My name is Mark Davis and I am President of the Ohio Provider Resource Association (OPRA). OPRA has represented providers of services to Ohioans with intellectual and developmental disabilities (IDD) for over 40 years. We appreciate the opportunity to provide feedback on the proposed transition plan for Ohio to come into compliance with the CMS regulations: Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers (Plan). OPRA is in agreement with the basic intent of the Plan and are committed to ensuring that people with IDD have the same opportunities at life as all Ohioans.

My testimony today will focus on general themes. We will provide more detailed written testimony at a later date and as the work unfolds.

Let me begin by complimenting the administration on its openness and transparency in the public processes leading up to this draft plan. There have been numerous opportunities for individuals or associations to have their voice heard. We see ample opportunity in the Plan for ongoing stakeholder input and stand ready to continue to work with the state to achieve federal compliance.

The sheer volume and emotion of the public response in the DD system, however, should give us all some pause as we move forward. There is real fear and anxiety among many families about the possible changes in service delivery. The Plan calls for continuous attention of individuals, families and providers as transition occurs. The continued inclusion of all stakeholders in this work is absolutely imperative as the practical outcomes for many of these changes are not yet known. If we are to change the lives and opportunities for people with IDD, we need to do it together.

Several sections of the transition plan do not delineate specific remediation strategies, rather the process for determining such strategies. It will be critical that Ohio continue to involve stakeholders in the development and execution of these strategies and that CMS be open to receiving feedback on same. It would be helpful to outline the process for this ongoing feedback, outside of the stakeholder groups. This would create a space for people to pause, examine the body of work and make comments.

The conflict-free-case management requirements are in effect now and therefore, CMS is not requiring any remediation strategies to be in the state’s transition plan. However, compliance with this section of the regulations is critical to ensuring individuals with IDD have access to and fully participate in their communities. What is Ohio’s plan to eliminate the current conflict of interest presented by county boards providing targeted case management and HCBS? How is Ohio planning on assuring HCBS waiver recipients have free choice of provider while county boards provide targeted case management and HCBS during the transition period and until such a time as we achieve full compliance with the conflict-free case management regulations? We welcome the opportunity to be engaged in these conversations.

The affordability of Ohio’s waiver reimbursement system relies on people sharing waiver services. How will the Plan comply with the requirements for people receiving HCBS waiver services to have a choice of roommates in their setting while maintaining the affordability of the waiver system?

The draft plan references the modification of the compliance tool to “present alternative settings to individuals receiving HCBS”. The intent of this modification is unclear, as it is to be used in the compliance process. Will regulatory enforcement staff be expected to provide individualized targeted case management to every person supported by a waiver?

System change of this magnitude will require additional funding to be successfully put in place. Is the state committed to this funding, and if so, to what extent and purpose(s)?

The push for further integration inevitably requires an increase in the number of homes in the community and smaller staff to individual ratios. With wages below poverty, 47% direct support professional (DSP) turnover and a growing demand for services, it seems unlikely that Ohio’s DSP capacity will grow commensurate with the need. In fact, the federal Department of Labor estimates that direct service will be the number one job in demand over the next 20 years as our population ages and the percentage of individuals with developmental disabilities continues to grow. Yet here we are in 2015 predicating our entire developmental disabilities system on low wage workers. Arguably the most important position in our system, one that by these very own CMS rules calls for more and more independent thought and responsibility, yet DSP’s are paid poverty level wages. We applaud the DODD Strategic Planning Leadership Group for establishing a benchmark that within the next ten years all DSPs earn a livable wage (200 percent of the poverty level) for all services provided to people with disabilities. A shortage of DSP’s and significant turnover of DSP’s will likely cause this Plan to fail for many people with IDD. We respectfully request that the Plan include the state’s plan for ensuring a quality and sustainable workforce.

Another issue of increasing importance is the lack of available and accessible housing in the community. Smaller setting sizes means more and more need for community housing. Once again we applaud the wisdom of the Strategic Planning Leadership Group for recognizing this imperative and setting a benchmark of increasing the number of quality, affordable and accessible housing units by 25 percent over the next ten years. DODD has pledged to work with the Ohio Housing Finance Authority to encourage collaboration and prioritization. OPRA offers its assistance and we are actively working with our national association ANCOR in addressing this need.

One of the most affected parts of our system by the new rules will be the entire day array of services. Every service will be impacted. We applaud DODD’s Redesign Workgroup and appreciate being included. The ultimate definitions and rates associated with the individual services will obviously prove a critical determiner of success or failure. There are other complimentary pieces to this puzzle that the administration should ingrain in their efforts. OPRA will continue to provide comprehensive written feedback to DODD on the workgroup’s efforts.

Finally, inherent throughout the new CMS rules is the implication of the dignity of risk. Providers will continue to do their best to not harm anyone to whom they are providing HCBS services. Yet, sometimes, the individual may choose to participate in integrated activities that may be harmful to them (e.g.: driving, hiking, attending a baseball game, having a social media account, to name a few). People without a disability and who engage in these same activities assume a certain level of risk inherent in participation in the activity. Other times and in the best interest of the individual with disabilities, staff intervenes according to the service plan and the individual gets bruised or scratched. Will the Plan include strategies that recognize the dignity of risk and how the state will deal with HCBS services that assist the individual to participate in their community yet may result in harm to that person? Regulatory reform, technical assistance, monitoring and investigation protocols need to be rethought and revised to accommodate the dignity of risk without putting people with IDD more at risk than other members of their community.

OPRA supports individuals with disabilities having access to technology. Without technology, individuals with disabilities are simply not able to fully participate in their community. We appreciate CMS not wanting to limit the applicability of technology where it may be helpful and ask for this to be a community integration strategy in the Plan. For example, will the state provide guidance on connectivity (for example broadband internet and cell phone) that is necessary for technology-enabled supports to work; will the state provide guidance on individuals with IDD’s access to tablets and other hardware that may be used for purposes outside of the individual service plan?

Thank you again for allowing me to provide feedback on this momentous Plan. The nature of the coming change is immense in scope and practice. We are excited and fearful at the same time. I have intentionally touched on but a few of the major concepts in need of recognition. Much of the potential success or failure is truly in the details of implementation and attention to the individuals that we serve and their families. OPRA commits to complete engagement on these issues. We stand ready to assist Ohio in broadening the community experience for people with IDD and coming into federal compliance. Thank you.