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McBride, McDowell, Pettyjohn, Poore, Richardson,
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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 104

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO SERVICES FOR ADULTS WITH
INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 7909A, Chapter 79, of Title 29 of the Delaware Code by making deletions as shown by strike
2 through, insertions as shown by underline and redesignate accordingly:

3 § 7909A. Division of Developmental Disabilities Services.

4 (f) Beginning in fiscal year 2019, the Division of Developmental Disabilities Services (DDDS) shall phase in
5 increases to the rate system for services to adults with intellectual and developmental disabilities (I/DD) based on the
6 market study provided to the Office of Management and Budget and the Controller General on January 17, 2014 by the
7 Department of Health and Social Services Secretary, as subsequently updated with utilization data for fiscal year 2018 and
8 updated component percentages. By fiscal year 2021, these rates shall be 100 percent of the benchmarked levels established
9 in the 2014 market study and shall be funded according to the subsequent utilization data updates.

10 (g) At a minimum of every three years thereafter, and/or whenever the federal or state minimum wage rate is
11 increased, another market study will be completed to determine whether an increase should be granted in the DDDS rate
12 system to keep services for adults with (I/DD) fully funded.

13 (h) Performance measures for the rate system for adults with I/DD shall be reported by DDDS on an annual basis,
14 which shall assist in determining the need to rebase the rate system. The data reported in the annual report shall include the
15 number of substantiated incidents of abuse, neglect, and exploitation of adults with I/DD, as determined by DDDS.
16 Additional data provided in the annual report shall be obtained by DDDS via contract requirements for service providers to
17 submit the following information for day and residential services:

18 (1) Starting and average hourly wages for all Direct Support Professionals (DSPs), including the starting and
19 average wages for DSPs who are designated as “shift leads”.

20 (2) Turnover rates for all DSP positions, including “shift leads”.

21 (3) Duration and number of full-time employees of all DSP position vacancies.

22 (4) Staffing ratios in each funded program location (i.e., the number of people with I/DD served for each DSP
23 and supervisory staff member who regularly provide a direct service to them).

24 Section 2. This Act is known as the “Michael McNesby Full Funding for Adults with I/DD Act.”

SYNOPSIS

The state is currently funding service providers at 75% of the market rate established in a 2014 study that was done by DHSS. This bill would mandate an increase in the rates paid to service providers according to the recommendations of the market study, so that by fiscal year 2021 the state would fund service providers at 100% of the benchmarked rate. These rate increases are necessary to increase the hourly wages of Direct Support Professionals (DSPs), to improve recruitment and retention of these positions, to decrease staff turnover, and to decrease position vacancies. Along with the corresponding costs for program oversight, direct supervision of DSPs, and training, stabilizing the DSP workforce with increased pay is essential to keep people with I/DD safe and integrated to the maximum extent possible in their local communities. The bill also requires that the adequacy of the rate system be evaluated against performance measures that are commonly used to assess program quality.