

November 27, 2004
Help Us Make a Difference!
Update on Direct Support Professional Activities at Federal Level
&
Request for HELP

I. Background

In 2001, the American Network of Community Options and Resources (ANCOR) launched a national campaign to address the challenges providers were facing (and continue to face today) in the recruitment and retention of Direct Support Professionals (DSPs). ANCOR's efforts resulted in the November 2003 passage of House Concurrent Resolution (H.C.R.) 94, sponsored by U.S. Representatives Pete Sessions (TX) and Lois Capps (LA). In brief, the resolution, referred to as *The Direct Support Professional Recognition Resolution (DSPRR)*, advances the nation's commitment to community integration and personal security for people with mental retardation and other developmental disabilities and their families. By passing the DSPRR, the U.S. Congress took an unequivocal stance that community inclusion and enhanced lives for people with disabilities are at serious risk because of the crisis in recruiting and retaining direct support professionals and opened the door for further action to secure a strong, stable, quality workforce of support services for people with disabilities. **Note:** At the request of PPAT, State Representative John Davis has agreed to introduce a similar resolution during the 79th Texas Legislative Session.

II. Next Steps

With the above victory realized, ANCOR began the next phase of its campaign efforts – seeking a way to increase federal funding to states and provide a fiscal incentive for states to eliminate the gap in wages available to private providers as compared with those paid by public providers of Medicaid services to people with disabilities. This phase is multi-fold and includes: 1) Securing passage of federal legislation focused on DSP compensation, 2) Seeking signatures to a petition urging states to address the wage issue, and 3) Partnering with the U.S. Department of Labor to conduct four pilot programs to create a model for maximization of the national One-Stop job network to screen and train a stable flow of direct support employee candidates. Details of these initiatives follow.

A. Federal Legislation – House Resolution (H.R.) 5197 – Direct Support Professionals Fairness and Security Act of 2004: Introduced in the House on September 28, 2004 by U.S. Representative Lee Terry (NE), H.R. 5197, which amends title XIX of the *Social Security Act*, is designed to eliminate the wage gap and assure at least equal wages paid to private employees as those paid to employees working in local, county, or state operated Medicaid programs. If passed, H.R. 5197 will provide temporary Medicaid assistance to states that submit a state wage enhancement plan.

Notes:

1. Highlights of the Act and Congressman Terry's statement for the Congressional Record are provided at the end of this ALERT, beginning on page 4, under "Special Notes and Details."
2. See "What You Can Do To Help" for instructions on sending a letter to your U.S. Representative urging his/her support for H.R. 5197.

B. State Petition: To complement the efforts of the National Advocacy Campaign (NAC), ANCOR is seeking signatures to a petition urging states to address the DSP wage issue. ANCOR's goal is to obtain **one million signatures**. Once a state has submitted 100 signatures, ANCOR will forward the petition to the state's governor coupled with a message from Maryland's Governor Robert Ehrlich urging his colleague to address the DSP workforce crisis in his/her state.

To date ANCOR has received 14,269 signatures with 817 from Texas. **Texas can do better!!** To that end, please see section III. "What You Can Do to Help" below for instructions on how you, your staff, families, consumers, colleagues, neighbors, etc., can sign the petition on-line. You can also print the petition to secure signatures and then mail to ANCOR at 1101 King Street, Suite 380, Alexandria, VA 22314-2944. **Note: If you choose this latter method, it is critical that you let ANCOR know that the names on the printed version of the petition have NOT been submitted on-line.**

C. U.S. Department of Labor (DOL) Project: As previously noted, ANCOR has joined with the U.S. DOL to conduct 4 pilots to develop a model for screening and training a stable workforce. The pilots are currently in progress in Kentucky, Maine, Arizona and New York. In addition, ANCOR has submitted a grant proposal to DOL and is working on a second piece of bipartisan legislation to support retention of direct support workers through training, apprenticeship and other career incentives.

III. What You Can Do to Help - - 3 Easy Steps

1. Get each of your direct support staff, family members, consumers, board members and others to sign the NAC wage petition at <http://www.supportnac.org/petition.cfm>. And as previously noted, if it would generate securing more signatures, print the petition, circulate it, and mail to ANCOR at 1101 King Street, Suite 380, Alexandria, VA 22314-2944. **Don't Forget: If you choose this latter method, it is critical that you let ANCOR know that the names on the printed version of the petition have NOT been submitted on-line.**
2. Go to the ANCOR Action Center and send a letter to your representative urging support of H.R. 5197. <http://capwiz.com/ancor/home/>. See "Special Notes and Details" beginning on page 4 of this ALERT for additional instructions related to sending a letter to your representative.
3. Share this information with your staff, consumers, families, vendors, neighbors, etc., and urge them to not only complete steps 1 & 2, but to circulate this information with others they know.

Note: In addition to the above three steps, we urge you to submit a "real story" to the NAC website's media page, which highlights direct support professionals who make a difference in the lives of the people they serve.

IV. Additional Information Related to the DSP Activities

A. Litigation regarding Adequacy of Attendant Care Payment Rates: A Federal Judge in the State of Arizona recently ordered his State's health care finance agency to increase wages of home care workers. The ruling was handed down in the case of *Ball, et al., vs. Biedess, et al.*, a class-action lawsuit challenging the adequacy of attendant care payment rates established by the Arizona Health Care Cost Containment System (AHCCCS). At least eight states are engaged in some type of litigation regarding Medicaid or wages.

B. Wristbands: To further increase awareness of the DSP crisis and need for resolution, ANCOR has ordered teal blue wristbands that have the words “Make a Difference” printed on them. The cost of each wristband will be \$5.00. If ordered in bulk, the cost is as follows:

1. 0 to 50 wristbands will be \$5.00 a piece.
2. 51 to 100 wristbands will be \$4.50 a piece.
3. 101 to 250 wristbands will be 4.00 a piece.
4. 251 to 500 wristbands will be \$3.50 a piece.
5. 501 + wristbands will be \$3.00 a piece.

The proceeds will go to the ANCOR Foundation, a 501 (c) (3) organization. As soon as ANCOR has posted the order form for these wristbands, we will let you know.

C. DADS LAR: Keep in mind that coupled with ANCOR’s national campaign on this issue and the DSP Resolution that Representative Davis has indicated he will introduce during the 79th Session, DADS has included in its FYs 2006 – 2007 LAR - Exceptional Items Request List a request for funding to support a \$1.00/hour increase in the wages for direct support professionals.

D. PPAT Website: All information regarding the DSP initiative, both on the national and state levels, will be maintained on PPAT’s website.

We thank you in advance for your attention to this matter and your help in coordinating letters to Congress and signatures on the petition. If you have any questions, please call the PPAT Office.

Remember... Through ANCOR’s efforts and your help we can achieve victory for Direct Support Professionals and assure that they are treated with the **FAIRNESS** they deserve and that families and consumers have **SECURITY** in knowing that a quality, stable workforce is there for them!

Special Notes and Details

A. Congressman Terry's Statement for the Congressional Record

Mr. Speaker, I rise today to call the House's attention to *the Direct Support Professionals Fairness and Security Act of 2004*. This act was introduced today by myself and Representative Lois Capps. The Act provides temporary assistance to states who choose to participate to achieve pay parity between private and public direct support professionals who are essential components of our nation's formal long-term support system for individuals with disabilities.

There are more than 54 million Americans with disabilities, 8 million of whom have mental retardation and other developmental disabilities. Nearly fourteen million require long-term supports and services. These supports include assistance to meet the individual's personal care and hygiene, habilitation, transportation, employment, meal preparation, housekeeping, and other home management needs – supports many of us often take for granted.

The workers who provide services to the individuals with disabilities are known by many job titles--but one thing in common is shared by all of them. They are the hands, voice and face of long-term supports and the human relationship established between the individual and the worker is at the core of our nation's formal long-term supports system. Many are women and the sole income earners for their families. Although providing an essential service to humanity, many of them remain impoverished due to low wages that have not kept pace with those of other industries. Turnover rates for these dedicated workers range between 40% and 100%. This has caused a retention and recruitment crisis that threatens our ability to provide adequate supports to people with disabilities of all ages. Further, with such rampant turnover, many of the individuals with disabilities must face new, unfamiliar faces for their daily assistance and lose the support of those upon whom they have come to rely.

The Direct Support Professionals Fairness and Security Act of 2004 provides up to five years of temporary assistance in the form of increased Medicaid dollars to states who choose to participate. Participating states will direct these desperately needed funds directly to increase the wages of private direct support professionals providing essential daily supports to individuals with disabilities. States will have the incentive they need to create parity between public and nonprofit workers providing the same essential services.

I ask my House colleagues to join me in support of *the Direct Support Professionals Fairness and Security Act of 2004*.

Thank you, Mr. Speaker. I yield back the balance of my time.

B. Highlights of H.R. 5197

- **State Option:** Provides states the option to participate in achieving pay parity between private and public direct support professionals.
- **Financial Incentive to States:** Provides a financial incentive (additional temporary federal funding) to states to reimburse private providers for increased wages and mandated wage-related costs for specific direct support professionals.
- **Enhanced FMAP:** Provides enhanced Federal medical assistance percentage (FMAP) for 5 years to increase wages – no additional state dollars to match the additional federal funds.

- **Submission of 5-Year Plan and Maintenance of Wage Increases:** To receive the enhanced FMAP, states would have to submit a five-year plan and must assure continuation of the increased wage rate after the five year period.
- **Annual Indexing:** The state must provide assurance that at the end of the 5-year implementation period, it will provide funding to increase the wages annually by a percentage equal to the Bureau of Labor Statistics's employment cost index (ECI).
- **Collaborative Process:** The state's plan must be developed with meaningful participation of private providers, individuals with disabilities and family members, and direct support professionals, and organizations that represent these groups.
- **Funding for State planning Grants:** The bill would provide \$3 million in federal funding for state planning grants to help states develop their wage enhancement plan.
- **GAO and Inspector General requirements:** Requires a General Accountability Office (GAO) study on recruitment and retention and an Inspector General Audit of progress in reducing/eliminating wage gap.

C. Additional Instructions for E-mailing Your U.S. Representative

- Use ANCOR's online Action Center by going to www.ancor.org and clicking on the Action Center alert on the homepage. That site will connect you with the ANCOR alert on the introduction of the *Direct Support Professional Fairness and Security Act of 2004*. You can locate the text and list of co-sponsors from this site. Also, by typing your zip code in the box in the alert marked *Take Action Now* and clicking on *Go*, you will be provided with the name and address of your Representative. You may use the text of the sample letter provided, edit that letter to your own specifications or type in your own letter text. Fill out the information requested on you as the sender, and then click to send the message to your Representative. You must provide sender address and zip code in order to have your message to your Representative.

By using ANCOR's online Action Center, the sender will receive a written report when his/her Representative co-sponsors HR 5197. A prepared thank you letter is already online for you to send when your Representative co-sponsors the bill.

- You can also sign up for the ANCOR Action Network, request a copy of your letter, and email the alert to anyone else by including a friend's email address. Send the ANCOR alert and connection to ANCOR's online ANCOR Center to other providers, individuals with disabilities, family members, and direct support professionals!