ARRM

ARRM leads the advancement of community-based services that support people with disabilities in their pursuit of meaningful lives.

1185 N. CONCORD ST.
SUITE NUMBER 424
SOUTH SAINT PAUL
MINNESOTA 55075

TEL 651.291.1086
TOLL 800.551.2211
FAX 651.293.9389
WEB ARRM.ORG

2015 Legislative Session: Déjà vu

The 2015 legislative session was a bit of déjà vu: In 2013 we left virtually empty-handed on the funding front, but passed a strong policy package – including most of 245D and DWRS. In 2014 we came roaring back and secured a higher rate increase than hoped for in the previous year.

This year ARRM again passed significant policy reforms, but came away without any rate increase for Home & Community-Based Services.

Looking ahead, our intent is to maintain that déjà vu into 2016 with a significant rate increase. ARRM and The 5% Campaign are already gearing up with grassroots and direct lobbying strategies for an all-out operation. We're hearing that the troops are ready and eager to get started, and will be launching strategic efforts very soon – much like the 2014 campaign.

Summary outcomes of bills we pushed and tracked

The adopted language for each issue below (unless otherwise noted), can be found in Chapter 71 of Minnesota Session Laws, 2015 regular session. They are all in Article 7, pages 185 to 224.

The 5% Campaign

This session The 5% Campaign coalition, strongly supported by ARRM, proposed legislation that would provide a 5% rate increase for Home & Community-Based Services in both 2015 and 2016.

Heading into Conference Committee, the House carried a one-time only five percent increase of $90 million for the year July 1, 2016 to June 30, 2017. The Senate did not provide a rate increase in its health and human services (HHS) bill.

The final fiscal target for the HHS conference committee was a reduction of $302 million off projected HHS expenditure in the next biennium. This ultimately left a number of requests without additional funds, including The 5% Campaign.

While the campaign was unsuccessful in securing funding this year, we did increase awareness of the need and position HCBS for an increase in 2016. Leaders from The 5% Campaign have begun meeting and grassroots planning for 2016 has begun in earnest.

Disability Waiver Rate Setting (DWRS)

Provisions negotiated by the DWRS Coalition, DHS, counties and other stakeholders were adopted in the HHS Omnibus Finance Bill that Governor Dayton signed into law on May 22nd. ARRM's upcoming trainings will present the changes and their upshots in depth.

Most of the changes proposed by the Coalition were adopted as negotiated. Agreement regarding budget neutrality – important for after banding, particularly for day and unit based services – was not agreed to by DHS. Next week, ARRM's Payment Methodology Subcommittee and the DWRS Coalition will discuss next steps regarding that issue and a list of "business rules" to be worked out with DHS. A brief rundown of issues covered in the new law:

- Reduces underspending by counties. These changes should also help get some people off waiting lists.

- Extends banding, pending approval by CMS, by changing third year banding from 1.0 percent to 0.5 percent and adding a sixth year with no change in rates (other than rate changes adopted by the legislature).

- Enhances DHS' trainings for counties.

- Adjusts the individual staffing definition so one-on-one staff can assist other clients.

- Clarifies shared staffing to assure that clients' needs are met until and after a new shared staffing methodology – to start July 1, 2016 – is worked out by stakeholders and DHS.

- Improves the exception process now with additional changes and, following ongoing research, by January 15, 2016. The changes allow an exception to be approved now for when banding ends or the person's final rate goes into effect.

- Removes a monitoring technology barrier by eliminating a bureaucratic hurdle through the now-defunct Monitoring Technology Review Panel.

- Provides direction on transportation rates primarily related to day services.

- Requires DHS to issue two reports to the legislature on underspending and use of excess dollars – one in 2018 and the other in 2019.

- Makes other needed technical changes.

Investigations and sanctions

ARRM introduced a bill to address changes in the severity of licensing sanctions and to align Statutes 245A and 245 D. Many of the issues presented in the bill ARRM introduced have been resolved administratively between ARRM and the Office of Inspector General. The language adopted in the HHS Omnibus Bill, which was signed into law, includes two provisions that required legislative remedies:

- Clarifies that if a providers has more than one service site – such as a group home – covered under a license, the sanctions apply only to that site where the citation occurred, and if the license holder holds more than one license, the sanctions apply only to that license.

- Establishes an opportunity for a settlement meeting as part of the process when dealing with adverse licensing issues. This process would resolve this issue while saving both the state and the provider the cost of a formal appeal.

245A and 245D reforms

Over the past two years ARRM negotiated a number of needed changes with many stakeholders – and ultimately with several legislators. ARRM's will provide training on these changes. They were also adopted in the HHS Omnibus Bill:

245A Revisions

- Matches language in 245D regarding training on medical equipment to sustain life or monitor a medical condition that could become life threatening.

- Allows a license holder's governing body to designate a representative to review program abuse prevention plans.

245D Revisions

- Provides a definition of "working day."

- Clarifies language regarding written authorization to administer medication.

- Adds "serious injury" to the things that need to be reported to DHS Licensing and the Ombudsman for Mental Health and Developmental Disabilities.

- Removes the requirement for CPR instruction to be done in person.

- Allows someone to be restrained if necessary to provide medical treatment ordered by a medical professional for both short term and long term conditions.

- Clarifies timelines by adding "calendar" to "days" when not otherwise defined.

- Allows a team to determine whether they want a report prior to a meeting.

- Addresses the issue of approval of changes made at planning meetings.
- Allows for someone other than the trainer or instructor to do observed skill assessment.
- Clarifies that if someone has a current First Aid certification they are not required to have annual training in first aid.
- Clarifies staffing ratios in day services.

Minimum wage: Neither the House nor Senate included a rate increase to pay for the additional cost related to sleep time workers as the provision was costed out ($17.9 million) higher than expected.

Medical Assistance spend-down: The MA excess income standard (spend-down) was changed from 75 percent of the Federal Poverty Guideline to 80 percent effective July 1, 2016. This change will provide about $50 more per month for people with disabilities and older adults who receive Medical Assistance to live independently.

Medical Assistance for Employed Persons with Disabilities (MA-EPD): The legislature repealed the Medical Assistance for Employed Persons with Disabilities (MA-EPD) premium increase that took effect in 2014- a great step forward.

State Quality Council Funding: The Council had been operating without an appropriation, and this session was allocated $1.2 million for the next biennium, plus additional federal money. The SQC plays an important role in defining risk for people, providers and others as services change to supporting more independence. The SQC may also be a resource when lawmakers link quality components to rate increases.

Group Residential Housing: Some of the changes proposed to GRH as part of the Olmsted Plan were passed. They primarily impact providers who receive GRH funds and do not hold a health or human service license. The one item that will change for members is that GRH agreements with agencies will now be completed on a form approved by the commissioner.

Durable Medical Equipment: DME providers were exempted from Medicare competitive bidding, helping people with disabilities get the medical equipment that works best for individuals.

TEFRA: Parental fees were reduced by ten percent.

Service Suspension and Service Termination: There were a number of changes made to language *(see Article 6, Section 5, pages 96-98)* regarding service suspension and service termination under 245D. These include:

- Adding not being paid for services as a reason for temporary service suspension.
- Steps that need to be taken prior to giving notice of suspension or termination.

- Requires the license holder to notify the commissioner of temporary suspension is from a 245D residential service.
- Requires the lead agency to develop an initial action plan within five days of receiving notice of service termination from 245D residential services.

Apartment ratios: The limit of 25 percent of tenants receiving services in a building was removed from statute with parameters to be determined by policy decisions.

Background studies: Language clarifies some things under NETStudy 2.0. None of the changes will have a significant impact on members.

ACO pilot project: A proposal for six disability providers to use alternative care organization practices for health and support services for people with disabilities was scaled down to an RFP process for one or two providers to receive incentive payments for projects reflecting the employment and living vision of Olmstead.

Compliance costs: The HHS Omnibus Finance Bill includes funding for Jensen settlement administrative costs and new federal HCBS regulations ($1.4 million for an HCBS Incentive Pool").

CFSS/PCA: Numerous changes were made to continue the transition from PCA services to Community First Services and Supports.

ABLE Act: $105,000 in funding for ABLE (Achieving a Better Life Experience) accounts was adopted. The plan encourages savings to support individuals with disabilities to maintain health, quality of life and independence.

CDCS rates: Funding to increase funding for recent high school grads did not survive.

Dental: Rate increases were provided to some dental providers to increase access to services.

SEIU contracts: Funding needed for new home care worker contracts was approved.

Safe patient handling: We are looking at provider coding changes that were part of the Senate "Jobs Bill" to determine what, if any, impact they have on ARRM members.

Working families initiative: A wide-ranging mix of changes relating to scheduling, employee leaves, among many, never got off the ground in the House or Senate.

Self-Advocates grants: Funding to expand ACT (Advocating for Change) activities did not pass.

-- *Bruce Nelson (CEO) and Barb Turner (COO)*