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June 6, 2025

Senator Jarrett Coleman, Chair
Senate Intergovernmental Operations Committee
459 Main Capitol
Senate Box 203016
Harrisburg, PA 17120-3016

Subject: Comments to Senate Bill 657

Dear Senator Coleman,

While we are deeply concerned about the inability of the Pennsylvania Intellectual Disability and Autism (ID/A) programs to serve all people who need and qualify for them, The Provider Alliance (TPA) opposes Senate Bill 657 for the following reasons:

1. The bill's implied intent to maximize the types of settings to serve more people from the state's waiting list, that currently affects 11,711 people and their families, is appreciated; however, the inference that deferring to size limitations required by federal law ignores the fact that the Federal Government does not prescribe specific size limits for HCBS waivers. 42 U.S.C. § 1396n does not set explicit limitations for facilities but requires each state to afford health, safety, and community access as held and currently enforced under Olmstead v. L.C., 527 U.S. 581(1999), the CMS Final Rule on HCBS Settings (2014), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101). The proposed bill infers that by removing existing regulation, Pennsylvania could default to a master list of federally allowable facility types and sizes for HCBS locations, and such a list simply does not exist.
2. Given the void of explicit guidance at the federal level, we are concerned about the effect of eliminating existing regulation without a detailed plan or specific recommendations that address facility type and size restrictions through a comprehensive effort involving broad ID/A

stakeholder participation. The CMS review and approval process for HCBS waivers is lengthy and iterative, and given the prevailing federal guidance, the revision process would likely lead to similar results without such a plan.

3. To effectively address the current system capacity limitations and meet the needs of those on the waiting list, as well as those currently enrolled in waivers who are unable to find appropriate services, it is essential to strategically assess reimbursement levels, licensing requirements, workforce barriers, and the use of available technologies. Addressing one element of the approved waivers without consideration of other critical factors will place the state's current HCBS waiver programs for people with intellectual disabilities in jeopardy. Given the time requirement included in the proposed legislation, it is not practical to implement the required revisions to include responsible changes and to obtain approval through the state's regulatory review process through the Independent Regulatory Review Commission (IRRC) within the 180-day period prescribed in the proposed bill.
4. The Federal Government is proposing substantial reductions to Medicaid that would inevitably reduce HCBS funding for Pennsylvania's ID/A services. This would likely result in reduced service rates, fewer available services, or both. This will increase the economic pressure to require more people to live and to be served together in larger settings, including the Commonwealth's own State Centers, which this bill would facilitate rather than its stated requirement to "maximize and prioritize the exercise of individual choice in the selection of the settings in which individuals reside or receive services." The potential benefits of eliminating the referenced regulations without a detailed plan created by all stakeholders are outweighed by the risks of harm from serving more people together in larger settings out of economic necessity rather than promoting access, choice, and independence as foundational civil rights for the disability community.

TPA shares the concerns of the bill's sponsors regarding lack of services demonstrated by the current waiting list and the additional number of people with approved HCBS Medicaid waivers who cannot find appropriate services. While we struggle to maintain, expand, and fully support our community services for Pennsylvania's ID/A programs serving nearly 60,000 people, over \$100 million state dollars remain appropriated for the Commonwealth's two remaining State Centers expected to serve only 435 people

in the upcoming fiscal year. Creating the capacity necessary to serve everyone, particularly for those with the most complex needs, will require that we maximize all resources and utilize them as efficiently as possible. We remain committed to this objective and will continue to urge the Governor's Administration and the Pennsylvania General Assembly to allocate the necessary resources and to enact policy changes to effectively accomplish this goal.

Thank you for your consideration and please feel free to contact me if you or your committee have any questions regarding our position.

Grateful regards,

Patrick DeMico

Patrick DeMico
Executive Director

cc: Intergovernmental Operations Committee Members