

NMOTA Legislative Committee: Advocacy/Position Statement in Response to Developmental Disabilities Supports Division (DDSD) Occupational Therapy Rate Changes

Issue:

The most recent (2023) study conducted for the NM Health Care Authority (HCA) regarding Developmental Disabilities Waiver (DDW) provider pay rates recommended that:

- Physical Therapists be paid **22% more than** Occupational Therapists
- Speech and Language Pathologists be paid **20% more than** Occupational Therapists.

The rationale provided for this recommendation was that Occupational Therapists have fewer licensing and education requirements compared to PT and SLP, as well as differences in regional market analyses. **This rationale is inaccurate, incomplete, and harmful to our profession as a whole.**

Why We Care:

- A large portion of Occupational Therapy Practitioners (OTPs) in NM (approximately 10%) are subcontractors providing services under the Home and Community Based Services (HCBS) Federal Waiver system.
- DDW therapy provider reimbursement rates have historically been equivalent. Prior to the released June 2023 rate study recommendations, rates between therapy professions minimally varied and have *never* varied this greatly in *any* other setting. **This sets a precedent for Medicaid/Medicare funding to severely underpay Occupational Therapists.**
- The key factors behind the rationale for the rate study recommendations were based on inaccurate information and poor methodology. The study authors did not provide references for their claims, which resulted in vast reimbursement rate recommendations. This misinformation includes:
 - Inaccurate claims regarding differences in educational requirements for OT/PT/SLP.
 - Incomplete information regarding NM licensure requirements (the study excluded that OT requires more CEUs than PT)
 - The Market Salary Index that is referenced is never cited and the salaries listed are baseless and arbitrary.
- This rate difference incentivizes provider agencies to contract with PTs and SLPs over OTPs due to the stark difference in reimbursement. Provider agencies have stated that they may no longer be able to provide OT services due to the difference in reimbursement.
- The DD Waiver system relies heavily on a strong interdisciplinary model. If these rates are implemented, OTPs have expressed concerns that team dynamics may shift and interdisciplinary teams may perceive OTs of unequal value compared to other therapists.
- Example of the impact to therapy provider agency of the proposed reimbursement rate*:

Hours Week	Weeks Yearly	FTE Annual Hours	RATE PER		FTE Hours X hourly rate	Billable Factor	Salary Reimbursement	Therapist 60%	Agency 40%	Penalty for hiring OT vs:	
			UNIT	HOUR						PT	SLP
40	52	2080									
OT	\$49.32	\$197.28	\$410,342.40	56%	\$229,791.74	\$137,875.05	\$91,916.70	\$70,976.26	\$35,243.52		
PT	\$60.25	\$241.00	\$501,280.00	60%	\$300,768.00	\$180,460.80	\$120,307.20				
SLP	\$59.10	\$236.40	\$491,712.00	54%	\$265,524.48	\$159,314.69	\$106,209.79				

* Incentive County Rates

** 60% is on the low end of therapist reimbursement for DDW

- The proposed rate discrepancy condones that it is acceptable to have inequitable pay rate across therapy practitioners in equivalent roles and with equivalent qualifications. Significant pay discrepancies do not **currently** exist in other sectors of Medicaid/Medicare, e.g. Medicare rates for PT and OT currently vary less than 1% with OTs making slightly **more** than PTs.

Background Information:

- DDSD contracted with Public Consulting Group LLC (PCG) in September 2022 to lead an HCBS Waivers Rate Study and Provider Capacity Assessment. This includes an independent rate study to recommend reimbursement rates for the provision of specific services for individuals with intellectual and developmental disabilities receiving services through the Developmental Disabilities, Mi Via, and Medically Fragile Waiver programs, including cost of living annual adjustments.
- Time study data was collected Feb-March 2023, with the Report and Recommendations published in June 2023.
- For the first time, the Rate Study Recommendation Report recommended vastly different reimbursement rates for OT vs. PT and SLP providers contracted through the DDW system.
- PCG recommended:
 - PT: 35% rate increase
 - SLP: 33% rate increase
 - OT: 11% rate increase
 - PTA: 11% rate increase
 - OTA: 8% rate increase
- While the new rates reflect an increase in payment for OTPs in the state, if implemented, OTPs would be paid at a lesser rate than physical therapy and speech language practitioners for the 2024 and 2025 budget years.
- Prior to the 2024 Legislative Session, OTPs across the state shared concerns with DDSD about the discrepancies in pay rates. The response from DDSD at that time indicated they were unclear if the new rates would be implemented as recommended.
- The 2024 Legislature approved the overall budget request from DDSD which was based on funding needs along with the Rate Study Recommendations. It is unclear if line item information specific to the therapy provider rate changes was communicated to legislators. All public presentations to the legislature that have been reviewed do not contain line-item information regarding therapy provider rates.
- The current fee schedules continue to list OT, PT, and SLP at the same reimbursement rates, however DDSD states when the new rates are approved, they will be retroactively applied to 7/1/2024.
- The CMS amendment application with the rate changes was sent out for public review on 6/7/24.
- In August 2024, a public comment session was held. Several OT providers and therapy provider agencies attended and expressed concerns in person and/or online.
- A summary of Public Comments along with State Responses (HCA) can be found [here](#).
- The most common response from the State to concerns regarding rate differences was, “The methodology for the 2023 rate setting and corresponding recommendations are outlined in the 2023 Rate Study Final Recommendations posted on the DDSD website. Factors that can cause

variations in rates are educational and licensure requirements and the market salary index, to name a few.”

- Emails and communication from DDS D upper management states that public comments and concerns did not result in reconsideration of proposed rate changes as detailed in the amendment application.
- On October 16, 2024, the New Mexico HCA announced they successfully submitted the DD, MF, and Mi Via waiver amendments to the Centers for Medicare & Medicaid Services on September 30th, 2024 for approval of the new rates for DDW Providers.
- Upon approval from CMS, DDS D will be implementing those rates retroactively to 7/1/24.

NMOTA Actions to support Association members and OTPs in DDW across NM

- Collaboration with our NMOTA lobbyist, AOTA state affairs, and other state associations to determine most appropriate and effective response to the situation
- Advocacy to bring awareness to NM Legislators of concerns with the DDS D rate study process and methodology being used as a basis for rate changes/funding requests
- Outreach to supportive NM legislators regarding options for rectifying the funding error
- Advocacy for an effective Rate Study process moving forward

How You Can Help:

- **OTPs need to be aware of this issue and need to make others aware. Please distribute this information to other OTPs in New Mexico to ensure that this does not set a precedent for pay differences between OTPs and other therapy practitioners.**
- **An *ad-hoc* committee has developed a legislative proposal to fund OTPs at equivalent rates to other disciplines. Contact Legislative Committee Chair Jessica Salazar if you would like to further support these efforts. legislative@nmota.org**
- **Become a member of NMOTA <https://nmota.org/join>**

Helpful Links:

NMOTA: <https://nmota.org/>

HCA Rate Study Report and Related Documents: <https://www.hca.nm.gov/directors-office-rate-studies/>