

DDAWNY Comments on FY15 Executive Budget
TRANSPORTATION
January 30, 2014

Members of the Senate Finance Committee and the Assembly Ways and Means Committee:

My name is John R. Drexelius, Jr, and I am the Government Relations Counsel for the Developmental Disability Alliance of Western New York (DDAWNY).

DDAWNY is a collaborative group of member voluntary agencies that provide services and supports, including transportation related services to people with intellectual and developmental disabilities (I/DD) in the Western and Finger Lakes regions of Western New York. DDAWNY member agencies employ over 22,400 individuals in the seventeen Western and Finger Lakes counties of New York State providing supports and services to over 33,000 individuals with developmental disabilities and their families.

A number of our member agencies provide vocational employment services, including career development and assistance in finding competitive work in integrated settings. Our agencies also provide significant day services which permit individuals with I/DD to safely participate in meaningful community activities of their choosing, including volunteer work, recreation and daily living activities.

DDAWNY is pleased to provide comment to the Joint Fiscal Committees on the 2014-15 Executive budget and in particular the Transportation portions of the budget.

The State of New York is currently seeking to transform its delivery of supports and services to persons with I/DD. The State is seeking to ensure, consistent with Title II of the Americans with Disabilities Act (ADA), that individuals with I/DD are not unlawfully discriminated against and that services, programs and activities are provided in the most integrated settings appropriate to the needs of persons with I/DD.

Title II of the ADA prohibits discrimination in all "services, programs, or activities of a public entity." 42 U.S.C. § 12132. The ADA establishes a broad mandate, including that citizens with disabilities have the right to live integrated lives. Based on Title II and its integration mandate, the United States Supreme Court held that "unjustified isolation" of persons with disabilities by State and local government constitutes discrimination under Title II. Olmstead v. L.C., 527 U.S. 581, 597 (1999). The United States Department of Justice (DOJ) has interpreted this to mean that the civil rights of persons with disabilities are violated by unnecessary segregation in a wide variety of settings, including in segregated employment, vocational, and day programs. It is the State's obligation to fulfill this mandate on behalf of its citizens, whether they receive services

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during the day or in residential settings at night, and regardless of the severity of their disabilities.

In guidance on how the Federal government will enforce this integration mandate, DOJ has indicated that “Integrated settings” are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. According to the DOJ, Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of the individuals choosing; afford individuals choice in their daily life activities; and provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible. In contrast, DOJ has indicated segregated settings include, but are not limited to... settings that provide for daytime activities primarily with other individuals with disabilities.

Transportation issues continue to represent a major barrier for individuals with I/DD who seek to live, work and participate in integrated community activities. Limited transportation options mean individuals with disabilities are forced to live lives of segregation, cut off from the greater community and unable to live an integrated life.

Recently in response to a New York State initiative to develop a plan to increase the competitive employment opportunities of people with I/DD as required by the joint Federal-State Transformation Agreement, DDAWNY sponsored a summit to identify barriers to the successful transformation of New York’s current employment service delivery model and to increase the number of individuals engaged in competitive employment and meaningful community activities.

The Summit identified a number of transportation related obstacles, these include high transportation costs – most transportation costs exceed amounts individuals with I/DD earn at work. In the vast majority of cases, individuals with I/DD are not able to obtain a drivers license or drive a car and must rely on taxis, public, fixed route public transit routes, para-transit options or friends and family in order to get to and from competitive employment or engage in integrated community activities. The more convenient and safe transportation options are also the most costly and frequently unavailable at the times and days necessary to support competitive employment. There is no consistent transportation funding structure in place. Transportation to work is not a Medicaid eligible service, and many day service and employment related supports and services do not fund transportation. The new MRT Medicaid reforms of non-emergency Medicaid have hobbled local transit funding models. Both the Niagara Frontier Transit Authority (NFTA) and the Rochester Genesee Region Transit Authority (RGRTA) report that para transit services lose money. Current federal regulations

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require public transit agencies to provide para transit within three quarters of a mile of fixed public transit routes, but as routes are cut because of low ridership, para transit services are also eliminated. Neither the Federal nor the state governments provide operational funding to transportation entities seeking to meet the transportation needs of people with I/DD. Federal dollars for para transit only fund capital expenditures. Transit authorities indicate the fare they would be required to charge to ensure para-transit is self sufficient will be far beyond the range of most individuals with I/DD.

Recently as a result of NFTA service cut backs, the para transit service to the state's regional developmental service office In Western New York was eliminated. While a short term funding solution has maintained the service through March of 2014, absent a long term funding mechanism, this vital service will force a number of individuals with I/DD to lose their only method of getting to and from work.

Even when public transit is available, there is a lack of flexibility in terms of schedules. There is limited if any transit service evenings, overnight, on holidays and weekends. If a person does not live or work near a bus line, para transit is unavailable. In addition, para transit schedules fail to mesh with employer expectations. People with I/DD are forced to schedule a 6AM para transit service for work that begins at 8AM. If the employer is not open, a person must wait outside until the store opens. Work on the weekends and holiday are particularly challenging as the cost of transportation to and from work can be twice the minimum wage. For a part time job, the cost of transportation to the job represents as much as two-thirds of a person's pay and that is before taxes and social security. For many of these individuals private taxi or other transit services are simply unaffordable. 36.4% of individuals with a cognitive disability in New York lives below the poverty line, only 21% of these individuals are working. Among those receiving SSI benefits in New York less than 5% of SSI recipients with disabilities are working.

Individuals with I/DD need accessible, safe, dependable and responsive transportation options to be able to work and socialize independently. As the state redesigns its service delivery systems to meet the mandate of Olmstead, it must also plan to support the transportation needs of people with disabilities. Olmstead offers the promise of allowing people with I/DD to live, work, shop, go to medical appointments, access leisure time activities and worship within their community. But this federal right is abridged if the transportation component of living in the community is not also addressed.

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DDAWNY believes the Executive Budget recommendations in relation to transportation fail to address the transportation needs of people with disabilities, particularly people with I/DD.

DDAWNY recommends the State fund and develop a system that creates transportation coordination among the various agencies and entities currently providing transportation services to people with a disability. Similar to the system redesigns occurring around the DOH Medicaid Redesign Team, and the OPWDD "Road to Reform" this effort should seek to use current resources in the most cost effective manner and measures of quality should be developed and those providing quality services should be rewarded in transportation funding streams. The state needs to support the development of regional coordinated transportation plans reflecting the needs of individuals with disabilities who seek to live in integrated community based settings. This plan should include identifying current transportation resources and coordinating these resources in order to maximize the quality and breath of service delivery, reduce unnecessary and costly duplication and develop one stop regional call centers.

DDAWNY also believes the Executive budget fails to adequately support the needs of county and regional transportation agencies, fails to incentivize cross-county and cross-region collaborations and fails to address the funding shortfalls of para transit operations which individuals with I/DD rely on in order to access community based services and resources. DDAWNY fully supports enhanced funding, particularly for upstate regional and county based transportation providers.

As individuals with I/DD move out into the community, it is imperative that they have transportation they can readily access, readily afford, and consistently depend on. Without that assurance, the danger of being isolated within their own homes will become a reality. Such isolation is exactly what the ADA and Olmstead is intended to prevent. People with disabilities must have the opportunity to live within the community in the least restrictive environment appropriate to their needs. Without appropriate transportation options this opportunity is denied.

Respectfully Submitted
John R. Drexelius, Jr.
DDAWNY Government Relations Counsel
Law Office of John R. Drexelius, Jr.
PO Box 141
Buffalo, NY 14223
(716) 316- 7552
Fax: 716-875-7552
jrdrexelius@gmail.com