

Assembly Human Services Committee
Testimony by Dawn Apgar, PhD, LSW, ACSW
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Good afternoon Chairwoman Vanieri Huttle and distinguished members of the Assembly Human Services Committee. My name is Dawn Apgar and I am a Deputy Commissioner of the Department of Human Services, overseeing the Division of Developmental Disabilities. You have asked me here today to discuss Return Home New Jersey.

I understand that the committee has many questions but I would first like to provide information that will give some context.

Return Home New Jersey began in State Fiscal Year 2009, when nearly 700 adult NJ residents with developmental disabilities were receiving residential services in out-of-state congregate care facilities. The state's inability to receive a federal match on these services – in conjunction with significant uncertainties about our ability to adequately monitor the care and wellbeing of individuals in out-of-state programs, – has long been a concern. Notably, New Jersey is not alone among states that have these issues related to monitoring.

In fact, those issues were chief among the very concerns that led to the passage of Billy's Law in New Jersey in 2008. We're aware of circumstances in other states where the federal department of Justice and the state's Disability Rights Organization have stepped in and are questioning the care provided in some of the out-of-state facilities.

With this in mind, New Jersey has concentrated on returning out-of-state NJ residents to in-state placements in order to more closely monitor their care and safety – as well as to bring them into a network of care that is closer to their families.

Since 2009, the Division of Developmental Disabilities has carefully and successfully returned 146 people who were living in out-of-state placements to New Jersey. Some of these relocations take quite a long time. We spend an extraordinary amount of time finding the right agency, the

right location, the right setting to ensure that the transition works for the consumer. And despite some concerns to the contrary, during this time, not one individual has had to move in with relatives or into a nursing facility.

It is worth mentioning that one of the challenges we face with Return Home is that some individuals have been out of state for many years and families are understandably afraid of what the relocation may bring. Our staff works closely with these families, along with the community provider agencies in New Jersey, to ensure as seamless a transition as possible.

The timeframe for each individual is different and is based upon each individual's support needs. These moves take time, with many taking years to ensure appropriate transitions occur and services are in place.

The foundation of this effort is the many private community provider agencies in our state that support the needs of individuals with significant intellectual and developmental disabilities, each and every day. The Division works with more than 280 provider agencies that provide quality services and supports in community settings.

In recent years, as you may know, New Jersey was sued by Disability Rights New Jersey for non-compliance with the Supreme Court's *Olmstead* decision, which alleged that New Jersey citizens with developmental disabilities were living in institutions unlawfully and unnecessarily due to the state's lack of progress in providing community-based housing and services for people who are institutionalized or at risk of institutionalization.

We settled the lawsuit in 2013 because of the steady progress Disability Rights New Jersey saw us making through the reduced census in the state's developmental centers and consistent investment in home and community based services for individuals with intellectual and developmental disabilities. This effort includes individuals with even very complex medical needs.

This community expansion has resulted in many more resources and supports for individuals to live in New Jersey communities, opportunities for those returning to New Jersey, which did not exist previously. It is worth noting that in some instances, however, families have long left NJ. Their adult child has resided out-of-state for many years and the only connection left to NJ is that we fund the out-of-state placement, and we will continue to be responsible for that person's entire cost of care.

In fact, since FY 2010, more than \$251 million in state and federal funds have been invested in home and community based programs and services. All of that money – excluding that which is spent on out-of-state services – is matched with federal funds. For out-of-state placements, the costs vary between under \$100,000 per person to \$250,000 per person, with an average of about \$115,000. That means every year, between \$60 and \$70 million in state-only funds is expended for 464 placements in 13 states.

New Jersey is one of only a few states that even fund congregate care for people with developmental disabilities, whether in-state or out-of-state. We rank 49th, just above Arkansas and Mississippi, for the number of people institutionalized, per capita. (It used to be Texas.) And, few states fund out-of-state placements, at all.

Last fiscal year, the Division of Developmental Disabilities opened 513 new beds in community residences. This year, State Fiscal Year 2014, DDD is on target to open 650 community beds.

These provider agencies have expanded our New Jersey service system to local communities throughout our state, and through their efforts, today people with developmental disabilities are no longer segregated from community life because of their disabilities and the care associated with them.

With regard to safety and appropriate oversight, New Jersey's residential programs are extensively monitored to ensure that community homes are well run, well maintained and provide residents with the services they need to live safely and successfully in the community. They must adhere to strict licensing requirements. The Department's Office of Program Integrity

and Accountability monitors agency-run community homes and through the Office of Licensing it performs inspections annually, through unannounced visits or if complaints or concerns are raised. Every incident that results in an injury, neglect, exploitation or death is investigated by the provider agency, the Department's Office of Investigations and local or state police, if necessary.

In addition, the New Jersey Central Registry of Offenders against people with developmental disabilities, which was passed by the legislature and signed into law in 2010, prohibits the potential rehiring of an offender by another DDD service provider. This also prevents potential harm.

We're working with families to show them that the system of care has changed over the last 10 to 20, even the last 5 years. Many more residential and program options are available to them than there were when their child was moved out-of-state. Many more rules and regulations regarding treatment and care have been implemented and enforced.

We have been previously asked about how Return Home NJ impacts the waiting list. We find that it affects the waiting list in a positive way. When a person moves back in state, DDD can obtain the federal match through our state Medicaid Waiver, for half the cost that it pays for the person who has moved in-state. The cost of the program for the person is then reduced by the federal match and DDD can fund another person's needs, one who has been waiting for services.

I would like to mention too, that the Money Follows the Person Demonstration Project is a nationwide initiative sponsored by the Centers for Medicare and Medicaid Services (CMS) in which Medicaid eligible individuals are transitioned out of congregate settings into the community with proper supports and services. New Jersey's Program is called "I Choose Home NJ." Many individuals receiving out-of-state services have been identified to qualify for this program. This provides a 75 percent match for 365 days on all Home and Community Based Services that the individual receives - in addition to half of the ongoing costs of care being paid by CMS.

Additionally, as you may be aware, a 2013 OLS State Auditor's Report recommended that the Division "expedite returning consumers in out-of-state residential facilities back to the state in order to maximize federal revenue."

It's for these reasons that all New Jersey residents must return to New Jersey in order to continue receiving Division funding for residential services. If a family decides not to move an individual back to New Jersey, however, they, of course, have the option to pay privately for the out-of-state placement or to establish residency and apply for services in the state in which their family member is currently placed.

Return Home New Jersey is sound policy, for both the individuals it serves by bringing them home to our state and for the larger community of nearly 29,000 people with intellectual and developmental disabilities who are depending on us all for their services and supports.

Thank you and I would be pleased to answer any questions you may have.