation/ set-up/ clean-up.***
- ***One commenter stated that direct support staff do not attend ISP/ Plan of Care meetings; rather, supervisors attend these meetings.***
- ***One commenter suggested that the rate models should assume that only 66 percent of a direct support worker's time is spent delivering services, stating that this is the ratio allowed by DARS and northern Virginia community service boards.***

As discussed in the response to comment 11, productivity adjustments are intended to account for the non-billable responsibilities of direct support workers. The rate models presume a 40-hour workweek and then seek to determine what proportion of that time is associated with direct care. The Day Supports rate models assume that, based on a 40-hour workweek, direct support workers are delivering services between approximately 31 and 32.5 hours per week (between 77.5 and 81.3 percent of their time). The remainder of the time is associated with attending plan of care meeting, program set-up and clean-up, documentation, employer time such as one-on-one supervision, training, and paid time off.

In terms of specific comments, several would increase the productivity adjustment. For example, the center-based rate models include between 1.5 and 2.5 hours per week for recordkeeping that does not occur during the program (that is, this adjustment is only intended to account for paperwork after the program has 'closed'). This assumption is somewhat less than reported by participants in the provider survey, who reported between 1.6 and 4.3 hours. On the other hand, the suggestion that time for plan of care meetings should be eliminated because direct support workers do not attend these would result in a lower productivity adjustment. The rate models provide 0.5 hours per week for set-up and clean-up activities, which is consistent with provider survey results. Thus, although there may be some disagreement on individual items, DBHDS believes that, overall, the productivity adjustment is appropriate.

71. One commenter expressed concern that the SIS does not reflect the amount of personal care that a member requires as part of a Day Supports program.

The Supports Intensity Scale (SIS) is not being used to determine the amount of personal care that a member receives as part of their Day Supports program *per se*. Rather, results from the SIS are used to assign members to levels and to rate tiers. The rate models for each of the Day Supports tiers, in turn, include an assumption regarding the appropriate staffing ratio. The Tier 1 rate assumes there is one direct support worker for every seven members, the Tier 2 rate assumes a one-to-four ratio, and the Tier 3 and Tier 4 rates assume one-to-three and one-to-two respectively. These assumptions are not prescriptive and providers have flexibility in the design of their programs, consistent with members' individual needs. It is expected that staffing ratios may fluctuate throughout the day and some members may periodically require one-to-one support for personal care needs. At other times, they may be served in groups larger than assumed in the rate models (though no larger than one-to-seven).

Overall, DBHDS continues to believe that the staffing ratio assumptions included in the rate models are adequate, particularly given the flexibility that providers have in deviating from these assumptions

(that is, some staffing ratios may be larger than assumed and other groups may be smaller). There will be, however, a process for members to request an exception from the rate to which they would be assigned according to their SIS-based level.

72. Two commenters asked whether members are limited to six hours of Day Supports per day since that is the assumption in the rate model. Some commenters noted that programs operate for more than six hours per day while other commenters stated that programs operate for fewer hours.

The Day Supports rate models assume that members receive six hours of service for each day that they attend their program, which is generally consistent with the results of the provider survey. This assumption, however, does not limit the amount of service that a member may receive. These decisions will continue to be part of the annual planning and authorization approval processes.

73. One commenter stated that the assumption of 75 square feet of service space per member is too low and would not cover space associated with bathrooms, entry areas, changing rooms, washers and dryers, etc. Another commenter stated that the rates for community-based Day Supports should include funding assumptions for facility space and other office costs.

The rate models for center-based Day Supports include the assumption of 75 square feet per member, which is only intended to cover program space. That is, the space where services are provided. It is not intended to cover administrative space or areas such as bathrooms; these costs are part of the agency overhead amounts.

For the same reason, the rate models for community-based Day Supports do not include any assumption related to program space. It is true that there are costs associated with administrative space, but these amounts are included in the agency overhead amounts.

74. One commenter stated that the rates for community-based Day Supports should include $2.00 per member per day to cover the cost of events.

The Day Supports rate models for both facility services and community services already include $2.00 per member per day for supplies. It is expected that these funds would accommodate the types of costs suggested by the commenter.

75. One commenter noted that there was no difference in the mileage assumptions for Day Supports delivered in the community compared to those provided at a center. Another commenter noted that the provider survey results will be overstated because many of the respondents provide services in the community for only a portion of the day; if more time is spent in the community (as assumed in the rate model), the mileage assumptions should be greater.

The commenters are correct. When the decision was made to establish separate rates for center-based and community-based Day Supports, mileage should have been removed from the center-based rate models and increased for the community-based rate models. This was an oversight that has been corrected.

The proposed rate models for both center-based and community-based Day Supports both allocated 40 miles of transportation per member per week. As noted in the response to comment 56, the Day Supports rate models do not include mileage associated with transporting members to and from the program, but does include in-program transportation.

The center-based rates only account for services delivered at the center so, by definition, there is no in-program transportation. Consequently, transportation has been removed from the center-based rate model, reducing these rates.

Similarly, the community-based rate models are built as if all services are provided in the community. The commenter is correct that in-program transportation should be higher than was assumed. In response, the rate model has been revised to assume that a vehicle dedicated to community-based service would be driven 400 miles per week for in-program transportation (noting again that transportation to and from the program is not included in the rate model). The model continues to assume that there is one vehicle for every five members so 80 miles are allocated miles per member per week. This doubling of the original assumption increases the community-based rates.

76. Two commenters stated that the rate models for Day Supports should include the cost of professional services such as Nursing and Therapeutic Consultation.

Nursing and Therapeutic Consultation services can be billed directly, even when delivered at a member's Day Supports program. Thus, the direct provision of these services is not incorporated in the Day Supports rate models. The cost of nurses and therapists involved with program design or oversight is part of the program support component of the rate models.

77. Several commenters expressed support for the establishment of a one-to-one Community Access service. One commenter stated that the service should be delivered by professionals licensed by DBHDS. Another commenter suggested that the service should have tiered rates.

DBHDS appreciates the support for the establishment of the Day Supports – Community Access rate to allow for one-to-one services in the community. Community Access provides for individualized habilitation services for members, consistent with their goals and interests. At this time, DBHDS intends that staff providing Community Access services will have the same education, experience, and training requirements as any other Day Supports staff person.

Any member can choose to receive Community Access, regardless of their Supports Intensity Scale (SIS)-based level. The rate, though, is the same for all members. Since this service is one-to-one, providers' costs are not expected to widely vary based on level of need. That is, the rate model assumes that the direct support worker receives the same wage and benefits regardless of who they are serving, so the cost to the provider does not change. This assumption is true of all one-to-one services such as In-Home Residential Support and Skilled Nursing. The rate model assumptions are not prescriptive so providers have the flexibility to pay higher wages for staff working with members with greater needs, but this is not an expectation.

78. One commenter stated that the one-to-one rate model (that is, Community Access) should include more than one hour per week for travel between members.

The 'travel time (between members)' productivity adjustment in the Day Supports – Community Access rate model is intended only to account for time spent traveling from one member to another. This is a new service so it is unknown exactly how it will be used, but DBHDS is assuming that a visit will often last more than four hours. In these cases, it is likely that staff will only see a single member in a day. Thus, there would be no travel to a second member.

As this service becomes available, DBHDS will monitor its use to determine whether adjustments to the rate model are necessary.

79. One commenter stated that the establishment of a one-to-one Community Access option will increase their staffing and vehicle fleet costs.

It is true that providers choosing to offer Day Supports – Community Access will likely need to increase their staffing. The Community Access rate is higher than other Day Supports rates to reflect the more intensive staffing (that is, it is a one-to-one service rather than a group service).

It is also true that there will also be an increase in staff mileage. Whether or not that necessitates an increase in an agency's fleet depends on how they deliver in-program transportation. For those providers that use their own fleet, they would likely need to purchase or lease additional vehicles. Other providers may rely on staff to use their private vehicles and pay mileage reimbursement. Either way, the cost of mileage is built into the rate model for the service.

Overall, the rate model is intended to reflect the cost of delivering this service. DBHDS does not pay 'start-up' costs for spending that providers may undertake in preparing to offer the service. Of course, no agency is obligated to provide this service and may opt not to do so if they do not believe the rate is sufficient.

80. Several commenters asked how Day Supports provided to individuals who reside in Intermediate Care Facilities for the Intellectually Disabled (ICF/ID) will be reimbursed.

ICF/ID providers are responsible for contracting with Day Support providers as necessary. Questions related to these arrangements are outside of the scope of this rate review.

SKILLED NURSING SERVICES

81. One commenter asked whether the proposed Skilled Nursing services rates are higher or lower than existing rates. Several commenters offered support for the proposed increases in Skilled Nursing rates.

The rates for Skilled Nursing services would increase substantially. The rates for registered nurses would increase from $7.80 per quarter-hour to $18.37 (136 percent) in northern Virginia and from $6.42 to $14.77 (130 percent) in the rest of the State. For licensed practical nurses, the rates would increase from $6.76 to $13.71 (103 percent) in northern Virginia and from $5.57 to $11.36 (104 percent) in the rest of the State.

DBHDS believes that Skilled Nursing is a critical support to successfully serve members in their homes and communities, and appreciates the support for the increased rates.

82. One commenter asked how services will be billed when one nurse is providing services to two members simultaneously. The commenter further asked how services would be billed if the nurse is providing Skilled Nursing to one member and Respite to the other.

A nurse cannot provide services to more than one member simultaneously. A nurse may serve two or more members at the same location – and may be providing either the same service (for example, Skilled Nursing) or different services (for example, Skilled Nursing and Respite) to these members – but the time billed for these members cannot overlap.

THERAPEUTIC CONSULTATION

83. One commenter stated that the provider survey results showing that persons providing Therapeutic Consultation services are earning less than $20 per hour does not reflect the education and requirements associated with this service.

Only four providers of Therapeutic Consultation services participated in the provider survey. As the commenter observed, they reported relatively low wages for the staff providing these services – about $26 per hour in northern Virginia and $17 per hour in the rest of the State. These reported wage levels, however, were not the basis for the rate models.

As discussed in the response to comment 8, rate model wage assumptions were derived from Bureau of Labor Statistics data for Virginia. There will be several Therapeutic Consultation rates based on the credential of the staff providing the services and the assumed wage for each group of professions exceeds the amounts reported in the provider survey. For occupational therapists, physical therapists, speech-language pathologists, board certified behavior analysts, licensed behavior analysts, and rehabilitation engineers, the assumed hourly wage is $40.66 in Northern Virginia and $38.23 in the rest of the State; for psychologists and psychiatrists, the assumed wages are $35.83 in Northern Virginia and $30.33 in the rest of the State; and for all other professionals able to provide this service, the assumed wages are $29.05 in Northern Virginia and $25.29 in the rest of the State.

Partly due to these wage assumptions, the new fee schedule would result in significant rate increases for Therapeutic Consultation services. The increases vary across the type of provider and region of the State, but average more than 58 percent.

84. One commenter asked why there are different rates proposed for different professionals.

A number of professional disciplines are permitted to provide Therapeutic Consultation services and the market salaries for these positions vary. For example, wages for occupational therapists, physical therapists, and speech-language pathologists are generally greater than those for recreational therapists. Given that wages are the largest components of providers' costs, it was important to account for these differences in the rate models. As detailed in the response to comment 83, there are different wage assumptions for occupational therapists, physical therapists, speech-language pathologists, board certified behavior analysts, licensed behavior analysts, and rehabilitation engineers; psychologists and psychiatrists; and for all other professionals able to provide this service.

Other than the wage assumption, there are no differences across the rate models. All of the resulting rates, regardless of discipline, are greater than the current Therapeutic Consultation rates.

85. Several commenters stated that there should be rates for services provided by licensed behavior analysts, licensed assistant behavior analysts, and behavioral technicians. These commenters further suggested that the waiver programs provide coverage for applied behavioral analysis services.

In response to these comments, board certified behavior analysts, licensed behavior analysts, and rehabilitation engineers will bill using the rate originally designated only for occupational therapists, physical therapists, and speech-language pathologists. The other occupations mentioned by the commenters will bill at the 'Other Professionals' rate.

DBHDS is in the process of reviewing the service definitions for waiver services and will consider the comments related to applied behavioral analysis as a part of this review.