



July 17, 2023

The Honorable Gary Peters
Chair, Senate Homeland Security and
Governmental Affairs Committee
724 Hart Senate Office Building
Washington, DC 20510

The Honorable Rand Paul
Ranking Member, Senate Homeland
Security and Governmental Affairs
Committee
167 Russell Senate Office Building
Washington, DC 20510

Dear Chair Peters and Ranking Member Paul:

On behalf of the American Network of Community Options and Resources, we write in support of the Recognizing the Role of Direct Support Professionals Act (S. 1332), a seminal first step in establishing a distinct Standard Occupational Classification (SOC) for direct support professionals (DSPs). We are grateful for your leadership in holding a markup of this important legislation.

Founded more than 50 years ago, ANCOR is a national, nonprofit association representing 2,100 private community providers of long-term supports and services to people with intellectual and developmental disabilities (I/DD), as well as 54 state provider associations. Combined, our members support more than one million individuals with I/DD across their lifespan and are funded almost exclusively by Medicaid. Our mission is to advance the ability of our members to support people with I/DD to fully participate in their communities.

The creation of an occupational classification for DSPs is necessary to begin to address a decades-long workforce crisis and to bolster access to critical long-term home and community-based services for individuals with disabilities. Through the Medicaid Home and Community Based Services (HCBS) program, DSPs support people with intellectual and developmental disabilities to acquire, retain, and improve the skills necessary to live successfully in home and community-based settings. DSPs provide not only essential caregiving, but also promote independence and community inclusion through services that range from coaching and career development to aiding in activities of daily living, such as meal preparation, medication management, and supporting communication.

It is fitting that this committee is marking up S. 1332 during the month of July, just a few days short of the 33rd anniversary of the passage of the Americans with Disabilities Act (ADA). The Medicaid HCBS program upholds the promise guaranteed by the ADA that people with

disabilities must be served in the most integrated setting appropriate to the person's needs and reflective of the individual's choice.

A SOC for DSPs Will Help Strengthen Access to Services

Unfortunately, the ADA's community integration mandate is threatened by the direct support workforce shortage. The workforce crisis stems from decades of underinvestment in the Medicaid HCBS program and stagnant reimbursement rates that leave providers unable to offer wages that are competitive with those of hourly-wage industries, such as fast food, retail, and convenience stores. And the COVID-19 pandemic has exacerbated the existing crisis to levels that threaten the very infrastructure of community-based services. In 2022, ANCOR surveyed its community-based provider network to measure the impact the workforce crisis has had on their ability to provide services. Data from the *State of America's Direct Support Workforce Crisis 2022* indicates that 83% of providers are turning away new referrals due to insufficient staffing, while 63% of providers have been forced to discontinue programs and services—a staggering 85.3% increase since the beginning of the pandemic.¹

As providers continue to grapple with the loss of staff and subsequent program closures, people with disabilities are experiencing diminishing access to community-based services. As a result, individuals with disabilities are left without consistent access to critical support and at a higher risk for hospitalization and institutionalization.² The creation of a SOC for DSPs will help strengthen the HCBS program by establishing a comprehensive mechanism to collect employment and wage data specifically for DSPs. Without comprehensive data, the totality of the workforce crisis cannot be properly assessed and or adequately addressed.

A SOC for DSPs Will Assist in Workforce Retention and Recruitment

The current occupational classification system directly impacts state and federal agencies' Medicaid HCBS policy decisions, including the determination of payment rates, which has negative longstanding effects on retention and recruitment of the DSP workforce. Under the Medicaid HCBS system, each state is responsible for demonstrating that payment for home- and community-based services is consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers. To demonstrate compliance with this standard, most states use SOCs to determine the appropriate DSP wage to include within payment. And unlike other industries where employers can raise employee wages and offset costs, employers in the Medicaid HCBS program are bound by these rates—meaning DSPs are uniquely impacted by the SOC or lack thereof.

¹ American Network of Community Options and Resources, [The State of America's Direct Support Workforce Crisis 2022](#) (Oct. 2022).

² Dan Goldberg, POLITICO, 'People Will Die Waiting': America's System for the Disabled is Nearing Collapse (Aug. 10, 2022) <https://www.politico.com/news/2022/08/10/americas-system-for-the-disabled-is-nearing-collapse-00050713>.

Since there is no DSP SOC, states blend a variety of current and retired SOCs in an attempt to account for the wide array of DSP activities.³ For example, states may cherry pick from current classifications blending an array of codes such as recreation workers, psychiatric aides, and even passenger vehicle drivers to capture the wide spectrum and variety of services offered by DSPs to support community integration. This has led to further inconsistency in DSP wage trends. Revising the classification system to create a unique SOC for DSPs will aid in the retention of DSPs by providing a foundation for rate-setting and stabilizing wages.

A SOC for DSPs Ensures More Accurate Data Collection

The current code does not accurately reflect the full and unique spectrum of work performed by DSPs and fails to capture the role DSPs fulfill in supporting community integration, person-centered goal setting, vocational or career planning, or in empowering and advocating for the individuals supported. Unlike a home health aide or personal care aide, which generally function under a medical model and is focused on supporting an individual's physical health, a DSP's work is interdisciplinary and distinct⁴—DSPs support individuals to achieve independence, make informed decisions about their own lives, and integrate community living and social participation. Moreover, unlike home health aides, DSPs perform their work without onsite direction.

It is notable that other federal agencies recognize the distinction between home health aide, personal care aide, and direct support professionals, making the failure of the SOC code to align with these separate categories of direct care workers even more glaring. For example, the Centers for Medicare and Medicaid Services recently published a proposed rule on *Ensuring Access to Medicaid Services* in which the agency defined “direct care worker” to include direct support professionals as distinct from home health aides and personal care aides.⁵

A revision of the SOC code will also ensure more accurate data collection. Under the current classification system, the closest current proxy SOC for DSPs is the category of home health aides and personal care aides. As a result, data for DSPs is incorrectly incorporated into the broader category, making the current data set for personal care or home health aides inaccurate. Establishing a unique classification ensures that the parameters for data collection are specific to DSPs, enabling more accurate analysis and policymaking. Designating DSPs as a separate occupation will provide the necessary granularity to capture their unique contributions, challenges, and workforce trends.

³ Health Management Associates, *Review of States' Approaches to Establishing Wage Assumptions for Direct Support Professionals When Setting I/DD Provider Rates*, July 6, 2022.

⁴ President's Committee for People with Intellectual Disabilities, *America's Direct Support Workforce Crisis: Effects on People with Intellectual Disabilities, Families, Communities and the U.S. Economy (2017)*, available at https://acl.gov/sites/default/files/programs/2018-02/2017%20PCPID%20Full%20Report_0.PDF.

⁵ Medicaid Program; *Ensuring Access to Medicaid Services*, 88 Fed. Reg. 27,960, 27,997 (May 3, 2023) (to be codified at 42 CFR pts. 431, 438, 441, 447).

Conclusion

The Medicaid HCBS program has grown exponentially since its inception 40 years ago and plays a critical role in ensuring people can be supported in their homes and communities. However, absent the necessary policy changes to sustain the DSP workforce, Medicaid HCBS programs will continue to fail to reach everyone in need. We are grateful for the committee's support for S. 1332 to address the ongoing DSP workforce crisis by elevating the DSP profession and ensuring there is adequate data collection to inform future policymaking.

Thank you for your leadership on this issue. For questions, please contact Elise Aguilar, Director of Federal Relations at ANCOR, at eaguilar@ancor.org.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elise Aguilar".

Elise Aguilar
Director of Federal Relations