TESTIMONY FOR HEARING ON
DISABILITY SERVICE CUTS AFFECTING PCA SERVICES
AND ADULT FOSTER HOMES
Health and Human Services Finance Committee, February 9, 2012

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Thank you for the opportunity to provide information on the impact of three cuts to the disability services area related to PCA services and Adult Foster Care residential services.

1. PCA 20% Relative Rate Cut

This cut has been especially harsh for the many family members who have quit jobs or foregone other employment in order to take care of their family members with a disability. These family caregivers most often care for their loved one many more hours per day than they are paid by the Personal Care Assistant (PCA) program and also provide other supports such as getting the person to medical appointments and maintaining a home so the person with a disability has a place to live. The family members affected by the cut are not legally responsible relatives (parents of minors and spouses) but have taken on this duty voluntarily. In many cases, these family member caregivers use their PCA wages to maintain the family home where the person with disabilities lives.

The PCA relative rate cut has had an especially significant impact on families in rural areas who cannot obtain reliable PCA services due to long travel distances and unreimbursed transportation costs. Another group adversely affected is persons with disabilities, especially those over age 65, who do not speak English and need to rely upon family members for PCA services because of language and cultural norms.
We urge that this cut be repealed this session.

2. 10% Congregate Care (Adult Foster Home) Rate Cut, Licensed Bed Closure Provision and the Moratorium on Adult Foster Homes

The 10% congregate care rate cut, the licensed bed closure provision and the moratorium on new adult foster homes adopted in 2009 have combined to not only seriously hurt people with disabilities and providers, but to threaten our state's capacity to meet the needs of Minnesotans with disabilities to obtain services to live in their communities.

A. Flawed Assessment.

One serious problem with the 10% congregate care "low needs" cut is that our state does not have an adequate assessment to determine people's needs for assistance in a staffed group home. For years the Department of Human Services (DHS) has been working to develop a new assessment, called MNCHOICES because our existing instruments are outdated and flawed. The new MNCHOICES assessment is still under development and so people were assessed for the 10% rate cut using the Long Term Care Consultation (LTCC) which is outdated, was developed for seniors and was based on nursing facility standards. The Community Alternatives for Disabled Individuals (CADI) waiver serves persons under age 65, many with mental illnesses, brain injuries, and

developmental disabilities, in addition to those with physical disabilities. The LTCC assessment does not adequately assess the need for services and staff assistance in residential settings, especially for those with mental illnesses and those with cognitive limitations or behavioral issues due to a brain injury, developmental disability, fetal alcohol syndrome or other condition.

The results of relying upon an inadequate, flawed assessment have been that many persons, especially individuals with mental illnesses, who are actually high-need, have been swept up in the net of the "low need" cut. Some lower need people can move to more independent settings, but for those with higher needs not recognized in the flawed assessment, either their needs will not be met because of reduced staff or the home will have to close due to the rate cut. Many vulnerable clients who have contacted our office are very upset and concerned about their futures.

B. Mistakes Were Made in Categorizing People as Low Need, but the Right to Appeal Has Been Denied.

We have a number of clients, most with mental illnesses and some with intellectual/developmental disabilities, who should have been excluded from the low need category due to recent hospitalizations, nursing facility stays, or crisis service episodes but were mistakenly put on the low need list. These people tried to appeal to point out the facts and the mistakes, but DHS judges denied them their right to appeal. These mistakes are still not corrected.

C. Replace the 10% Rate Cut and the Licensed Bed Closure Requirement with a Better Process Based on Data and Statewide Service Needs

In order to develop a rational, sustainable and sound approach for Minnesota's home and community waiver residential services, we urge a different approach which includes:

1) quarterly data on the number, location and type of waiver funding of staffed adult foster homes and all other residential settings where Medical Assistance residential services are provided , the number, location and type of waiver funding of beds empty for more than 30 days and data on bed and home closures and type of waiver funding both from the past three years since the moratorium was adopted and going forward;

2) a statewide assessment of Minnesota's needs for residential support services based upon disability populations, demographic data and local and regional resources which is developed regionally with the opportunity for broad community input from all stakeholders; and

3) a sound and transparent determination process for any closures, new home or other service model development based on data, information and principles.

Taken together, the 10% congregate care rate cut, the licensed bed closure provision requiring closure of an estimated 128 beds and the corporate foster home moratorium adopted in 2009 produce a disjointed, unfair and unwise process for making adjustments to our state's home and community-based waiver residential services and meeting the needs of Minnesotans with disabilities. We believe our state can do better and will work with you, stakeholders and the Department of Human Services to develop a data-driven process with community participation, transparency and accountability. Thank you.