



2010 Public Policy Priorities The Arc in Pennsylvania

Updated 3/18/10

1. MAKE PENNSYLVANIANS WITH INTELLECTUAL DISABILITIES A BUDGET PRIORITY

Waiting Lists – According to DPW’s Office of Developmental Programs, 3,187 individuals are on the waiting list for community services with an EMERGENCY need, and another 8,801 are on the waiting list with a CRITICAL need. Gov. Rendell’s budget for FY2010-11 includes new funds for only 50 emergency diversions from institution placements and to serve 100 young people graduating from high school and transitioning into adult life.

Community Provider Rates – A CUT of \$17.3 million (\$6.1m in state funds and \$11.2m in federal matching funds) is proposed from community-based waiver services in Gov. Rendell’s FY2010-11 budget. And, the “changing needs” fund was zeroed-out in the Governor’s proposed budget. Community providers are 100% funded by public dollars and cannot cost-shift to other sources of revenue to make-up what they have lost. And, the state is obligated via its agreement with the federal CMS to meet the changing needs of its waiver enrollees. These cuts will undoubtedly result in a loss of services or an increased health and safety risk to people in service. Even more unbelievable is the fact that Gov. Rendell, while cutting the community waiver budget, proposes to increase the budgets for state institutions and private institutions by 3.5%.

Special Education – The FY2010-11 budget includes a 0% (zero) increase in state funding for special education while a \$354.8 million, or 7.3%, increase for basic education was included. The disparity between the education resources being proposed for students without disabilities versus those with disabilities is extremely disconcerting.

- ✓ **Supporting children and adults with intellectual and developmental disabilities is a core responsibility of state government. The Arc of PA urges the Governor and General Assembly to provide sufficient funding to serve at least the 387 adults on the “emergency” waiting list who have caregivers older than age 60, restore the cuts targeted against community waiver services, and add funding for “changing needs”.**

2. REFORM SPECIAL EDUCATION FUNDING FORMULA

1 of every 7 students is educated in special education and \$1 billion is spent annually on special education by state government. Yet, academic performance and readiness for adult life wanes for young Pennsylvanians with disabilities. A contributing factor is the unnecessary segregation of students with disabilities. Pennsylvania ranks 39th in the nation when it comes to including children with disabilities in their neighborhood schools and classrooms alongside their peers without disabilities. In 2008, the much-hailed “Costing-Out Study” was debated in the General Assembly and many recommended reforms were adopted, but special education was left out. Promises were made to revisit the special education funding formula during the next session.

- ✓ **The Arc of Pennsylvania supports funding reform legislation (SB 940 from Senator Dinniman and HB 704 from Representative Mike Sturla) that provides: 1) adequate funding for special education, 2) carrots & sticks for schools to improve least restrictive environment compliance and inclusion outcomes, and 3) greater accountability and oversight to protect taxpayers to ensure public special education funding is being used to properly prepare Pennsylvania students with disabilities for adult life in the community.**

3. CLOSE STATE INSTITUTIONS

The General Assembly embraced the shift from state institutions to community-based services when it passed the MH/MR Act in 1966. The community-based service system is now the primary system of support for citizens with intellectual and developmental disabilities. Research has demonstrated that individuals with intellectual disabilities thrive when supported in the community compared to state institutions (Pennhurst Longitudinal Study). In 1999, the U.S. Supreme Court affirmed a person’s right to receive community-integrated services rather than be segregated in an institutional setting, yet, ten years later 1,230 Pennsylvanians remain segregated in PA’s state institutions. The Rendell Administration has closed only 1 state MR institution in over seven years in office – five still remain open.

- ✓ **The Arc of Pennsylvania supports a review of individualized supports plans (ISP) of every citizen who remains in a state institution - to be completed within 6 months. The ISP should include a plan to enable the individual to return to their community with appropriate supports and services. The Arc of Pennsylvania urges the Governor and General Assembly to then instruct DPW to fund and implement these updated ISPs and permanently close the remaining 5 state-run institutions.**

4. PASS ADULT PROTECTIVE SERVICES LAW COVERING ADULTS AGES 18-59

Pennsylvania is one of only 5 states in the nation without an adult protective services law. Pennsylvania has a child protective services law and an older adult protective services law, but no similar protective services law to help abused citizens ages 18 – 59. Local officials do not have the legal authority to step in and protect vulnerable adults when there is a need to do so. The PA Legislative Budget and Finance Committee issued a report 6 years ago calling for such a system.

- ✓ **The Arc of PA supports passage of legislation that establishes an adult protective services system for vulnerable adults ages 18 to 59. There are three similar bills addressing the issue which The Arc supports: SB 699 (Senator Patricia Vance), HB 1319 (Representative Matthew Baker), HB 1185 (Representative Babette Josephs).**

5. PLACE “BURDEN OF PROOF” ONTO SCHOOL DISTRICTS, NOT PARENTS

The U.S Supreme Court decision in *Schaffer vs. Weast* determined that, unless state rules indicate otherwise, the party “seeking relief” has the burden of proof in IDEA due process proceedings. The Court acknowledged that school districts have a natural advantage over parents in such disputes, particularly when it comes to resources. Pennsylvania has no statute or regulation that assigns the burden of proof to school districts. Few parents go into this process with the resources or knowledge to properly present their child’s case against seasoned professionals and bureaucrats representing school districts.

- ✓ **The Arc urges passage of legislation (HB 226/Rep. Dennis O’Brien & HB 1204/Senator Pat Browne) that places the burden of proof in special education disputes onto school districts rather than parents.**

6. PASS DEATH PENALTY LAW WITH PRE-TRIAL DETERMINATION PROVISION

The U.S. Supreme Court’s 2002 *Atkins* decision ruled that persons with mental retardation cannot be executed, but the court left it to the states to implement the decision. Pennsylvania has not yet passed any legislation in response to *Atkins*. Mental retardation cannot be faked, and well-documented evidence is usually available in medical, school, and social welfare records. Because a person with mental retardation is not eligible for capital punishment, a presumed-innocent defendant with mental retardation should not go through a capital trial. A judge should determine whether a defendant has mental retardation before the trial, not by a jury that has just convicted the defendant of a heinous crime.

- ✓ **The Arc of PA supports SB628 from Senator Mary Jo White, currently in the House Judiciary Committee after being overwhelmingly passed by the Senate, which includes: 1) a definition of mental retardation consistent with the American Association on Intellectual & Developmental Disabilities, and 2) a pre-trial procedure to determine whether a defendant has mental retardation.**

7. MAKE OFFICE OF DISPUTE RESOLUTION INDEPENDENT & FAIR FOR PARENTS

The federal Individuals with Disabilities Education Act (IDEA) requires hearing officers to be independent of local and state educational agencies. However, the Office of Dispute Resolution, responsible for this process, is funded by PDE’s Bureau of Special Education and housed by an Intermediate Unit. This fuels concerns PDE can inappropriately interfere with decisions and personnel matters, effectively creating a bias in favor of school districts and against parents.

- ✓ **The Arc of Pennsylvania urges passage of legislation (SB 1052 from Senator Andrew Dinniman) that makes the Office of Dispute Resolution and its operating budget independent from the Bureau of Special Education.**

8. ENSURE ACCESS TO QUALITY DENTAL CARE FOR CITIZENS WITH DISABILITIES

Poor oral health has been linked to heart disease, stroke, and diabetes. People with intellectual and developmental disabilities find it extremely difficult to get an appointment with most dentists. Problems often cited as contributing to this situation are perceived risks associated with serving people with disabilities, the inadequate supply of dentists with the capacity and willingness to serve this population, low Medicaid reimbursement, and the lack of accessible transportation.

- ✓ **A comprehensive strategy must be developed and pursued, as called for in H.Res.380 from Representative Vanessa Lowery Brown, involving the General Assembly and the PA Departments of Health and Public Welfare, to improve access to quality dental care for citizens with disabilities. The strategy should include changes in state law, regulation, professional licensing, higher education, and Medicaid funding.**