

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

March 18, 2021

The South Carolina Commission on Disabilities and Special Needs met on Thursday, March 18, 2021, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present In-Person

Gary Lemel – Chairman

Barry Malphrus – Vice Chairman

Robin Blackwood – Secretary

Stephanie Rawlinson

Present Telephone Conference Line

Eddie Miller

David Thomas

DDSN Administrative Staff

Constance Holloway, Interim State Director and General Counsel; Pat Maley, Interim Chief Financial Officer and Deputy Director; Rufus Britt, Associate State Director, Operations; Susan Beck, Associate State Director, Policy; Kevin Yacobi, Director of Internal Audit; Kim McLeod, Legislative Liaison & Public Information Officer; Melissa Ritter HASCI Director; and Christie Linguard, Administrative Coordinator.

Others Present

Joyce Davis, Executive Director at Brain Injury Association of South Carolina.

Notice of Meeting Statement

Chairman Lemel called the meeting to order and Secretary Blackwood read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On a motion by Commissioner Blackwood, seconded by Commissioner Malphrus, the Commission unanimously adopted the March 18, 2021 Meeting Agenda. (Attachment A)

Invocation

Commissioner Malphrus gave the invocation.

Approval of the Minutes from Commission Meetings from February 18, 2021 Commission Meeting; February 24, 2021 Emergency Meeting; and March 1, 2021 Emergency Meeting

Commissioner Malphrus asked that the February 18, 2021 Commission Meeting minutes be amended under the Executive Session portion on page eight to read, "...at which time the Commission will interview a potential interim executive director, who will be officially named." After making that change, all three (3) sets of minutes were unanimously approved by the Commission. (Attachment B)

Commissioners' Update

Commissioner Rawlinson announced that she attend the Florence County Chamber of Commerce Outlook Luncheon yesterday where Commissioner Allen Heidler was named public servant of the year. He is also the Chief of police in the City of Florence.

Public Input

There was one public input request from Kimberly Tissot of Able South Carolina.

Brain Injury Awareness Month

Ms. Ritter introduced Joyce Davis of the Brain Injury Association of South Carolina who spoke briefly about the importance brain injury awareness. Ms. Davis also showed a video for commission members present.

Commission Committee Business

A. Policy Committee

Committee Chair Malphrus announced that the Policy Committee met on March 9, 2021.

133-02-DD: Freedom of Information (FOIA) Requests – Commissioner Malphrus reported several changes to this directory to include the cost of FOIA requests and the determination to not charge the three major human service provider agencies for any FOIA requests. Coming out of the Committee, Chairman Malphrus ask that the directive be approved as an emergency today, then sent out for public comment and back to the Commission next month. Chairman Lemel treated the approval from the Committee as a motion and second, the commission members unanimously approved this directive. This directive will be placed on the April agenda for an update or approval after public comment period is over. (Attachment C)

Commissioner Malphrus noted that the Committee will bring forth recommended updates for several directives in the coming month.

Old Business

A. ID/RD Waiver Renewal

Ms. Beck provided a briefing on the status of the Intellectual Disability/Related Disabilities Waiver renewal. Ms. Beck will bring the official recommendations to the full commission next month for approval. Chairman Lemel asked if commission members could receive this information far in advance to review prior to the next meeting.

B. Band B & I Switch to Fee for Service (FFS) Update

Mr. Maley provided an overview of Band B & I Switch to FFS and answered questions from commission members. Commissioner Rawlinson made a motion to approve the recommendation of staff to use outliers as a partial bridge in the funding gap and at any time the Commission can change this process; this motion was seconded by Commissioner Blackwood and unanimously approved by the commission.

C. Cost Reports Update

Mr. Maley announced that the accounting firm Myers & Stauffer, LLC will send the first draft of FY 2013 next week. Cost reports for 2014 and 2015 are actively being worked on now. He also reminded the Commissioners that Cost Reports for 2018, 2019, and 2020 will be done internally. Staff members are working on FY 2019 first because this was the last non-COVID year. Cost reports for FY 2016 and 2017 are at the Department of Health and Human Services awaiting their signature.

D. Internal Audit Monthly Report

Mr. Yacobi commenced with a summary of the Agreed Upon Procedures Reports and stated that as of today, IA has received all of the reports. IA is working on Interpreter Services Audit. He also brief the Commission on the Case Management Audit. There was only one (1) case management provider who stated they no longer wanted to provide these services and several providers who would like to expand their case management services. It is recommended by IA for DDSN to have documented procedures written for conflict-free case management. Commissioner Rawlinson asked Mr. Yacobi to follow-up on the process of a DDSN Administrative Audit of the executive branch from an outside independent agency (possibly the Office of Administration).

E. Legislative Update

Ms. McLeod noted that the House Ways and Means budget has been finalized. The Senate Budget Hearing will take place on April 7th. She met with Senator Katrina Shealy yesterday to discuss Senate Bill 533 regarding Subminimum Wage. The agency has been asked to provide a Fiscal Impact Statement. The Employment First Initiative Act (H3244) was discussed as well. Mr. Britt briefly discussed the nine (9) question survey that was sent out to executive directors who provide day services as well as those who have 14(c) certificates. The deadline to complete the survey is tomorrow, Friday, March 19, 2021.

F. COVID Update

Mr. Britt briefed the Commission on COVID positive result numbers, fatalities among residence and staff, hazard/hero pay for staff members, nursing signing bonuses and incentivized employee vaccinations.

New Business

A. New Temporary Salary Increase

Mr. Maley stated that the agency's problem is a declining Regional Center RNs and LPNs (nursing) staffing levels and the emerging critical need to retain our current on-board nursing staff. Commissioner Blackwood made a motion to approve the recommendation from staff with regard to the temporary rate increase [of 3%] and the truing up of all current RNs currently making less than the starting salary [\$53,000]; the motion was seconded by Commissioner Malphrus and unanimously approved by the Commission.

B. Financial Update

Mr. Maley pointed out that the agency continues to be well below budget on the expenditure side by approximately 5%. Commissioner Rawlinson made a motion to approve the financial update as presented, seconded by Commissioner Blackwood. The Commission members unanimously approved the update. (Attachment D)

Mr. Maley discussed in detailed the agency's overview plan to change board capitated band payments to fee for service. He also briefly discussed the \$1.9 Trillion Federal "America Rescue Plan", FY21 Ending Cash Balance, Potential Extension of 6.2% FMAP rate until 12/31/2021. Additionally, he spoke about potentially finalizing Mercer Market Rates to justify rate increases. Lastly, Mr. Maley asked for guidance from the Commission on Regional Center contracts over \$200,000 due to the recent procurement audit finding on a contract that had three (3) different invoices which had an aggregate amount over \$200,000. Mr. Maley recommended that the Commission allow the agency to operate as they have been doing by reporting these contracts at the monthly Finance and Audit Committee meetings; and, if time permits, adjust the executive limitation policy in a way that gives visibility but does not create excessive administrative overhead.

C. \$1.9 Trillion Federal Stimulus 10% Federal Medical Assistance Percentages (FMAP) Increase for Home and Community Based Services (HCBS)

Commissioner Rawlinson requested that Mr. Maley speak on to the Commission on this issue but has now asked that he call her to discuss further. (Attachment E)

Executive Session

At 12:33 p.m., Chairman Lemel requested a motion to begin Executive Session to discuss an update on pending litigation (legal matter); receive advice from outside counsel regarding Senate Oversight Committee investigation and the agency's response to outstanding Freedom Of Information Act (FOIA) requests; and to discuss personnel issues in regards to the internal auditor and to receive information from the search firm regarding the hiring of a new executive director. Executive session will begin after a ten minute break. On a motion by Commissioner Blackwood, seconded by Commissioner Malphrus and unanimously approved by the Commission; executive session will begin at 12:43 p.m.

Upon rising out of Executive Session at 4:08 p.m., Chairman Lemel announced that there were two matters discussed: 1) on the advice from outside counsel the Commission will be implementing a system where the commission members are given agency email addresses and staff will work on getting all commission members communication devices; and 2) in regards to Find Great People, as they work on finding a new executive director, they can receive information from our interim executive director as needed. Other than those two announcements, there were no motions made and no votes taken during executive session.

Commissioner Malphrus reminded all commission members to get their bio information and picture (headshot) to Ms. McLeod as soon as possible. Commission Miller asked that all members receive a copy of everything to be posted to the agency website prior to it being finalized and posted.

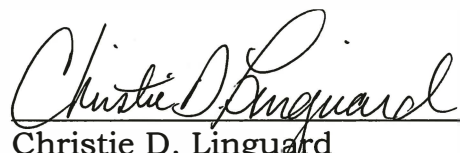
Next Regular Meeting

April 15, 2021

Adjournment

On a motion by Commissioner Miller seconded by Commissioner Malphrus and unanimously approved by the Commission, the meeting was adjourned at 4:10 p.m.

Submitted by:


Christie D. Linguard
Administrative Coordinator

Approved by:


Commissioner Robin Blackwood
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251 (SKYPE)
Columbia, South Carolina**

March 18, 2021

10:00 A.M.

1. Call to Order *Chairman Gary Lemel*
2. Notice of Meeting Statement *Commissioner Robin Blackwood*
3. Welcome
4. Adoption of Agenda
5. Invocation *Commissioner Barry Malphrus*
6. Approval of Commission Meeting Minutes
 - A. February 18, 2021 Commission Meeting
 - B. February 24, 2021 Emergency Meeting
 - C. March 1, 2021 Emergency Meeting
7. Commissioners' Update *Commissioners*
8. Public Input
9. Brain Injury Awareness Month *Ms. Melissa Ritter/ Ms. Joyce Davis*
10. Commission Committee Business
 - A. Policy Committee *Committee Chair Barry Malphrus*
 - 133-02-DD: Freedom of Information (FOIA) Requests
11. Old Business:
 - A. ID/RD Waiver Renewal Update *Ms. Susan Beck*
 - B. Band B & I Switch to Fee for Service (FFS) Update *Mr. Pat Maley*
 - C. Cost Reports Update *Mr. Pat Maley*
 - D. Internal Audit Monthly Report *Mr. Kevin Yacobi*
 - E. Legislative Update *Ms. Kim McLeod*
 - F. COVID Update *Mr. Rufus Britt*
12. New Business:
 - A. Nurse Temporary Salary Increase *Mr. Pat Maley*
 - B. Financial Update *Mr. Pat Maley*
 - C. \$1.9 trillion federal stimulus *Mr. Pat Maley*
 - 10% Federal Medical Assistance Percentages (FMAP) increase for Home and Community Based Services (HCBS)

13. Executive Session
 - A. Legal Matters
 - B. Personnel Matters
 - C. Litigation Update
14. Enter into Public Session
15. Next Regular Meeting (April 15, 2021)
16. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

February 18, 2021

The South Carolina Commission on Disabilities and Special Needs met on Thursday, February 18, 2021, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present In-Person

Gary Lemel – Chairman

Barry Malphrus – Vice Chairman

Robin Blackwood – Secretary

Eddie Miller

Stephanie Rawlinson

David Thomas

DDSN Administrative Staff

Mary Poole, State Director; Pat Maley, Deputy Director; Chris Clark, CFO; Rufus Britt, Associate State Director, Operations; Susan Beck, Associate State Director, Policy; Kevin Yacobi, Director of Internal Audit; Kim McLeod, Legislative Liaison & Public Information Officer; Kyla Schultz, Director of Risk Management; Julie Cook, Risk Management Coordinator; Ann Dalton, Director of Quality Management; Andrew Tharin, Director of Engineering and Planning; and Christie Linguard, Administrative Coordinator.

Notice of Meeting Statement

Chairman Lemel called the meeting to order and Secretary Blackwood read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On a motion by Commissioner Malphrus, seconded by Commissioner Blackwood, the Commission unanimously adopted the February 18, 2021 Meeting Agenda. (Attachment A)

Invocation

Commissioner Rawlinson gave the invocation.

Approval of the Minutes from the January 21, 2021 Commission Meeting

Commissioner Rawlinson made a motion to accept the January 21, 2021 Commission Meeting minutes with an amended change under the New Business, Section 11A to add “Pursuant to appointment by the Chairman,” at the beginning of the second sentence. This motion was seconded by Commissioner Miller and unanimously approved by the Commission. (Attachment B)

Commissioners’ Update

Chairman Lemel participated in a Midlands Human Service Providers Association Zoom meeting a few weeks ago that was well-organized and informative. He also mentioned that former DDSN Commissioner, Deborah McPherson, has been advocating for residents in other DDSN residential facilities and individuals being served at home to be eligible for the COVID Vaccine.

Public Input

There were no public input requests.

Commission Committee Business

A. Finance and Audit Committee

Committee Chair Blackwood announced that the Finance and Audit Committee met on February 1, 2021. The following topics were presented for review and approval by the Commission:

Capital Purchases – Vehicle Replacement Plan – the subcommittee approved the purchase of 12 new vehicles and the sale of 11 vehicles. Chairman Lemel stated that the Commission will treat the subcommittee’s approve of the purchase of 12 new vehicles and the sale of 11 vehicles as a motion and second. Discussion was held related to the condition of some of the vehicles and other purchasing options. Commissioner Malphrus made a motion to table this matter until April’s subcommittee meeting. The motion was seconded by Commissioner Rawlinson. Commission members would specifically like to know if there are any other options to pay for the vehicles other than borrowing money. They also asked for a list of the problems (history) of the vehicles listed for replacement. The motion was unanimously approved by the Commission. Commission members agreed that if the additional information is prepared prior to the upcoming March subcommittee meeting, it can be presented at that time. State Director Poole asked

Commissioner Malphrus to provide the staff with the recent information he has obtained to change his mind in regards to purchasing the new vehicles so that research can be done prior to the meeting. Mr. Clark will complete an operating lease analysis. (Attachment C)

Provider Fee for Service (FFS) Loan Program – Chairman Lemel stated that the Commission will treat the approval of this loan program as both a motion and second coming out of the subcommittee. There was no further discussion. The Commission members unanimously approved the FFS Loan Program as presented. (Attachment D)

200-01-DD Cash on Hand Maintained at the Residential Level – Chairman Lemel stated that the Commission will treat the approval of this directive as both a motion and second coming out of the subcommittee. The Commission members unanimously approved this directive. (Attachment E)

200-09-DD Fees for Residential Services in Intermediate Care Facilities for Individuals with Intellectual Disabilities and Developmental Disabilities (ICFs/IID) Facilities – Chairman Lemel stated that the Commission will treat the approval of this directive as both a motion and second coming out of the subcommittee. The Commission members unanimously approved this directive. (Attachment F)

B. Special Committee on Commission Communication

Committee Chair Malphrus stated the Committee met on February 9, 2021 to discuss the scope of the committee and the justification for its actions. The committee approved a budget of no more than \$1,563 for the purchase of ten (10) black tablecloths, one gold seal and one conference room door sign. The subcommittee would like for all personalized items of departing Commission members be given to that member when he/she leaves. Additionally, the subcommittee voted to have the DDSN Commission website page look similar to the SCDOT Commission page. Commission members are encouraged to send Ms. McLeod a 200 word biography and a headshot to be posted on the agency's website. With a motion and second coming out of the subcommittee, Chairman Lemel asked if there was any further discussion. There being none, the Commission unanimously approved the aforementioned budget and the purchase of the items listed. (Attachment G)

C. Legislative Committee

Review 2018 House Legislative Oversight Report - Commissioner Thomas stated that the subcommittee met on February 11, 2021 to review items

and noted that no actions were taken at that meeting. At this time, he asked that the Commission hold off on discussion of this topic for now. (Attachment H)

Review Current Legislation – Ms. McLeod briefed the Commission on current legislation. (Attachment I)

Old Business

A. SC Mentor Updated

Ms. Cook gave an overview of her findings during this past year's review of SC Mentor. She has made announced and unannounced visits and she has found all systems remain in place and adequate.

B. ID/RD Waiver Renewal

Ms. Beck provided a briefing on the status of the Intellectual Disability/Related Disabilities Waiver renewal. The waiver program expires December 31, 2021 and renewal is anticipated January 1, 2022 based on the South Carolina Department of Health and Human Services' (SCDHHS) plan to submit the renewal to the federal Centers for Medicare and Medicaid (CMS) in July, 2021. Ms. Beck reviewed service considerations and indicated that the CMS technical assistance contractor, New Editions, was assisting with the renewal through work on service definitions and performance measures as well as the long-term planning necessary to re-design the waiver program with considerations for rate research/development, and acuity assessments. Ms. Beck will provide more specifics in the future for approval as the renewal progresses. (Attachment J)

C. Band B & I Switch to Fee for Service (FFS) Update

Mr. Clark began by stating that five (5) open mic sessions have been completed with providers and added that he and his team completed a private provider training on February 4, 2021. The Finance Manual, specifically chapter 10, is being entirely rewritten and should be completed soon. The cost analysis team is currently reviewing room and board reviews and cost reports preparations which has not permitted them time to begin the provider financial reviews related to the FFS switch. An executive memo memorializing the FFS process will be created for providers. The next round of this conversion is the funding decisions for band changes. Mr. Clark provided the Commission members with information on the June 2020 audited financial cash position for the agency's provider network which includes a recap of all the provider relief funds and the PPP resources received thus far.

Discussion was held about the duties and responsibilities of county boards related to forgiveness of the PPP loans and if any of this could come back onto SCDDSN. The Commission asked that DDSN ask the question to county boards regarding bank loan forgiveness. Mr. Clark reiterated his position that SCDDSN should solicit an independent CPA firm to complete an agreed-upon procedures engagement to provide the level of assurance needed related to proper reporting of costs in the Agency's cost report. Kyla Schultz discussed the acuity piece of the conversion. She reported that there were 104 total band swap submissions; 44 have been completed (which can be updated as needed); 16 screenings will take place next week; and six (6) more are scheduled for the first week in March.

D. Cost Reports Update

Mr. Clark announced that a 2013 rough draft has been completed; this rough draft does not include the step down of administrative costs. Cost Reports for 2014 and 2015 are moving right along. He also reminded the Commissioners that Cost Reports for 2018, 2019, and 2020 will be done internally and that a staff person has been hired to rebuild internal capability to complete the Agency's cost report.

E. Internal Audit (IA) Monthly Report

Mr. Yacobi commenced with a summary of the Agreed Upon Procedures Reports and stated that as of today, IA has received all of the reports. He also brief the Commission on DSN contract reductions, which totaled \$9,600. The IA division has completed training of approximately 451 people to include boards and private providers. The Case Management analysis will be sent to Commission members next week. IA division is also working on Interpreter Services and following up on room and board issues. Mr. Yacobi has been involved in most of the waiver renewal discussions. He now has access to the Health Risk Screening Tool (HRST) system so that he can look at assessment firsthand and has plans to go through training.

F. Quarterly Incident Management Report

Ms. Dalton gave the Incident Management Report for community residential, day service and regional centers. Discussion ensued and questions were asked by Commission members. (Attachment K)

G. Legislative Update

Ms. McLeod updated the Commission on the State Register and Regulations. She suggested that instead of a special meeting on March

29, 2021 and have the Commission look to have a public hearing during the regularly scheduled April Commission meeting. There were some language changes that Ms. McLeod wanted to make to state statutes, which was also advised and noted in the 2018 Legislative Oversight Report. Ms. McLeod has drafted a letter to the Chairman of the Legislative Committee and Medical, Military, Public and Municipal Affairs Committee (3M), which has been approved by Commissioner Thomas. Hopefully, they will draft a bill to clean up the language. Commissioner Thomas made a motion to cancel the March 29, 2021 public hearing pending further feedback on regulations, seconded by Commissioner Malphrus. Commissioner Thomas made a motion to hold the Public Hearing on April 15, 2021 thirty minutes after the conclusion of the regular scheduled Commission meeting, seconded by Commissioner Blackwood. The motion is carried.

H. COVID Update

Mr. Britt briefed the Commission on COVID policies, updated positive result numbers, hazard/hero pay for staff members, nursing signing bonuses and vaccinations. Commissioner Rawlinson made a motion to provide an incentive bonus pay in the amount of \$50 for the first dose and \$100 for the second dose [two dose vaccine from Pfizer or Moderna vaccine], to all DDSN employees who will provide human resources with documentation that they have been vaccinated; this shall include individuals who have been vaccinated prior to this motion. This motion was seconded by Commissioner Blackwood and unanimously approved by the Commission.

New Business

A. Fire Panel Replacement Project – Coastal Center

Mr. Tharin gave a historical overview of the fire panel at the Coastal Center. The system is currently activated; however, if a fire were to occur, there is no switchboard notification to the administrative building. At this time, he would like to move the fourth year CPIP project up to the top of the list and switch over the fourteen remaining buildings. Commissioner Miller made a motion to approve the replacement of the fire panel throughout the Coastal Center, seconded by Commissioner Blackwood. The motion is carried. (Attachment L)

B. Financial Update

Mr. Clark announced that the agency continues to be well below budget on the expenditure side by approximately 5%; however, if the extra provider payment for the month of July is included, the agency is about

7% below budget under the spending plan. Commissioner Miller made a motion to approve the financial update as presented, seconded by Commissioner Blackwood. The Commission members unanimously approved the update. (Attachment M)

C. Contract Amendments Over \$200,000

Mr. Clark presented contract amendments exceeding \$200,000. The amendments are due to the residential rate increases related to the pass-through of the full day program rate to all providers. This is a requirement related to signing the Administrative Contract with HHS. Commissioner Blackwood made a motion to approve the contract amendments as presented and seconded by Commissioner Miller. The motion is carried. (Attachment N)

State Director's Report

Director Poole provided the State Director's Report. (Attachment O)

Executive Session

At 1:40 p.m., Chairman Lemel requested a motion to begin Executive Session after a ten minute break to discuss a contractual and personnel matter. On a motion by Commissioner Blackwood, seconded by Commissioner Miller and unanimously approved by the Commission; executive session will begin at 1:50 p.m.

Upon rising out of Executive Session at 4:47 p.m., Chairman Lemel announced that there were no motions made and no votes taken during executive session.

Commissioner Rawlinson made a motion to move to condition #2 to restrict SC Mentor's ability to expand beyond what is contemplated but not to exceed their letter to DDSN dated February 20, 2021 as signed by John Fisher and cc'd to Kevin Wright; however, all of the stipulations as cited in the DDSN Commission vote in February 2020 will stand as cited. This motion was seconded by Commissioner Thomas and unanimously approved by the Commission.

Commissioner Thomas made a motion to remove Mary Poole as director from DDSN and remove her from service of employment at DDSN immediately, seconded by Commissioner Malphrus. Individual votes were taken and there were five (5) ayes and one (1) nay (Chairman Lemel). The motion passed. Commissioner Malphrus stated that on this date, 28 months ago, Mary Poole was hired as the State Director.

Commissioner Rawlinson made a motion to allow SC DDSN Legal Counsel, Constance Holloway, serve as temporary interim executive director of the

agency until a special-called meeting takes place on March 1, 2021 at 11:30 AM at DDSN's headquarters at which time the Commission will interview a potential interim executive director, who will be officially named.

Commissioner Rawlinson hereby moved that a press release, which will be written by Commissioners Thomas and Blackwood, be released regarding this matter this afternoon and that this will be the Commission's final statement regarding this matter. Chairman Lemel asked that the motion be amended to reflect that Constance Holloway will be paid a salary commensurate with this position, which essentially is equivalent for her time as the executive director. Commissioner Rawlinson's motion was seconded by Commissioner Miller and Chairman Lemel's amended motion was seconded by Commissioner Blackwood. The motions passed with five (5) ayes, no nays and one (1) abstention (Chairman Lemel).

Commissioner Rawlinson made a motion to put a hiring freeze in place for DDSN for the next month until such time that an interim commissioner [director] can be named and put in place, seconded by Commissioner Malphrus. There was no further discussion, and the motion is carried.

Commissioner Rawlinson made a motion to have a special-called meeting of the Commission on March 1, 2021 at 11:30 a.m. for the purpose of meeting with a potential interim director, seconded by Commissioner Malphrus. The motion is carried.

Commissioner Malphrus made a motion to adjourn, seconded by Commissioner Blackwood.

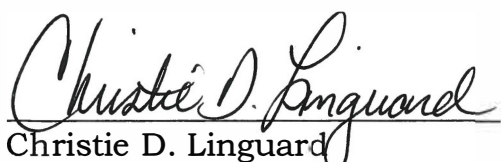
Next Regular Meeting

March 18, 2021


Adjournment

On a motion by Commissioner Malphrus seconded by Commissioner Blackwood and unanimously approved by the Commission, the meeting was adjourned at 4:54 p.m.

Submitted by:


Christie D. Linguard
Administrative Coordinator

Approved by:


Commissioner Robin Blackwood
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS
EMERGENCY MEETING MINUTES

February 24, 2021

The South Carolina Commission on Disabilities and Special Needs met on Wednesday, February 24, 2021, at 4:00 p.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present In-Person

Robin Blackwood – Secretary
Stephanie Rawlinson

Present SKYPE

Gary Lemel – Chairman

Present Telephone Conference Line

Barry Malphrus – Vice Chairman
Eddie Miller
David Thomas

DDSN Administrative Staff

Constance Holloway, Interim State Director; Pat Maley, Deputy Director; Susan Beck, Associate State Director, Policy; Elizabeth Lemmond, Human Resources Director; and Christie Linguard, Administrative Coordinator.

Others Present

Philip Willis, Senior Analyst of the Senate Oversight Committee and Karli Riviello, DDSN Extern

Call to Order and Notice of Meeting Statement

Chairman Lemel called the meeting to order and Secretary Blackwood read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

Chairman Lemel made a motion to add three additional agenda items for discussion in Executive Session as requested by the interim executive director. The items are: staffing of certain positions that will be or are currently vacant,

clarification of agency actions that were taken at the last regular meeting and legal advice regarding Monday's meeting. Commissioner Miller seconded this motion. Commissioner Rawlinson stated that we move forward with the proposed amended agenda. Commission members unanimously agreed to adopt the amended agenda. (Attachment A)

Hiring Freeze

Ms. Beck read Commissioner Malphrus' emailed motion of critical positions to regional Center operations of DDSN community residential settings should be excluded from the hiring freeze which will continue through Saturday, March 20, 2021 (30 days after the initial hiring freeze motion was passed) include: Direct Support Professional (DSP)/Human Services Assistants; DSP Supervisors/Human Services Specialists; Food Services & Housekeeping Personnel; Maintenance Personnel-Trade Specialists; Qualified Intellectual Disabilities Professional (QIDP); Staff Development Personnel; Time Administrators; and Licensed Medical Personnel to include nursing, dentists/dental hygienist, physical/occupational/speech therapists). Commissioner Rawlinson seconded the motion. The motion is carried.

Executive Session

At 4:17 p.m., Chairman Lemel requested a motion to begin Executive Session to discuss four (4) items. On a motion by Commissioner Rawlinson, seconded by Commissioner Blackwood and unanimously approved by the Commission.

Rise from Executive Session

Upon rising out of Executive Session at 5:00 p.m., Chairman Lemel announced that there were no decisions made, no motions were heard and no votes taken.

Commissioner Rawlinson made a motion to hire Gene Matthews, Esq. as outside counsel under the applicable state mandated rate, seconded by Commissioner Blackwood. The motion is carried.


The Commission received information regarding the filling, on an interim basis, of the CFO position, which will be unoccupied after the agency received Chris Clark resignation effective Feb 26, 2021. Deputy Director Pat Maley will fill this position on a temporary basis. Information was also received regarding procedures related to paperwork on prior commission decisions but will not take action at this time. Lastly, the Commission received information regarding a request for Philip Willis of the Senate Oversight Committee to attend the executive session for the next meeting. Pursuant to normal Commission process as far as Commission members asking him to enter in the meeting – we are letting the normal process take place; no action was taken on this.

Commissioner Malphrus asked if the Commission could change Monday's scheduled Special-Called Commission meeting to an Emergency meeting with a 2/3 vote from the Commission members. There were six (6) ayes and no one opposed.

Adjournment

On a motion by Commissioner Rawlinson seconded by Commissioner Malphrus and unanimously approved by the Commission, the meeting was adjourned at 5:05 p.m.

Submitted by:



Christie D. Linguard
Administrative Coordinator

Approved by:



Commissioner Robin Blackwood
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS
EMERGENCY MEETING MINUTES

March 1, 2021

The South Carolina Commission on Disabilities and Special Needs met on Wednesday, March 1, 2021, at 4:30 p.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present In-Person

Barry Malphrus – Vice Chairman

Robin Blackwood – Secretary

Eddie Miller

Stephanie Rawlinson

Present SKYPE

Gary Lemel – Chairman

Present Telephone Conference Line

David Thomas

DDSN Administrative Staff

Constance Holloway, Interim State Director and General Counsel; Pat Maley, Deputy Director and Interim Chief Financial Officer; and Christie Linguard, Administrative Coordinator.

Others Present

Eugene Matthews, Esq., DDSN Outside Legal Counsel and Philip Willis, Senior Analyst for the Senate Oversight Committee

Call to Order and Notice of Meeting Statement

Chairman Lemel called the meeting to order and Secretary Blackwood read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On a motion by Commissioner Blackwood, seconded by Commissioner Malphrus, and unanimously approved by the Commission members, the agenda was adopted as presented. (Attachment A)

Executive Session

Commissioner Blackwood made the motion to enter into Executive Session for legal advisement and for a personnel matter relating to the interim executive director position, seconded by Commissioner Rawlinson and unanimously approved by the Commission.

Rise from Executive Session

Upon rising out of Executive Session at 6:24 p.m., Chairman Lemel announced that there were no motions made, no votes taken and no decisions were rendered.

Commissioner Malphrus made a motion to make Constance Holloway the interim executive director beyond March 1, 2021 and until such time a new executive director is hired. The motion was seconded by Commissioner Blackwood and unanimously approved by Commission members.

Commissioner Miller made a motion to extend an invitation to a representative from the Senate, House and Governor's Office to participate in the executive director search for SCDDSN. This motion was seconded by Commissioner Rawlinson and unanimously approved.

Commissioner Rawlinson made a motion to approve the use of Find Great People to assist the Commission with regards to finding a new executive director for DDSN. The motion was seconded by Commissioner Blackwood and unanimously approved by Commission members.

Commissioner Malphrus made a motion to create a letter regarding the termination of the executive director. The contents of the letter were read by Commissioner Rawlinson in its entirety. The motion was seconded by Commissioner Blackwood. The vote consisted of five (5) ayes, zero (0) nays and one (1) abstention from Gary Lemel; although he has agreed to sign the letter as the Chairman of the Commission. (Attachment B).

Adjournment

On a motion by Commissioner Miller seconded by Commissioner Blackwood and unanimously approved by the Commission, the meeting was adjourned at 6:30 p.m.

Submitted by:



Christie D. Linguard
Administrative Coordinator

Approved by:



Commissioner Robin Blackwood
Secretary

Reference Number	133-02-DD
Title of Document:	Freedom of Information <u>Act</u> Requests
Date of Issue:	April 18, 1989
Effective Date:	April 18, 1989
Last Review Date:	February 8, 2018 <u>XXXX, 2021</u>
Date of Last Revision:	February 8, 2018 <u>XXXX, 2021</u> (REVISED)
Applicability:	DDSN Central Office, DDSN District Offices, DDSN Regional Offices and DDSN Regional Centers

PURPOSE and POLICY:

~~This directive establishes procedures and fees for handling all requests for information under the Freedom of Information Act (FOIA).~~

The SC Department of Disabilities and Special Needs (DDSN) follows the SC Freedom of Information Act (FOIA) Title 30, Chapter 4 to respond to requests received in writing. This directive outlines specifics related to Agency response to requests and includes a standardized fee schedule.

I. — Procedures for Handling FOIA Requests

- ~~a. — All requests should be made through the DDSN FOIA Contact Person. In accordance with the Freedom of Information Act, requests must be made in writing stating or listing the specific information being requested. If a person tells an employee that he/she wishes to make a FOIA request, advise the person to put the request in writing.~~
- ~~b. — Requests will be dated when received to assure compliance with the 10 business day provision of the Freedom of Information Act in which to respond to the request. If the record is more than 24 months old at the time of the request, then a 20 business day~~

~~timeframe applies for response. The timeframes may be extended by written mutual consent.~~

~~e. **Notification to be included in all responses for information:**~~

~~*“A person or private entity shall not knowingly obtain or use personal information obtained from a state agency, a local government, or other political subdivision of the State for commercial solicitation directed to any person in this state.”*~~

~~d. The DDSN FOIA Contact Person will notify and work with appropriate staff to compile the necessary information according to the request.~~

~~e. The response will then be prepared by the DDSN FOIA Contact Person and reviewed by General Counsel, the State Director or other staff as appropriate.~~

~~f. After all internal reviews, the response will be sent to the person making the request.~~

I. Fees for Handling DDSN Response to FOIA Requests

A. All FOIA requests shall be submitted in writing to the DDSN Public Information Officer.

HOW TO SUBMIT A FOIA REQUEST

All FOIA requests must be in writing and can be submitted by email, fax, U.S. mail or hand delivered.

EMAIL

FOIA@ddsn.sc.gov

FAX

803-898-9656

MAIL

South Carolina Department of Disabilities and Special Needs

ATTN: Public Information Officer/FOIA Request

P.O. Box 4706

Columbia, SC 29240

HAND DELIVERY

3440 Harden Street Extension

Columbia, SC 29203

Attn: Public Information Officer/FOIA

B. Fees will not be charged when the Agency determines that waiver of fees is in the public interest because furnishing the information can be considered as primarily benefitting the general public. S.C. Code Ann. § 30-4-30 (B).

C. Fees will not be charged to members of the General Assembly when their requests relate to their legislative duties. S.C. Code Ann. § 30-4-30 (B).

D. Fees will not be charged to Disabilities and Special Needs Boards, DDSN Qualified Providers, the South Carolina Human Service Providers Association or the South Carolina Disability Service Provider Coalition when that information requested is directly related to the scope of the providers' role in the service delivery system.

E. Fees will not be charged to a DDSN client, the client's parent with legal custody, legal guardian, or spouse requesting that client's DDSN records. A request for records other than those of the client is subject to fees.

Commented [SKB1]: Executive Limitations 800-03-CP will be edited to include a reference that the Commission will be notified of any provider/association FOIA requests.

II. FOIA Request Fee Schedule

The following fee schedule will be applied to FOIA ~~information~~ requests. These fees will not exceed the actual cost of compiling/searching for or making copies of records.

a. Fees will be invoiced to the person making the FOIA request.

a.b. The first 50 pages are free.

Commented [SKB2]: Most requests are sent electronically.

b. There is a charge of \$0.15 for each page over 50 pages.

Commented [SKB3]: LLR allows first 20 pages free and after that, \$0.15/page. DHEC allows first 25 pages free and after that, \$0.10/page. DHHS does not allow free pages and charges \$0.20/page.

c. The first hour of time spent researching or copying is free.

d. There is a charge for each additional hour based on the salary of the employee required to complete the work.

<u>Search Fee</u>	<u>\$30.00/hour</u>
<u>Redaction Fee</u>	<u>\$30.00/hour</u>
<u>Copies</u>	<u>\$0.20/page</u>
<u>CD</u>	<u>\$5.00/disc</u>

d.c. There is no charge for copies transmitted in an electronic format consistent with S.C. Code Ann. § 30-4-30.

d. A deposit of no more than 25% of the anticipated cost for gathering and reproducing may be requested. Prior to beginning the searching for or gathering of the requested materials, DDSN shall require a 25% deposit of the reasonably anticipated cost for gathering and producing the requested documents.

e. The full amount of the total cost must be paid at the time the requested information is produced, per S.C. Code Ann. § 30-4-30.

Invoicing

Fees will be invoiced to the person making the FOIA request.

- a. ~~The requested information will not be released until payment in full has been received by DDSN.~~
- b. ~~DDSN has 30 days from the date the deposit is received to produce the records. This is extended to 35 days for production of the records if the records requested are more than 24 months old.~~
- c. ~~Fees will not be charged to the media to respond to a FOIA request unless the DDSN State Director determines that the cost to DDSN for copying, compilation and/or research is high.~~
- d. ~~Fees will not be charged to members of the General Assembly when their requests relate to their legislative duties.~~
- e. ~~Fees will not be charged to a DDSN client, the client's parent with legal custody, legal guardian, or spouse requesting that client's DDSN records. A request for records other than those of the client is subject to fees.~~

Susan Kreh Beek, Ed.S., LPES, NCSP

Associate State Director Policy

(Originator)

Barry D. Malphrus

Vice Chairman

Patrick J. Maley

Interim State Director

(Approved)

Gary C. Lemel

Chairman

All State Agencies are Operating Under a Continuing Resolution Appropriations
FY 20/21 Legislative Authorized & Spending Plan Budget VS Actual Expenditures (as of 2/28/2021)

Funded Program - Bud	Continuing Resolution Appropriations	Adjustments	Adjusted Budget	YTD Actual Expense	Remaining Budget	Percent Expended - Target %
						66.67%
ADMINISTRATION	\$ 8,386,999	\$ 82,721	\$ 8,469,720	\$ 4,582,487	\$ 3,887,233	54.10%
PREVENTION PROGRAM	\$ 157,098	\$ -	\$ 157,098	\$ 12,500	\$ 144,598	7.96%
GREENWOOD GENETIC CENTER	\$ 15,185,571	\$ -	\$ 15,185,571	\$ 7,477,723	\$ 7,707,848	49.24%
CHILDREN'S SERVICES	\$ 12,291,594	\$ (215,734)	\$ 12,075,860	\$ 7,235,766	\$ 4,840,094	59.92%
IN-HOME FAMILY SUPP	\$ 86,302,031	\$ (11,750,721)	\$ 74,551,310	\$ 31,938,000	\$ 42,613,309	42.84%
ADULT DEV&SUPP EMPLO	\$ 83,358,338	\$ 6,100,000	\$ 89,458,338	\$ 49,403,452	\$ 40,054,886	55.23%
SERVICE COORDINATION	\$ 15,166,140	\$ (1,500,000)	\$ 13,666,140	\$ 7,986,269	\$ 5,679,871	58.44%
AUTISM SUPP PRG	\$ 26,368,826	\$ -	\$ 26,368,826	\$ 10,865,879	\$ 15,502,947	41.21%
HD&SPINL CRD INJ COM	\$ 5,040,532	\$ 500,000	\$ 5,540,532	\$ 3,493,401	\$ 2,047,131	63.05%
REG CTR RESIDENT PGM	\$ 77,137,897	\$ 1,874,368	\$ 79,012,265	\$ 49,364,791	\$ 29,647,474	62.48%
HD&SPIN CRD INJ FAM	\$ 18,965,193	\$ 2,000,000	\$ 20,965,193	\$ 13,154,766	\$ 7,810,427	62.75%
AUTISM COMM RES PRO	\$ 29,749,084	\$ 5,007,633	\$ 34,756,717	\$ 24,659,533	\$ 10,097,184	70.95%
INTELL DISA COMM RES	\$ 340,593,466	\$ 587,919	\$ 341,181,385	\$ 228,323,074	\$ 112,858,311	66.92%
STATEWIDE CF APPRO	\$ -	\$ 49,799	\$ 49,799		\$ 49,799	0.00%
STATE EMPLOYER CONTR	\$ 29,862,643	\$ 134,609	\$ 29,997,252	\$ 19,046,317	\$ 10,950,936	63.49%
Earmarked Authorization over DDSN Spending Plan	\$ 56,235,857	\$ -	\$ 56,235,857		\$ 56,235,857	
Legislative Authorized Total	\$ 804,801,269	\$ 2,870,594	\$ 807,671,863	\$ 457,543,959	\$ 350,127,903	
Legislative authorization capacity above actual spending plan budget			\$ (58,221,848)		\$ (58,221,848)	
DDSN spending plan budget			\$ 749,450,015	\$ 457,543,959 *	\$ 291,906,056	61.05%
Percent of total spending plan budget			100.00%	61.05%	38.95%	REASONABLE
% of FY completed (expenditures) & % of FY remaining (available funds)			100.00%	66.67%	33.33%	
Difference % - over (under) budgeted expenditures			0.00%	-5.62%	5.62%	
Difference \$ - over (under) budgeted expenditures				\$ (42,089,384)		

* \$2,295,222 of expenditures have been reimbursed under the CARES Act

Carry Forward + Cash Flow Analysis Indicates Sufficient Cash to Meet FY 21 Estimated Expenditure Commitments: YES X ; At-Risk ; NO

Expenditures categorized to provide insight into direct service consumers costs vs. non-direct service costs:

Expenditure	FY 20 - % of total	FY 19 - % of total
Central Office Admin & Program	2.24%	2.35%
Indirect Delivery System Costs	1.03%	1.22%
Board & QPL Capital	0.04%	0.07%
Greenwood Autism Research	0.03%	0.03%
Direct Service to Consumers	96.67%	96.33%
Total	100.00%	100.00%

NOTE: Prior FY data will be calculated and presented to provide assurance as to the consistent pattern of direct service & non-direct service expenditures and explanation for increases/decreases

From: [Maley, Pat](#)
To: [Lemel, Gary](#); [Robin Blackwood](#); [Barry Malphrus](#); [David Thomas](#); [Eddie L. Miller Jr.](#); [Stephanie M Rawlinson](#)
Cc: [Linguard, Christie](#); [Holloway, Constance](#)
Subject: Finance Report at Thursday's Commission Meeting
Date: Wednesday, March 17, 2021 2:20:00 PM
Attachments: [Finance Update re B & I and Financial Issues Facing DDSN 03172021.pdf](#)

Commissioners,

This email & attachment will be in your Commission binders on Thursday. If you are attending via Skype, this email & attachment will be available to track along with my presentation. I apologize for not getting this in last week's background materials email, but I am still catching up a bit.

At Thursday's Commission meeting, I will present an update on the Band B & I issue (old business) and financial issues facing DDSN in my Financial Report (new business). Below is an outline and attached PDF provides details if you want to read ahead. Due to the complexity in DDSN finances, I personally need a written outline to keep track of the balls in the air.

We have been camped out on the B & I issue for some time, which represents a \$4 million dollar issue with providers. I hope to bring quick clarity to the Band B & I issue with a simple solution when considering increases for under-funded waiver residential beds. More importantly, I want to have a chance for us to raise our line of sight to the many other financial issues impacting DDSN; financial decisions ahead of us; and paths to garnish legislative and SCDHHS support for rate increases and system revenue.

Thanks for your interest-Pat

I. Overview of Plan to Change Board Capitated Band Payments to FFS (Old Business)

Phase 1: Convert Capitated At-Home Services to Fee-for-Service

Phase 2: Address Under-Funded Beds with Band B & I "Gap" Funds if Justified

Phase 3: Convert Capitated Residential Bands to Fee-for-Service

II. Summary of Financial Issues Facing DDSN (New Business)

1. Underfunded Residential Beds Is Not the Only Board Service Relying on Band B & I Excess Funds:

A. Community ICFs

B. Day Programs

2. Going Forward Financial Issues:

A. \$1.9 Trillion Federal "America Rescue Plan" - 10% FMAP for HCBS Services

B. FY21 Ending Cash Balance

C. Potential Extension of 6.2% FMAP until 12/31/2021

D. Potential Finalizing Mercer Market Rates to Justify Rate Increases

E. FY22 Predictable Increases in DDSN Costs

PAT MALEY, MBA, CPA, CIA, CFE

Deputy Director

I. Overview of Plan to Change Board Capitated Band Payments to Fee for Service

Phase 1: Convert Capitated At-Home Services to Fee-for-Service

- A. On 1/1/21, DDSN assumed liability to pay all at-home provider billings using a fee-for-service (FFS) model. DDSN stopped B & I Band payments to Boards (26% of Band revenue), which generated an estimated net \$10,393,880 statewide annual reduction of revenue (Gap funds).
- B. DDSN's capitated band payment model has never been rebased. The lack of rebasing has caused the following general band patterns:
- At-home Bands B & Is generally generate revenue surpluses, which are often used to offset deficits in Day Programs and Community ICFs; and
 - DDSN pays an estimated \$22 million state funds to Boards beyond its \$196.99 Medicaid billable rate for residential services, but these state funds are needed to cover residential needs with the potential of some excess funds trickling into Day & ICF Programs.
- C. When DDSN pulled \$10,393,880 from the Boards and offset it with \$6,363,650 pass-through Day and ICF rates, it left a net statewide revenue deficit of \$4,030,230. This \$4,030,230 hit Boards differently based on the size of their Day Programs and Community ICF portfolio. As a result, 17 Boards lost annual Band B & I revenue greater than \$100,000/year with the following distributions: two over \$800,000; two over \$600,000; three between \$300,000 - \$600,000; and 10 between \$100,000 - \$300,000.

Given DDSN absorbed two capitated bands normally generating surplus funds (B & I), while leaving Boards with two deficit bands (Day & ICF) and one problematic band (Residential), it was determined to be fair that DDSN would examine providers with underfunded residential waiver beds and recommend increases if appropriate. It should be noted, DDSN has not provided a residential outlier increase in three years due to financial issues.

Phase 2: Address Under-Funded Beds with Band B & I "Gap" Funds if Justified

- A. Obtain providers' cooperation to "true up" current Band Hs (\$100,000/year) over-served with an equal number of Band Gs (\$82,000/year) under-served. This was a cost neutral activity to add some balance prior to considering increases for under-funded beds. The "band swap" data from Boards was problematic in quality and standardization, so it was decided to use the HRST tool to tease out provider behavior and medical risks in a uniformed manner for DDSN to analyze band swaps, particularly Band Gs to Hs.

HRST used a six point scale; 1-3 was on low end of medical/behavior risks & 4-6 was on the high end. 45 Gs to Hs resulted in 43 rated "4" or greater (high correlation with provider recommendation) with one rated "3" and one "2". Obviously the "3" and "2" will require additional inquiry and if unchanged impact the review team's final decision to approve/not approve. Of the 39 Hs to Gs; all 39 were rated "3" or less (high correlation with provider recommendation). The "1-6" is a relative rating scale which the review team (Rufus Britt, Pat Fagan, and Debra Smith) will incorporate along with the providers' reason and financial needs for increases to make an approval decisions. The HRST generates quality data to standardize the qualitative justification component aspect in the decision making process.

- B. Boards will be asked to request residential bed outliers as historically done via Directive 250-11-DD.
- C. Boards with annual revenue losses in excess of \$100,000 from Band B & Is will receive prioritized processing.

Phase 3: Convert Capitated Residential Bands to Fee-for-Service

- A. Prior to DDSN moving to residential fee for service, DDSN must build more detailed residential service descriptions to include staffing requirements based on acuity needs. DDSN will start on these descriptions as soon as time is available after its current effort of completing the IDR Waiver renewal document by early Summer. These new detailed residential descriptions with differentiating criteria (i.e., staffing needs by acuity) will permit Mercer to then generate “constructed market rates” to assist in DDSN’s transition to market based fee for service. The IDR Waiver will need to be amended to accommodate these new services and rates. Decisions will need to be made to separate Day services from the residential bundled rate or maintain current model.
- B. A date will be set to move to the new individual FFS market rates. This move will likely take place in 2022 based on SCDHHS’s decision on when to amend waivers to implement. DDSN will then transition its current portfolio of residences to the new, individual residential services matching the individual’s need level.
- C. Plans will be required to ensure each Board has adequate cash flow to convert from their current prospective payment to a retrospective FFS payment (approximately 30 day cash flow).

II. Summary of Financial Issues Facing DDSN

We have spent a lot of time and energy on addressing the risk of inequity by DDSN pulling in at-home Band B & Is, which reduced system-wide revenue by \$4 million and adversely impacted some Boards more than others. DDSN is facing many other financial issues in the near & medium term needing attention. To provide a better context on issues often measured in millions of dollars, below is a quick, over-simplified view of DDSN’s FY20 costs:

FY20 Quick Overview of DDSN Costs	
Cost Center	FY20 Estimated Cost (\$ millions)
Residential Services	253
Day Services	63
At-Home Services	130
Community ICF	51
Case Management	16
Early Intervention	15
Greenwood Genetics	12
Regional Center ICF	102
State Plan Medical	80
Administrative	19
Total	\$ 741 million

1. Underfunded Residential Beds Is Not the Only Board Service Relying on Band B & I Excess Funds:

Although the focus has been on underfunded residential beds, Community ICFs are inadequately funded and generate annual deficits. Day Programs’ costs exceed the DDSN \$31.29 ½ day rate paid, particularly during COVID-19.

- A. Community ICFs: During FY20, five Community ICF providers generated a total of \$141,581 in profits and 14 generated \$4,118,984 in losses, which resulted in a system-wide loss of \$3,977,403. The below chart illustrates the lopsided deficits community ICF providers have incurred in FY20:

FY20 Community ICF P/L				
Provider	ICF			
	Revenue	Expenses	Profit/Loss	% P/L of Rev
	no F/S yet	no F/S yet	no F/S yet	no F/S yet
	\$ 1,302,317	\$ 1,302,273	\$ 44	0.0%
	\$ 1,790,962	\$ 1,787,981	\$ 2,981	0.2%
	\$ 3,317,938	\$ 3,080,587	\$ 237,351	7.2%
	\$ 2,957,125	\$ 3,308,327	\$ (351,202)	-11.9%
	\$ 515,075	\$ 845,879	\$ (330,804)	-64.2%
	\$ 4,844,798	\$ 4,756,078	\$ 88,720	1.8%
	\$ 2,477,500	\$ 3,027,756	\$ (550,256)	-22.2%
	\$ 3,285,630	\$ 3,816,348	\$ (530,718)	-16.2%
	\$ 1,788,709	\$ 1,776,224	\$ 12,485	0.7%
	\$ 4,932,626	\$ 5,315,192	\$ (382,566)	-7.8%
	\$ 1,437,219	\$ 1,709,856	\$ (272,637)	-19.0%
	\$ 1,650,459	\$ 2,202,984	\$ (552,525)	-33.5%
	\$ 5,806,896	\$ 6,193,113	\$ (386,217)	-6.7%
	\$ 1,607,464	\$ 1,947,804	\$ (340,340)	-21.2%
	\$ 3,593,171	\$ 3,853,128	\$ (259,957)	-7.2%
	\$ 1,683,616	\$ 1,861,318	\$ (177,702)	-10.6%
	\$ 2,330,544	\$ 2,416,749	\$ (86,205)	-3.7%
	\$ 1,646,599	\$ 1,703,846	\$ (57,247)	-3.5%
	\$ 864,553	\$ 905,161	\$ (40,608)	-4.7%
Total	\$ 47,833,201	\$ 51,810,604	\$ (3,977,403)	-8.3%

This Community ICF band imbalance has been a chronic problem. In FY18, a similar situation occurred where a provider threatened to turn their two ICFs into DDSN, which was averted with an across the board state funded rate increase. Currently, a provider has again threatened to turn over two ICFs to DDSN for the same reason plus the fact its annual \$1 million in excess Band B & Is have been absorbed by DDSN preventing it from supplementing its \$500,000 annual losses in two ICFs.

- B. Day Programs:

Day Programs receive \$31.29 per ½ day unit. Providers' costs are north of \$31.29 based on history, cost reports, and the SC Human Service Providers' recent FY20 cost analysis arriving at a \$40 per ½ day unit (unaudited). COVID-19 only exacerbated Day Program deficits due to lower utilization creating higher proportional overhead costs, as well as ramp-up costs to scale up utilization. The below chart illustrates current COVID-19 utilization compared to pre-COVID-19 levels:

Month	Current At-Home Day Utilization vs. Pre-COVID-19 Level
20-Jun	15%
20-Jul	21%
20-Aug	25%
20-Sep	31%
20-Oct	42%
20-Nov	38%
20-Dec	35%
21-Jan	36%
Average	30%

FY21 at-home Day Program provider revenue (utilization) projections show a \$22 million/year revenue reduction from pre-COVID-19 utilization levels, as illustrated by below:

Baseline Analysis of FY19-21 Paid Claims					
THERAP PLAN SERVICE NAME	FY19 Total	Difference	FY20	Difference	FY21 ANNUALIZED
	PAID AMOUNT		PAID AMOUNT		PAID AMOUNT
Day Services Subtotal	\$ 69,328,723	-\$6,250,624	\$ 63,078,100	-\$15,727,389	\$ 47,350,710

Prior to 1/1/2021 at-home fee for service conversion, DDSN left 40% in the band; paid all fee for service utilization; and offset losses with the \$3.5 million retroactive pass through rates (Day & ICF) for period 7/1/20 - 12/31/20. In short, Boards had a level of cushion in calendar year 2020 from the full force of Day Program reduced revenues. Now, this \$22 million annual shortfall landed squarely on providers with a monthly system-wide revenue decrease of \$1.8 million. This \$1.8 million revenue reduction from at-home Day Programs is in addition to \$333,000/month revenue reduction from Band B & Is (\$4 million annually).

2. Going Forward Financial Issues:

A. \$1.9 Trillion Federal “America Rescue Plan”:

The key HCBS aspect of the America Rescue Plan is providing a 10% enhanced FMAP on HCBS Medicaid services for a 12 month period starting 4/1/21. This 10% FMAP is separate from the current 6.2% FMAP set to expire on 6/30/21, but there are indications this 6.2% FMAP may be extended to the end of calendar year 2021. The initial DDSN service delivery system 10% FMAP *estimate* on its billable DDSN HCBS services is conservatively \$40 million for 12 months. The federal intent for this 10% FMAP is direct support of providers’ needs to fill the gap from last years’ federal CARES Act and “PPP” loans to providers.

B. FY21 Ending Cash Balance:

DDSN will have received \$49 million from the 6.2% FMAP program by FY21 year end (6/30/21). DDSN can predict with high confidence DDSN will end FY21 with surplus funding, but DDSN can’t predict the exact amount with certainty today. DDSN will grind on this issue and have tentative cash flow projections and end of FY21 cash balances by April Commission meeting. The net effect of COVID-19 on bands has not yet settled. The complexity is caused by the number of at-home Day service recoupments, as well as other at-home service underutilization in bands further negatively impacting DDSN’s Medicaid billable revenues. My point -- until we land on ending cash balance for FY21 and anticipated FY22 DDSN additional costs due to likely no additional appropriations, DDSN must be conservative in using its funds for other purposes.

C. Potential Extension of 6.2% FMAP until 12/31/2021:

The federal government has publically signaled it intends to extend the 6.2% FMAP through the end of calendar year 2021 in 3-month increments. If this occurs, this will add six additional months from its current expiration on 6/30/21. This would equate to an estimated \$15 million in additional revenue to DDSN.

D. Potential Finalizing Mercer Market Rates to Justify Rate Increases:

SCDHHS has graciously expedited finalizing the Mercer Rate Study (February 2019) with emphasis on considering an increase to DDSN's current single residential daily rate (\$196.99), while waiting for the future IDR waiver amendment needed to developed individual residential settings and individual market rates, likely in 2022. The Mercer Rate Study applied to DDSN's current residential portfolio would increase its current single rate of \$196.99 by 15.8% to \$228.19 (\$43 million). Although DDSN does not have state match for such an increase, DDSN is hopeful it can parlay its current state base resources to generate a \$10 million system-wide rate increase, which would increase the current single rate to \$204.82 (4% increase).

DDSN has also worked with the provider network to develop rationale to propose adjustments to the Mercer Rate Study rate assumptions for eight key services: Day (5 services), Individual Employment, In-Home, and Respite. DDSN requests SCDHHS to at least set new market rates even if not implemented, which will facilitate DDSN justifying and obtaining future legislative appropriations. Then, when appropriations are realized, SCDHHS will be in a position to act without further delay to provide relief to the DDSN provider network, particularly for Day Program services.

Based on a variety of factors, Mercer did not prepare a "constructed market rate" for community ICFs. DDSN will set up a workgroup to prepare community ICF assumptions using the Mercer model and package it with FY19 Cost Report due by mid-June to SCDHHS recommending Mercer conduct a market rate analysis for this chronically underfunded service.

E. FY22 Predictable Increase DDSN Costs:

DDSN will end FY21 with, hopefully, ample cash reserves due to the 6.2% FMAP. DDSN still has to be mindful its FY22 budget appropriations will likely be slim to none given our current COVID-19 economic environment. Predictable cost increases in FY22 are:

- \$20 million in at-home Day Program services (return to pre-COVID-19 levels);
- \$8 million in normal annual increase at-home services due to new waiver slots and increase utilization of existing at-home waiver slots;
- \$4 million state plan costs for 3 SCDHHS unfunded rate increases;
- \$1 million Early Intervention;
- \$4 million Regional Centers COVID-19 personnel shortage rebound;
- \$2.25 million first year costs for 450 appropriated waiver slots from FY17 to deploy in FY22;
- Expected increase of at-home services offered by Boards to increase overall utilization; and
- Risk of making payments on existing liabilities from 5 years of Waiver Recoupments (potentially \$5 million) and nine years of cost settlements with unknown total liability exposure.

DDSN has to remember it entered FY20 with \$157,000 in cash reserves for a \$780 million Medicaid operation, which is inadequately low for the risks involved with Medicaid cash flows and utilization fluctuations. The surge of FMAP dollars are "one-time" dollars which can create a feeling of financial cushion. DDSN is fortunate to have a surge of FMAP resources and potential rate increase relief to address system needs, but it also needs to be mindful to be fiscally prudent or it will end up back at the bottom of the financial hole it has been incrementally climbing out of.

Problem: Declining Regional Center RNs and LPNs (nursing) staffing levels and the emerging critical need to retain our current on-board nursing staff.

Description of Problem: COVID-19 has taken a toll on nurse staffing at Regional Centers. During calendar year 2019, DDSN went on a major hiring push to address nursing and DSP shortages at Regional Centers. In February 2019, DDSN began measuring staffing at Regional Centers in a standard method with nurses working 2848 shifts in February 2019. After much effort, Regional Centers hit a “high water mark” of 3148 shifts (10% increase) nine months later in April 2020. Since April 2020, nursing has dropped to a new “low water mark” of 2834 shifts or 17 less FTEs.

Category	Apr-20	Jan-21	Difference
% of On-Floor Nursing Staffing vs. Target Staffing Level	87% *	75% **	12%
Nursing Shifts Worked	3148	2834	314 (17 FTEs)
* High water mark since 2/19 measures started			
** Low water mark since 2/19 measures started			

Hiring new nurses has been a chronic challenge because the State’s nursing costs include a much more generous benefit package (state contributes 15.56% to retirement & good health coverage), while competition has less fringe benefits but can pay a higher starting salary. Additionally, new state nurses will have to pay 9.0% from their gross pay as their retirement contribution. New, likely younger employees, generally prefer higher take home pay at this stage of their life than contributing to a future retirement.

The recent \$3000 hiring bonus has had a marginal impact increasing nursing staffing levels, because net nursing staffing levels continue to drop monthly. Management is now turning our attention to focus on just retaining the nursing staff we have, many of whom are stressed from a year of COVID-19 and see the ability to make \$6000 salary a year more elsewhere due to high demand for nurses.

Availability of contracting nursing is drying up for Regional Centers due to overall nursing shortage. Those few companies with available contract nurses are now able to charge somewhat exorbitant fees. HR Director and Executive Management have examined the potential issues from addressing exclusively nursing and concluded this situation requires action and Executive Management concurs.

Recommendation: DDSN would like to provide a temporary 3% increase in salary to all nurses for 90-days and then be re-approved as needed in 60-day increments as a retention tool to our current nursing staff. This will, at a minimum, provide recognition and appreciation for their efforts over the past year and continue to serve on the front line under stressful conditions. The 90-day cost is estimated at \$42,391 and each 60-day renewal is estimated at \$28,260. Additionally, given DDSN has raised its starting salary for new RNs to \$53,000, it is recommended to “true-up” all current RNs currently making less than \$53,000 to the starting salary of \$53,000; this will cost \$23,246/year.

Regional Centers’ personnel costs have dropped due to the loss of personnel over the past 12 months of 100 FTEs and 53 part-time employees. This recommended new cost can be absorbed easily within existing Regional Center budgets.