



For people with intellectual and developmental disabilities

May 12, 2011

To: Shari Repinski
Assistant Director for Program Services
CDHS--Division for Developmental Disabilities
4055 S Lowell Blvd
Denver, CO 80236

Re: Draft rules: 16.100 and 16.420

The Arc of Colorado urges the Colorado Department of Human Services to move forward, as quickly as possible, with presenting draft rule changes for 16.100 and 16.420 to the state board of human services. We strongly support adoption of these changes.

For almost three years, the Colorado service delivery system for people with developmental disabilities has operated under rules developed through the emergency rule making process. The state announced its intent to utilize this expedited process in May of 2008 simultaneous with an announcement to proceed with a full review of the broad spectrum of issues related to the definition of developmental disability and its impact on eligibility for services to assure a thorough deliberative process which could lead to further rule making or statutory change.

It was never the intent that the “emergency rule” would become permanent. It’s time for the state to fulfill its commitment.

The attached chronology shows that we are here today as a result of a series of events that began in March of 2008. I will not cover the data in detail—the record speaks for itself and clearly indicates that the state acknowledges the need to bring consistency and clarity to the rules that govern the eligibility determination process.

We support the rules because:

- Colorado statute is clear. A developmental disability can be defined by impairment of general intellectual functioning OR adaptive behavior similar to that of a person with impaired general intellectual functioning. The draft rules under consideration are consistent with legislative intent. They will provide long needed clarity and direction for state agencies, service providers, and families.

The fiscal implications of adopting these rules are uncertain at best and grossly exaggerated at worst. Adopting rules consistent with statute will not increase the cost of providing services. From the onset of this process three years ago, all stakeholders involved—including the two legislators who served on the committee—acknowledged that services for people with developmental disabilities in CO were inadequately funded and would likely continue to be inadequately funded. Limited revenue combined

with an extremely complex system means waiting lists. That is an unfortunate fact of life in our state and one that we must address but it is not related to the need to ensure that rules are consistent with statute.

There may be more people on waiting lists when these rules are implemented. It is impossible to know how many more people will seek to be determined eligible and impossible to know what it would cost to serve them if, indeed, there was money to do so.

The state has an obligation to at least know how many people are in need of services—regardless of whether or not they can meet those needs.

Thank you for your consideration.

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