

**NEW YORK STATE REHABILITATION  
ASSOCIATION  
155 WASHINGTON AVENUE, SUITE 410**

**2009 LEGISLATIVE & POLICY  
AGENDA**



**WORKING TO MEET THE NEEDS OF NEW YORK . . .**

LEADERSHIP, ADVOCACY, EDUCATION AND INFORMATION  
ON BEHALF OF COMMUNITY REHABILITATION PROVIDERS  
AND THE PEOPLE THEY SERVE

**JANUARY 2009**



## **Dear Interested New Yorker,**

The Board of Directors of the New York State Rehabilitation Association, along with our more than 100 members and affiliates, is pleased to present NYSRA's Legislative and Policy Agenda for 2009.

As a leader in advocacy for people with disabilities and the not-for-profit providers who serve them, NYSRA considers the shaping of legislation and policy as a top priority for the organization. For more than 30 years NYSRA has worked to ensure that opportunities for work and community integration are available to all New Yorkers.

That theme has always driven our efforts toward a stable, expansive and effective community, involving all stakeholders.

Our efforts to advocate for broad-based work opportunities and serve as a collaborator among all those stakeholders will continue to guide us as we face the challenges of the coming year.

The following pages include a listing of NYSRA's general priorities, the policy areas with which it is most concerned, and a breakdown, by discipline, of our legislative and policy goals for the coming year.

This document is a dynamic one; NYSRA prides itself on being a nimble organization that constantly monitors policy matters and asserts its energies accordingly.

Anyone with questions or comments regarding NYSRA and its work may feel free to contact me.

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## **NYSRA Priority I: Meeting the Challenge of Fiscal Uncertainties**

The impact of a troubled economy on New York's abilities to provide services to people who need them is significant. The past 18 months have seen marked and troubling changes in many areas – increases in unemployment rates, inflationary pressure due to spiraling costs for fossil fuels such as gasoline and heating oil, efforts at the federal level to dial back on the sorts of services that are will be paid for by Medicaid, as well as rate reductions for providers whose own costs are also skyrocketing.

A sign of what was to come first surfaced in January, when the Executive Budget released by then-Governor Spitzer included an at-first unassuming item – a \$5 million cut in Medicaid spending for OMRDD. Upon further analysis, NYSRA recognized that this cut, when fully annualized and accompanied by the concomitant cut in federal matching funds, would ripen to \$40 million in State Fiscal Year 2009-2010. We were quick to point our concerns to the Legislature's fiscal committees and, through much hard work and being joined by others in the field, most of this cut was indeed restored by the Legislature and Governor when the final State Budget for 2008-2009 was enacted.

But such temporary fixes are just that. As Governor Paterson, who took over in the Capitol in March, has indicated, deficits loom. It behooves all to work together to face the challenges these deficits pose.

NYSRA has pledged to work with the Executive in any way we can to maximize fiscal support from Washington in the areas of Medicaid and Medicare. Governor Paterson's staff has enlisted the aid of NYSRA and others to make the case with Congress that further erosion of Medicaid support from the federal government cannot be readily absorbed by numerous state facing their own deficits – especially at a time when need is great due to other fiscal pressures on households, local governments and state coffers.

Moreover, as the Governor and his state agencies prepare for the next State Budget – with no-growth budgets being requested in many areas – we pledge to work constructively with all interested parties to find ways to ensure that those who receive needed services do not find themselves left out as our state policymakers make their decisions.

## **NYSRA Priority: Opportunity for All**

The community of individuals of differing abilities is a dynamic one. More than ever, discussion involves informed choice, individualized supports, community integration, independence, and a broad range of work opportunities.

NYSRA supports these concepts. And as we renew our commitment to playing a constructive role in their development, we constantly review our role as leader, partner, and agent of change.

Within that framework, our agency members are also committed to this dynamic and evolving community, recognizing that offering the broadest range of services is the best way to ensure that New Yorkers discover the opportunities they deserve, access the assistance they need, and realize the potential they hold. No individual should be left behind.

As partners with many entities – government at every level, community leaders, and experts along the entire range of services – NYSRA’s efforts are focused on continuing what works, changing what doesn’t, and reaching the best possible outcomes for everyone our NYSRA member agencies serve.

Challenges abound. But NYSRA and its member agencies will work to meet them. The people we serve deserve our best efforts.

## **NYSRA Priority: Working with and for individuals with disabilities**

NYSRA advocates on behalf of the *more than one-in-five New Yorkers* with differing abilities and the agencies who serve them.

Our members are the community providers who, collectively, offer the broadest range of services and supports to adults and children throughout New York State with developmental disabilities, learning disabilities, mental illness, hearing impairments, vision impairments, physical disabilities, addictions and traumatic brain injury.

NYSRA members assist people in their efforts toward full integration and participation in their communities. No other association brings such a comprehensive perspective to the disability policy debate: Not only does our membership encompass the widest range of providers in New York, we also count among our number parents, individuals with differing abilities, regional organizations, and voices of the self-advocacy community.

While our members and affiliates are diverse, they are not detached; NYSRA views today's disabilities community as an integrated one and strives to find issue resolution across disciplines while never losing sight of the individual challenges that face all New Yorkers.

In the policy arena, representing a diverse population through an integrated approach provides a strong foundation on which to continue our proud tradition of advocacy on behalf of New Yorkers with differing abilities and the agencies and partnerships that serve them.

NYSRA's highest priority is to advocate for people with differing abilities by ensuring they are offered broad opportunities toward community integration relating to competitive employment -- including self-employment -- as well as seeing they receive supports to pursue individual interests, to participate in activities within their communities, and to offer their talents and energy as contributing members of their communities. As an organization that endorses the concept of person-centered services, NYSRA is mindful that the richness of opportunities that accompany such a system can also bring greater costs, and shifting of systems, that add to the magnitude of the challenges we face. We remain always open to new models, while also recognizing that the existing infrastructure cannot be rapidly abandoned. Existing programs such as work centers, for example, are key to individual opportunity and, indeed, to the economic fabric of their communities. Changes to this area of service, if pursued, must be done with an eye toward preserving the positive impacts they provide. An entrepreneurial approach, reinvestment and community support must all play a role in the continued evolution of employment opportunities for people with special needs.

These over-arching priorities guide our vision, our goals, and our practice.

## **NYSRA Themes for 2009**

For 2009, NYSRA will pursue legislation and policy directives in these areas, among others:

**Medicaid at Federal and State Levels** – As the Medicaid program grows in terms of the percentage of government spending, we acknowledge care must be taken to ensure dollars are spent prudently and effectively. Services to individuals with differing abilities are a major component of Medicaid spending, and every New Yorker has a stake in how those dollars are used.

Many states are finding Washington, in some respects, giving them more flexibility as to how Medicaid works, how Federal Financial Participation is extended, and what role beneficiaries are to play as the system evolves. However, at the same time, recent years have seen a movement toward restrictions that are clearly intended to pull back Medicaid dollars flowing to the states. Even as Congress has rejected certain proposals to reduce and even eliminate Federal funding of certain elements of Medicaid, the Centers for Medicare and Medicaid Services regulators have persevered. As a result, formal proposals surfaced to cut back the “rehabilitation option,” which has for years given states Federal dollars to assist in the provision of services to people with mental health conditions and/or developmental disabilities.

While we have partnered with other organizations on both the state and federal levels to successfully hold off most of these regulations, we find the trend disturbing: If there are to be major changes to the Medicaid system, it is as yet absolutely unclear as to how the states will offset possible losses of Federal dollars. It has never been more important that all members of the disabilities community work together to ensure that all unmet needs are eventually met.

We will continue to work with our state leaders, and with leaders in Washington, to ensure the government at all levels continues to adequately fund traditional and emerging services, as needed and appropriate. Toward that end, we will advocate for sufficient dollars from Washington and we will work to see that Albany uses any new state flexibility in ways that serve New Yorkers to the fullest. At the same time, we will continue to support our members in areas of compliance as they work with overseers, such as the State Office of the Medicaid Inspector General.

*The bottom line, as always, should be measured by the delivery of effective services to New Yorkers who need them, not simple cost-savings found on a balance sheet when those savings come at the expense of necessary services.*

**Long-Term Care Reform** – New York is undergoing significant changes in its provision of long-term care. While developmental disabilities and mental health programs are currently “carved out” of this change process, there can be little doubt that the development of reforms will visit impacts on these populations in the future. Given the delegation of powers by the state government to county health and social services departments, NYSRA sees value in working at the local level. We believe there is the potential for a perfect partnership with local officials and we will pursue an open and candid discussion with New York’s county governments. Our goal is to ensure that this process is one that yields benefits to all stakeholders as the number of aging New Yorkers of all abilities grows.

*We aim to ensure that any newly designed process will progressively include special populations and future services in a seamless fashion.*

**Compliance Issues** – NYSRA is well aware of the culture of compliance that exists, justifiably, in today’s environment. It is critically important that all programs, regardless of funding source, maintain high levels of integrity and transparency. We caution, however, that the trend toward more – and redundant – audits, examinations and reviews can reach a point of diminishing returns: Agencies find themselves devoting more and more critical staff time to multiple inquiries that seek the same information or justifications.

*Care must be taken to ensure that, while government and other funders are confident that dollars are spent wisely and services delivered effectively, audit and review redundancies do not detract from agencies’ ability to provide services with necessary efficiency.*

**Employment of People with Differing Abilities** – New York State has long recognized the importance of employment for people with differing abilities and funds vocational rehabilitation and independent living services to prepare individuals for employment in a variety of settings. This population composes perhaps 20 percent of New York’s workforce, yet, the employment rate for people with differing abilities in New York hovers only around one-third. NYSRA and member agencies continue to develop employment options that are true to the needs and wants of people with disabilities, studying and implementing integration-based services while refining and reforming more traditional employment models.

*We intend to continue to partner with individuals, parents, and other organizations – and to advocate for the commitment of state resources – in the effort to see the widest array of employment options are available to all New Yorkers.*

**Support for the Not-for-Profit Workforce** – NYSRA has for years been an advocate for increases in resources made available to providers to address workforce recruitment

and retention for all who choose careers caring for people with differing abilities – direct care staff, clinicians, administrators, managers and executives – to advance policies that implement strong management models. Among the greatest challenges to NYSRA member agencies – as with all employers – is the increasing cost of health insurance.

*We and our members have advocated for years for higher state rates of payment and continue to work for meaningful change to recruit, retain and justly reward the dedicated staff and management of all of New York's service providers.*

## **NYSRA's Diverse Constituencies**

NYSRA is New York's only trade association comprising significant providers in both the areas of developmental disabilities as well as mental health/recovery. In a time when cross-cultural issues and dual diagnoses are on the rise, we take our responsibility to examine common ground very seriously as we work to help our not-for-profit providers deliver the finest and most appropriate services to the individuals they serve.

It is with this broad base in mind that we pursue a legislative and policy agenda each year that acknowledges a wide range of service issues, challenges, and successes. Once again this year we present our agenda to serve those goals.

## DEVELOPMENTAL DISABILITIES

People with developmental disabilities and their families and advocates seek services and supports driven by individual choice. Funding for such services and supports by Medicaid is under heavy review at the federal and state level and major changes have been suggested. In 2008 the OMRDD system began its transition to refocus the design and implementation of its services and supports by individual choice and initiatives from the community.

NYSRA has been at the table for these discussions and led budget discussions that saw funds that were proposed to be cut from the 2008-2009 State Budget restored by the Legislature as part of the budget process.

Coordination across all services – day, residential, at-home, clinic and vocational provide the necessary circle of supports.

NYSRA urges the Governor and Legislature to enact a 2009-2010 Fiscal Year Budget that includes the elements to ensure services and supports for New Yorkers with developmental disabilities are offered effectively, and :

- ☞ Raise the employment rate of people with developmental disabilities. OMRDD must raise the rate of the Supported Employment (SEMP) program so it covers true costs of the supports required.
- ☞ Maintain cost-of-living trends for all services provided under OMRDD.
- ☞ Bolster funding for direct-care workers, clinicians and staff salaries through actions moving toward wage parity with their state colleagues.
- ☞ Continue funding for the OMRDD Healthcare Enhancement program that supports direct-care workers' health costs. Continue the component that allows agencies to develop new and expand existing benefits without added expense burden to the agency.
- ☞ Streamline and rationalize the rate appeal process within OMRDD.
  - Re-examine and amend OMRDD current policy for rate adjustments.
  - Require OMRDD to review proposed and enacted legislation for unfunded mandates and provide fiscal strategies to balance deficits resulting from those mandates.

- ☞ Seek and establish uniform record-keeping that would set a platform for effective and efficient technology development, meeting the needs of the field.
- ☞ Initiate community privatization discussions or turnkey of state services for efficiencies.
- ☞ Establish an OMRDD relief fund that would be available by application for funds in the wake of unusual swings in financial markets.
- ☞ Embrace rate solutions to meet industry standards of required staff, clinicians and medical professionals. Ideas like adding the rehabilitation Industry to the list of “approved” Loan Forgiveness Programs,; cash reserves for sign-on bonuses and other proper business recruitment standards and prospective payment models must be explored.
- ☞ Require a review of and recommendations for statewide standardization of the OMRDD eligibility determination practices and process that realizes the need to serve people across systems and with special needs – dual diagnosis, autism spectrum, learning disabilities and others.
- ☞ Implement and increase funding to Medicaid Service Coordination, streamline the eligibility process allowing more people to have the necessary services to meet their hopes, dreams and desires.
- ☞ Increase funding of the Supported Employment Medicaid Program (SEMP) and the mirror services funded by New York State dollars at levels greater than the national trend for Medicaid service dollars. Rates currently budgeted do not adequately offset expenses for the supported employment services provided.
- ☞ Include a budget appropriation for providers to assist them with rapidly increasing costs for gasoline and heating fuels. The recent spikes in the costs of these commodities, without concurrent increases in state funding, endanger the existence of many providers.
- ☞ Provide funding for services to support individuals dually diagnosed with developmental disability and mental health assessments.
- ☞ Pass legislation clarifying and ensuring the ability of providers operating fleets of vehicles to have access to parking spaces reserved for people with disabilities.



## VOCATIONAL REHABILITATION

People with differing abilities choose to work and want to work. With the proper training and accommodations they will be the key to meeting New York's workforce needs, both in the for-profit and not-for-profit sector.

Vocational Rehabilitation services are critically important in ensuring the readiness of people with disabilities for the myriad work opportunities available. For thirty years NYSRA members have led the industry calling for employment opportunities through the advocacy for faster and efficient access to VR services for people with disabilities.

This effort requires that the Legislature and Governor:

- ☞ Maintain and protect state funding designated for long term sheltered employment programs currently in place. Flexibility in work program opportunities must be available, providing a broad spectrum of choices to all people. If unthreatened, this funding could be used to develop new revenue generating alternative venues for better employment choices.
- ☞ Increase supported employment rates paid by all state agencies that contract for these services. This can be accomplished if all state agencies committed to employment for people with disabilities sought cross agency efficiencies. Further,
  - VESID intensive and extended rates must cover true costs of the full service and be developed with annual trends indexed to an inflation rate equal to federal cost of living.
  - OMRDD must increase the rate of SEMP reimbursement to ensure provision of all supports necessary.
- ☞ Provide sufficient funding and standards defining the expectation to schools districts for federally mandated transition planning and supports for school-to-work acclimation, or school-to-college services by removal of barriers that impede such transitions.

- ☞ Ensure VESID receives the state resources and/or authority to spend federal resources to guarantee each of its regional offices can satisfy staffing patterns required to fulfill contract requirements of providers and eliminate wait lists for individuals seeking assistance.
- ☞ Identify and provide funding for transportation designed to assist individuals with disabilities in getting to and from their places of employment.
- ☞ Support a legislative directive that requires the inclusion and or involvement of community rehabilitation programs in TANF-funded employment activities at the county level.
- ☞ Fund services for people with learning disabilities, Asperger's and other neurological disorders either in existing system or new.
- ☞ Review current eligibility requirements of state agencies ensuring that no New Yorker with a learning disability are excluded from state funded supports and services as appropriate that assure their personal success and independence.
- ☞ Require demonstrated coordination and electronic streamlined process for all reporting of vocational outcome and data among OMRDD, VESID, OASAS, OMH and other state agencies as necessary.
- ☞ Initiate, fund and require reports from the newly instituted Deaf/Hard of hearing/Deaf Blind Council to succeed and explore vocational service needs and supports according to their charge.
- ☞ Demonstrate consistency in OMH services related to employment site visit requirements – OISE requires and PROS does not.

## RECOVERY SERVICES/MENTAL HEALTH

Recovery services for New Yorkers must be offered to ensure people can access supports when necessary, when needed and at the level of assistance meeting their individual needs in their recovery, including a major element of recovery: employment.

NYSRA advocates for a comprehensive and cross-system's recovery model supported by all state agencies especially OMH, OASAS, DOC, NYSOFA and others – for all ages. New York must establish a system of support offering promising approaches without limits and mandates restricting services. Wellness must be the focus and allow as possible a broad spectrum of supports and services.

NYSRA believes the following items are necessary for the Governor and Legislature to focus on for the 2009 Session:

- ☞ Sustaining OMH funding that includes regular, rational rate adjustment process to assure true cost reimbursement for quality services. NYSRA strongly supports changes to clinic rate methodologies currently proposed.
- ☞ Restructuring of OMH services must include the establishment of a collaborative approach to Medicaid payments with all state agencies.
- ☞ Sustaining the funding allocated in PROS especially those allocated for employment supports and services.
- ☞ Adding a budget appropriation to implement an OMH healthcare enhancement program for direct support professional who work for community mental health providers. A similar model administered by OMRDD may serve as model for such an initiative.
- ☞ Designating funding for services designed specifically to assist individuals who are dually diagnosed, MH and DD, a growing population that is being overlooked.
- ☞ Directing that OMH, OASAS and DOC must review their collective vocational rehabilitation services for opportunities for integration and collaboration of systems especially those that support long term supported employment.
- ☞ Accepting that any individual in New York in recovery has the right and the ability to work. As such state agencies need to improve the opportunity for enhanced employment outcomes by:
  - Prohibiting Medicaid eligibility as the factor determining eligibility for OMH vocational services. State funds must be available as well.
  - Reviewing OMH regulations that now require “VESID Sponsorship” for supported employment funding. NYSRA recommends removing this requirement and substituting “participation in VESID, ACE, IPRT,

Transitional Employment and Or vocational training that has a job placement component” as sufficient.

- Conducting a pilot study to review employment, clinic and crisis management outcomes when supported employment staff provide the supports to the people on their caseloads offsite and via cell phone/email with at least one weekly “electronic” contact instead of the “2 site visits per month” requirement that is stigmatizing and demeaning.
- OISE supports do not stop after 2 months of unemployment therefore the funding should not. This is supported in Gary Bond’s evidence based model description.
- Maintaining the choice and option of working in programs funded through pure state dollars such as work centers to aid in transition through recovery.

☞ Preserving existing and broadening funding for supported education as a service that is vital to both adult students and especially school age children. Extending the support to students transitioning from high school to college and vocational training programs prior to 18 years of age provides a better chance for success in their ability to mainstream with other students/workers.

☞ Directing further OMH commitment to children’s recovery success by funding the OMH Children’s reform initiatives.

☞ Promoting a collective approach among State agencies to effectively address the issues highlighted by the work of the Geriatric Mental Health Alliance through the Geriatric Mental Health Act of 2005.

☞ Requiring OMH to promote standards and training on state regulations to all providers – county and community rehabilitation agencies.

☞ Integrating the single point of entry concept within all aspects of service design at all levels of services and supports – provider, county and state.

☞ Seeking full annualized funding of the initiatives enacted in the Geriatric Mental Health Act of 2005.



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