DDAWNY is pleased to provide comment to the Office of People With Developmental Disabilities (OPWDD) on its Statewide Comprehensive Plan for 2014-2018 and on ways to improve the delivery of services and supports.

DDAWNY is a collaborative group of member voluntary agencies that provide services and supports to people with developmental disabilities in the Western and Finger Lakes regions of New York. Our member agencies, working actively with their consumers, families and self advocates to help shape services to meet their needs, provide a wide range of services in multiple settings, including residential and housing supports, day programing, family support and respite, transportation and vocational & employment services, including career development and assistance in finding competitive work in integrated settings.

DDAWNY has also formed a Family Committee to give voice to the people served in the disability arena, but who are often unheard.

OPWDD indicates the Statewide Comprehensive Plan for Services sets forth plans implementing a transformational agenda for supporting people with developmental disabilities to enjoy meaningful relationships with friends, family, and others in their lives; experience personal health and growth; live in the home of their choice; and fully participate in their communities.

DDAWNY recognizes that with approximately 8,000 people coming to OPWDD each year seeking services, there is the need to create new and innovative ways to deliver and fund supports consistent with state and national trends.

OPWDD aims to provide supports fully integrated into the community of choice of the individual with I/DD, consistent with the person's needs and wants and resulting in valued outcomes for the individual that can be measured.

In order to improve the system OPWDD is currently focused on three initiatives designed to improve the system and ensure individuals and their families get what they need. These initiatives include the elements of the transformational plan, the Front Door and the movement toward a managed care model using a reformed HCBS waiver service delivery system.

The Transformation Agenda focuses on deinstitutionalization, employment and self-direction. The purpose of the Front Door is to educate individuals and families about service options available to meet the needs of individuals with I/DD, assist individuals in seamlessly accessing services, emphasize integrated supports and how people can gain more control over their services and life plan and organize entry into OPWDD services consistent with the future direction of managed care.
OPWDD and the State believe Managed Care will provide a better and more seamless access to services and remove "silos" that create barriers to services. Managed Care is expected to emphasize outcome-based supports and incentivize providers to achieve quality outcomes while using funds efficiently.

Elements of HCBS Waiver system redesign include the development of new cost based rates for state operated and voluntary operated residential and day habilitation programs, limitations on payments in relation to environmental modifications and assistive technology, review of cost reporting data, redesign of self-directed services, development of cost-based rates for other fee for service programs including pre vocational and employment services and the development of HCBS services to support the System transformation. These services include community transition services (only available to individuals leaving a institutional setting) Pathways to Employment, Individual Directed Goods and Services, Enhancement to Supportive Employment rates of payment, time limited template funding for individuals leaving institutional placements and rate reform including Vital Access and Quality Pools to support a successful Transformation.

DDAWNY makes the following comments as OPWDD moves forward with its Strategic plan.

**OVERALL**

New York's developmental disabilities system is currently undergoing a vast level of change. People with disabilities, DDAWNY member agencies and all stakeholders have been working for several years to evolve a more person-centered system. It is important the systemic change be done with meaningful, thoughtful planning over a reasonable period of time. The change must be data driven and it is critically important the data being used to develop policies, programs, procedures and funding is accurate, reflect actual needs, respect choice, the dignity of the person, and the nature and capability of unpaid "natural" supports being relied upon is well understood, quantified and truly voluntary. Change can't happen in a short time.

As others have indicated, we are moving toward managed care, spending necessary time on implementing direct support core competencies, exploring the use and financial impact of electronic health records, implementing the transformational agenda and serving more complex people with forensic backgrounds. Each day brings a new process, a new mandate, a new request to rethink the delivery of services in a more cost-effective and value added manner. Staff training on these new processes, new outcome measures require time and repetition to become routine. There is a cost and the cost increases exponentially as the time to implement is shortened.
It is important to remember, we are talking about person's lives here; people who have the right to make choices among meaningful options, developing person centered plans, ensuring safety, getting connected in the community. System transformation has to be about people, it has to be a thoughtful process. It is easy for government to reimagine a funding stream and to create an assessment score based upon filling out a form. It takes time to get to know the individual, his strengths, goals and dreams. It is not easy to score dreams and goals. It takes time to help individuals and their families or circle of support to reimagine where they might live or how they want to spend their day and time and it takes time to create those opportunities.

Managing the health care costs of an individual can be quantified. Managing the long term care supports and service costs of an individual can similarly be quantified. Managing those costs and quantifying the quality of the lifestyle a person needing those supports and services requires to live a fulfilling, satisfying and engaged life in the community of his or her choosing is far more difficult to measure or put a price on.

DDAWNY strongly supports the vision of OPWDD's transformational agenda, we believe the individuals we serve can and should live fulfilling and integrated lives however we also believe the current timelines being contemplated may have unintended and possibly harmful consequences if implemented as swiftly as currently contemplated. The Strategic plan should address these difficulties.

**EMPLOYMENT FIRST**

Governor Cuomo's recently signed Executive Order, establishing an Employment First Commission is an excellent first step in building an inclusive workforce in New York. The Commission is tasked to create an employment first policy in New York State. It is expected that the initiative will help the state achieve its goal to increase the employment rate of people with disabilities and register 100 businesses to hire people with disabilities as part of their workforce strategy.

DDAWNY strongly supports the aims, goals and recommendations of the Inclusive Workforce Alliance and would urge OPWDD to adopt its recommendations as part of its strategic plan.

DDAWNY believes that individuals with disabilities must have the opportunity to earn the highest possible wages in jobs offering the most integrated settings for that person. Employment must be legal, and it must provide the individual appropriate commensurate wages for the task of the job. In each case, the employment option should respect the values and dreams of the individual.

DDAWNY remains troubled that the State's plan as approved by CMS to increase competitive employment opportunities for people with developmental
disabilities, while containing many very positive initiatives, limits the choices available to people currently in work centers who, because of medical, adaptive or behavioral support needs that create barriers to competitive employment will not be transitioning to competitive employment.

As proposed by OPWDD, these individuals are being forced to either retire or seek alternative non-work day activity options. DDAWNY believes current CMS guidance is lacking as to appropriate work type settings, other than work settings involving retail trade, where there is ongoing interaction with the non-disabled population. DDAWNY believes CMS and the State needs to permit additional flexibility within the HCBS employment settings to allow innovative wholesale trade, warehouse, packaging and manufacturing options to be developed, options where non-disabled worker populations do not generally interact with the public during the work day, for those individuals who want to work but are unsuccessful or chose, based upon discovery and informed choice to participate in such non-competitive work settings. Again the key test ought to be does the chosen option have the effect of isolating individuals receiving HCBS from the broader community.

**HOUSING**

DDAWNY strongly believes that the needs of individuals with disabilities must be respected and state policy ought to support a wide range of choices for people with disabilities in where they live, work and otherwise participate in the community. DDAWNY is supportive of OPWDD’s vision of a continuum of housing opportunities to ensure that there is a range of residential options available based upon individual needs and abilities.

In particular, DDAWNY believes all people need a choice in where to live. Quality, affordable, accessible housing with the services and supports necessary to permit individuals with disabilities to interact with the community at large is essential. DDAWNY supports a person centered planning process that focuses on the needs of the person and their goals in life, including their wishes about where to live, who to live with, and in what community. DDAWNY understands that shared supports will be necessary in many situations and that individuals may need to live with others in order to afford the staff supports they may need in order to stay safe and healthy. At the same time, the size of the home should not be based upon an arbitrary fixed number of people. It should be based on the needs of the people and their choices, including who to share a small home or apartment with.

At the current time there is a critical need for additional supportive housing opportunities for persons with disabilities, particularly for individuals with Intellectual Disabilities or related Developmental Disabilities (I/DD). The current Comprehensive Plan fails to acknowledge the very real need for additional
residential development, particularly for those who are medically frail and behaviorally challenged and those who are on waiting lists ("residential registry") for residential services or have indicated to OPWDD that they would like to live in a more integrated setting in the community.

DDAWNY is concerned that OPWDD’s housing focus is too narrow. DDAWNY understands a key component of the Transformation agenda is to move 6700 individuals from campus based and community based ICF/IDD institutional settings to more integrated community settings. However DDAWNY remains concerned OPWDD’s efforts to deinstitutionalize these individuals is leading to a growing backlog of individuals currently residing in parental homes with aging parents and seeking integrated housing in the community. DDAWNY remains concerned the housing needs of these individuals are being given insufficient attention as New York State seeks to close its developmental centers and eliminate most institutional settings in the next five years.

The state faces a number of challenges when it comes to transforming our housing opportunities for persons with I/DD. In addition to the closure of virtually all-remaining residential options of an institutional nature, these challenges include aging caregivers, a growing school age population transitioning to the community, the newly promulgated federal HCBS setting rule and the fact that funding is not unlimited.

New York's aging population is a significant challenge. The challenge of insuring appropriate community-based housing opportunities are made available to individuals with I/DD needs to be addressed in the 2014-2018 strategic plan.

Most of the over three hundred thousand individuals with developmental disabilities in New York live with a family care giver. 25% of these individuals reside with caregivers aged 60 or older. Many of these nearly fifty thousand will be seeking to live more integrated lives in the community.
In addition to those individuals with IID living with aging caregivers, New York State faces a growing number of students who are aging out of an educational system.

In 2012, the last time New York students could receive an Individualized Education Diploma (IEP) over five thousand New York students were issued an IEP. An IEP diploma was awarded in recognition to a student with a disability (SWD) at the end of the school year in which the student turned 21 or had attended school for at least twelve years. The IEP was intended for students with the most significant disabilities in recognition of his or her achievement of individual education goals.

A growing number of SWD are taking New York State Alternative Assessments (NYSAA). These are students with severe cognitive disabilities and significant behavioral and/or fragile health conditions. In 2012, 2999 students in New York State were given the NYSAA in Secondary ELA and increase of over 300 students from four years earlier.

Most of these SWD taking the NYSAA will be entering or have sought entry in OPWDD’s adult system. Many of these students and their circle of supports want to live integrated lives in the community and will be seeking to move out of parental homes as they seek to live more independent lives.

The nationally acclaimed New York State-Creating Alternatives in Residential Environments and Services (NYS-CARES) initiative developed in 1999 and expanded in 2003 and again in 2007 has in the past provided certified residential opportunities for individuals who have sought residential services from OPWDD and has allowed these individuals to move out of their family homestead and live more productive and independent lives in the community.
Over the years OPWDD has continually worked with families to review the waiting lists of these individuals and verify their needs. OPWDD has also instituted recurring surveys designed by consumers, families and other stakeholders, which has been used to evaluate individuals' satisfaction and the success of residential services provided as a result of the NYS-CARES initiative.

In 2007, based upon the results of this survey, a third phase of the NYS-CARES initiative was announced intended to provide the level of services and supports necessary to allow 1,000 more individuals to move out of parental or family homes and into the community.

The promise of the NYS-CARES initiative was to develop, by the end of 2012, a total of 7,800 new certified residential opportunities, which when coupled with the more than 38,000 funded community residential options already in the system (for a total of 45,800 certified community residential options) would provide ample placement opportunities to individuals on the residential waiting list.

Unfortunately, due to the state’s fiscal problems since 2007 and the need to comport with Olmstead guidance issued by the federal Justice Department and CMS’s recently promulgated HCBS regulations it is clear solving the housing needs of individuals with I/DD by generally relying upon the development of additional certified residential opportunities for this population is unrealistic and is not appropriate for many properly assessed individuals with I/DD. New York State is currently projecting total certified residential development will be less than 43,000 certified community options by FY 2018.

DDAWNY recognizes the NYS-CARES "Residential Registry" may contain certain inaccurate or out of date data. However, the registry does provide a sense of the number of individuals who are seeking a different residential option than the one they are currently living in. DDAWNY strongly believes OPWDD must continue to refine and identify the housing support wishes of individuals with I/DD.

DDAWNY is also concerned the current policy of OPWDD to only offer certified residential options based upon a new vacancy management policy does not comport with federal HCBS standards which allow individuals a choice in their roommate selection and which requires the appropriate assessment of need.

Federal regulations require clinical and support needs to be identified through an assessment of functional need. The current assessment tool, the DDP-2 is no longer an appropriate tool to identify and score need for services. DDAWNY recognizes OPWDD is in the process of developing a new assessment tool, the Coordinated Assessment System (CAS). The CAS is intended to establish consistent practices in assessing individuals' interests and support needs on a
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statewide basis. DDAWNY strongly supports the development and phased implementation of this new assessment tool.

At the same time the current DDP-2 does not provide a consistent, accurate measure of need. Individuals giving and scoring the current DDP-2 are not appropriately trained and the tool is not applied in the same manner across the state. The current DDP-2 does not measure an individual's ability to be safe in their own home and generally fails to identify all of a person's support needs and does not include an assessment of a person's strengths or an assessment of his or her family's strengths and needs. As the state and federal government are seeking to involve "natural (unfunded) supports" in the person centered care plan, it is essential for any assessment of need for the individual relying on these natural (unfunded) supports to include an assessment of the strengths and needs of the family or other informal caregiver. It is also important that the assessment ensure the support is being provided voluntarily and not coerced because other paid support options are not being made available by OPWDD.

DDAWNY remains concerned the use of ISPM scores derived from the DDP-2 underestimate staff and support needs for individuals who are served by DDAWNY agencies providing residential services and are being used to arbitrarily eliminate housing choices for individuals with I/DD.

DDAWNY believes OPWDD, as part of its strategic plan, needs to address the residential support needs and housing choices of the nearly 12,000 individuals with ID/DD who have indicated to OPWDD they are seeking a different residential option from their current setting. In Region One, consisting of Western New York and the Finger Lakes, over 2300 individuals are currently requesting some form of residential opportunity either outside an institution or away from the confines of the home where they have been raised. Two-thirds of these individuals are either currently seeking or would like residential supports within the next two years and nearly 1900 believe they need supports and services delivered on a 24/7 basis.

It is also very important to consider that while there are indeed many individuals and self advocates who want and would be appropriate for more independent living options (with appropriate supports and services), there are a large number of individuals who will continue to need 24/7 certified placement and whose housing needs will never be met, if the entire solution to their housing needs is waiting for those currently in 24/7 setting to "move out" to more unrestricted settings.

While the state is seeking to fundamentally redesign its service delivery system as part of its "People First Waiver", new housing opportunities are generally not available or only available for the few individuals still in an institutional setting or
for individuals at risk of an institutional placement as a result of an emergency due to the death or incapacity of a family caregiver.

Current state housing policy fails to support the level of funding necessary to allow individuals seeking independence and greater participation in the community choices to move from their aging parent's home into their own community based housing with peers and loved ones.

While the current Comprehensive Plan discusses strategies and opportunities to partner with the State Division of Housing and Community Renewal (DHCR) and the Medicaid Redesign Team's (MRT) Supportive Housing Development Program, and other affordable housing options, OPWDD has failed to commit capital resources that would permit the development of these resources.

DDAWNY agencies have proposed very well received, highly ranked uncertified and integrated housing development proposals to DHCR only to have these proposals not be awarded funding because of the failure of OPWDD to commit minimal capital funding for the projects. As part of its Strategic Plan, OPWDD needs to commit capital resources for these types of projects, if the vision of an expanded supply of affordable supportive housing for individuals with I/DD is to be realized.

DDAWNY strongly supports new, more inclusive housing models and believes as part of a continuum of housing options, these new models can provide valuable residential options for some portion of the population served by OPWDD, however without enhanced funding for the housing service and support needs of individuals with ID/DD seeking to enter these new models, the current residential waitlist/registry will only grow.

**TRANSPORTATION**

In addition to affordable and accessible housing individuals with developmental disabilities need accessible and affordable transportation options in order to permit these individuals to pursue employment opportunities, enhance personal independence and productivity, participate more fully in an interdependent society, more fully integrated in the community and enjoy an improved quality of life.

Unlike other managed care populations, most individuals with developmental disabilities will never be able to obtain a drivers license or own a car. In many parts of Region One, particularly in the rural and outer ring suburbs, mass transportation is simply not available.

The Comprehensive Plan must address this critical need.
Currently, the majority of transportation services are fixed route, door-to-door from a person’s residence to a congregate day services location. Developed to accommodate current needs, this approach does not match the future transportation requirements of the new managed care system. Medicaid transportation is available for medical appointments, but for individuals not on Medicaid or those needing special arrangements, lack of transportation limits their ability to remain in the community. While some people who are thought of, as requiring transportation services to get around safely may actually be able to travel independently with training and supports, training and supports are currently not available.

DDAWNY urges OPWDD to explore travel training needs and possibilities and how these will impact the people being served by our member agencies. Additionally, we would urge OPWDD to explore how technology may assist in enabling people to achieve greater travel independence. Development of an "Uber" like application may permit more effective use of Non-Emergency Medicaid Transportation assets currently in the community. As people with more intense support needs enter the workforce and become otherwise engaged in community activities and settings, increased on demand transportation will also be needed. DDAWNY encourages a fresh look at transportation taking into account the plan to integrate more people with significant disabilities into the workforce and making sure that adequate resources are allocated for this purpose.

**MANAGED CARE**

DDAWNY understands the reasons for OPWDD's strategic movement into managed care. OPWDD and the State believe Managed Care will provide a better and more seamless access to services and remove "silos" that create barriers to services. Managed Care is expected to emphasize outcome-based supports and incentivize providers to achieve quality outcomes while using funds efficiently.

DDAWNY recognizes that New York needed to reform its rate structure, its quality oversight and its cost effectiveness, efficiency, accountability, transparency, community integration and ensure successful outcomes for individuals.

The People First Waiver, properly implemented, will allow OPWDD to carefully and methodically shift New York’s developmental disabilities service delivery system to a managed care system specifically designed to support people with developmental disabilities.
DDAWNY fully supports efforts to build on the thirty plus years of experience New York and its not for profit provider community has in providing supports and services for persons with developmental disabilities. We believe such a system redesign can enhance quality outcomes; incentivize performance, efficiency, and innovation; improve care coordination across systems; establish a need-based system with greater equity of access; and operationalize a new capitated rate structure designed to ensure the long term fiscal sustainability of the new managed care model.

DDAWNY strongly supports policies and procedures which will require managed care operators to provide individuals with developmental disabilities and their circle of support with access to strong independent advocacy; to have in place grievance and appeals practices sufficient to ensure effective enrollee due process protections; and to inform people with developmental disabilities about their individual rights as enrollees in a managed care organization, especially their right to remain in the housing choice of their choosing.

DDAWNY strongly believes a carefully structured and integrated care management/care coordination system that employs person-centered planning to support the full range of service needs for people with developmental disabilities is essential for the development of quality measures which can and should enhance quality outcomes.

DDAWNY is committed to working with OPWDD and DOH to operationalize a new rate reimbursement system that will promote equity, sustainability, alignment of the financial platform, and incentives for the appropriate delivery of supports and services leading to the outcomes desired by people with developmental disabilities and their circle of support based upon their properly assessed needs.

DDAWNY strongly supports the development of Vital Access and Quality Pools to address inequities in the rate rationalization process. We continue to believe system changes that dictates big "winners" and big "losers" without necessary time to phase in these gains and loses are disruptive and negatively impact individuals being served (particularly individuals with severe developmental disabilities and behavioral problems, the elderly and frail and those with complex needs.

THE FRONT DOOR

DDAWNY understands the purpose of the new "Front Door" is to educate individuals and families about service options available to meet the needs of individuals and to assist individuals in seamlessly accessing services. OPWDD has indicated the Front Door will emphasize integrated supports and how people can gain more control over their services and their life plan. The Front Door will
also organize an individual's entry into OPWDD services in a consistent with the future direction of managed care.

DDAWNY understands that the Front Door process is evolving, however we remain concerned the process is taking too long, choice in terms of programs offered are limited for both residential and day program, residential vacancies are being managed inappropriately by OPWDD without regard to the dynamics of a residence and its inhabitants and the appropriateness of day options leading to long delays and significant fiscal pressures on DDAWNY agencies and family frustration is growing.

DDAWNY believes the Strategic plan needs to address the issues raised by the front door, including:

• The timeliness of decision making,
• Comprehensiveness of necessary services,
• Choice,
• Person centered planning,
• The development of a permanent independent consumer support program to assist persons seeking services to understand the process, their rights to due process and to assist in the resolution of problems regarding services, coverage, access and due process rights,
• The need to expedite the delivery of services to individuals in critical need
• Develop a list of individuals awaiting requested services
• Clear and consistent guidelines for the Front Door process statewide

REGULATORY REFORM & MANDATE RELIEF

DDAWNY strongly encourages OPWDD to revise all of its protocols to focus on individual supports and services, as well as individual health and safety and to review its current regulations and propose changes to these regulations which better support core OPWDD values.

DDAWNY believes the redesigned service delivery model envisioned by OPWDD and articulated in the People First Waiver requires comprehensive regulatory reform and mandate relief. In order to be successful in improving quality, bending the cost curve, and transforming the current system to one that is more equitable, sustainable and accessible providers and the state must adopt a more entrepreneurial approach to the delivery of services and supports in the new managed care environment

DDAWNY believes a more entrepreneurial approach will allow providers to compete, empower people with developmental disabilities, will encourage
creativity and innovation, lead to a system which is customer-driven, rewards merit and has adopted transparent performance metrics.

An entrepreneurial approach requires OPWDD to recognize that rules and regulations are of little importance and that the norm is anticipating problems and preventing them, instead of reacting after problems arise. An entrepreneurial approach requires authority to be decentralized and all stakeholders are encouraged to meaningfully participate. An entrepreneurial approach is highly market-oriented and shuns bureaucracy. It encourages and involves all the stakeholders, the public, private and voluntary sectors, to solve the problems and not merely engage them to provide the services.

Unfortunately, DDAWNY’s recent experience with OPWDD and all the recent mandates coming down has been anything but based upon this entrepreneurial approach. Recent mandates have been costly, time consuming and have required new or redeployed staff, frequently taking resources away from core mission responsibilities.

In many ways, it seems that not for profit providers are no longer able to function independently. They have become an extension of the state and of OPWDD. A plethora of new and amended rules, regulations, mandates and protocols make it increasingly difficult for the voluntary sector DDAWNY represents to have the capability to manage its own affairs and to be accountable to each of its unique own constituents. The burdens placed on DDAWNY provider organizations by OPWDD are making it increasingly difficult to be creative or try new ventures.

**TRANSITION**

Each year thousands of individuals graduate from special education programing into OPWDD care. DDAWNY fully supports initiatives aimed at increasing the employment opportunities for individuals with developmental disabilities. We applaud the OPWDD focus on youth graduating from high school and the system changes that are needed to make employment the first and best option.

DDAWNY also believes individuals who participate in day habilitation, sheltered workshops, or pre-vocational services should be afforded opportunities, if they so desire, to work in integrated community settings.

DDAWNY supports efforts to build capacity among voluntary agencies to engage individuals with developmental disabilities in volunteer programs and provide training to community-based organizations on ways to more effectively recruit, train, and place individuals with developmental disabilities in national or community service positions.
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DDAWNY would urge OPWDD to allow providers to redesign group day habilitation programs in order to offer a flexible range of employment choices, provide vocational skills and career-directed activities, and assist individuals moving forward to realize greater independence in the community and economic self-sufficiency.

DDAWNY believes the Comprehensive Plan needs to address the day to day meaningful activity needs of individuals who are medically fragile, who may have severe behavioral, cognitive or forensic issues, including a lack of vision, hearing or verbal communication skills and who have not graduated from high school with any type of academic credential deemed acceptable by employers for a paid employment opportunity.

While meaningful volunteering activity may be an appropriate activity for some of these individuals, the Comprehensive Plan needs to articulate the types of vocational training, basic life skills trainings and other activities of daily living many of these highly medically and behaviorally involved individuals will necessarily require and how these individuals will be served in the redesigned system.

DDAWNY believes the Comprehensive Plan needs to address the glaring shortcomings of current transition planning.

DDAWNY believes, beginning at age 14, there is a critical need to link a person’s individual education plan to the person-centered planning process to achieve greater independence and connection to community-based services and supports. Unfortunately many individuals with developmental disabilities lose their naturally occurring social networks following their transition from the educational system into the adult services system. The Comprehensive Plan needs to address the development of the supports necessary to allow these individuals to develop relationships and participate in communities.

**REDEPLOYMENT OF THE STATE OPWDD WORKFORCE**

In light of the new, standardized rate reimbursement structure, the anticipated implementation of a valid standardized needs assessment process for individuals with developmental disabilities to be conducted by the state workforce, a new Front Door initiative, the implementation of Individual and community supports (ICS) policies to support statewide access to individualized services and use of individualized, non-certified service options and the efforts to expand housing options to include enhanced support for independent living and new managed care coordinated affordable and supportive housing models all aimed at reducing the percentage of individuals receiving residential services in a community certified housing setting, DDAWNY believes the state needs to redeploy its agency staff.
Redeployment of OPWDD staff will free up resources. These resources can be reinvested in additional community services and supports, used to enhance quality, and strengthen health and safety outcomes for individuals with developmental disabilities.

The People First Waiver application seeks to bend the cost curve of the system going forward. It is the basis for the fundamental redesign of the system being proposed in the People First Waiver. Voluntary agencies account for approximately 80% of OPWDD's service provision and these voluntary agencies provide these services for less than half the cost of state operated housing and day programming supports and services.

Following a rejection of the proposal in the 2012-13 Enacted Budget, OPWDD administratively restructured oversight of the delivery of OPWDD services and supports. Regional Offices were given oversight of voluntary not-for-profit providers and new State Operations Offices were set up and given oversight of state-operated supports and services.

These two separate systems of oversight are costly, duplicative, unnecessary and inefficient. Having the agency oversees and presumably police bad or inadequate services and supports delivered by agency employees is a conflict of interest and fails to properly protect people with developmental disabilities.

DDAWNY supports a properly managed redeployment of state employees to new tasks. These new tasks include using the new needs assessment tool being proposed to evaluate and fund the 126,000 individuals OPWDD is expected to serve; monitoring the quality of services and supports delivered; operating a reformed financial platform; and ensuring the health and safety of individuals served in the new managed care system, particularly those receiving supports and services in unlicensed or uncertified settings.

At the same time the state workforce takes on these new tasks, DDAWNY supports the gradual shift, based upon the yearly attrition of the state OPWDD workforce, of service delivery from more expensive state-operated services and supports to the voluntary system. This shift will be a win-win for individuals receiving services and supports and the state workforce. This redeployment will free up resources for additional service and support needs, enhance the health and safety of individuals with developmental disabilities and protect the jobs of current state employees.

**OLMSTEAD**

DDAWNY applauds the Governor and OPWDD for recognizing that people with disabilities have a right to receive care in the most integrated settings appropriate
to their needs and is committed to assisting in the development of an Olmstead Implementation Plan to guide the transition of individuals from institutional to community based care, provide access to affordable and accessible housing, and promote employment of persons with disabilities.

At the same time, while the Olmstead finding that “qualified individuals” must be integrated if such a move would involve a “reasonable modification” has been a strong policy statement for deinstitutionalization and “most-integrated setting” policy across the nation, the Olmstead decision requires a much more complex and nuanced approach in its implementation.

Olmstead expressly noted that the obligation toward more integrated settings is not absolute. The State's responsibility, once it provides community-based treatment to qualified persons with disabilities, is not boundless. The reasonable-modifications regulation speaks of "reasonable modifications" to avoid discrimination, and allows States to resist modifications that entail a "fundamental[ly] alter[ation]" of the States' services and programs.

In addition, the court in Olmstead also emphasized that “nothing in the ADA or its implementing regulations condones termination of institutional settings for persons unable to handle or benefit from community settings.”

DDAWNY is particularly concerned that OPWDD's efforts to reduce institutional capacity to approximately 150 for time-limited high intensity service may be insufficient to address the support and service needs of certain forensic and court mandated populations, particularly sexual offenders.

Settings must be appropriate for the individual, the court indicated, noting that a key component of any Olmstead analysis must be whether the individual is qualified. The court also noted, with some emphasis, that moving an individual to a more integrated setting was not a federal requirement that community based settings be imposed on individuals who do not desire it.

DDAWNY strongly believes that the needs of individuals with disabilities must be respected and state policy ought to support a wide range of choices for people with disabilities in where they live, work and otherwise participate in the community. This should be any setting outside of the institutions, including IRA's, day habilitation programs and other work related settings.

DDAWNY appreciates the opportunity to comment on the OPWDD 2014-1018 Statewide Comprehensive Plan and stands ready to work as a partner with OPWDD and other State and Federal authorities to improve the lives of individuals with Developmental Disabilities, their families and their circle of supports.
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Respectfully Submitted

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