Legislative Budget and Finance Committee

A JOINT COMMITTEE OF THE PENNSYLVANIA GENERAL ASSEMBLY
Offices: Room 400 • Finance Building • Harrisburg • Tel: (717) 783-1600
Mailing Address: P.O. Box 8737 • Harrisburg, PA 17105-8737
Facsimile (717) 787-5487

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Commonwealth Services for the Deaf and Hearing Impaired

Conducted Pursuant to
Senate Resolution 76 of 2005

September 2006

Table of Contents

Page

Executive Summary and Recommendations S-1

I. **Introduction** 1

II. **Findings**

A. Deaf and Hard of Hearing Individuals Are Highly Diverse With Differing Communication Modes and Potential Service Needs 5

B. Pennsylvania, Like Many States, Has a State-Level Office for the Deaf and Hard of Hearing 11

C. Pennsylvania Recognizes American Sign Language (ASL) as a Foreign Language, and Many Programs Offer ASL Classes 19

D. Federal Statutes Require That Reasonable Accommodations Be Made for Those With Limited English Proficiency and Those With Disabilities to Access Publicly Funded Programs................................. 23

E. The Commonwealth Has Policies Addressing Compliance With Relevant Federal Requirements.. 40

F. The Pennsylvania Public Utility Commission Implemented a Statewide Telecommunications Relay Service to Ensure Equal Access to Telecommunication Services for the Deaf and Hard of Hearing............ 42

G. Pennsylvania Established a Telecommunication Device Distribution Program for Low Income Disabled Individuals 47

H. Pennsylvania's Assistive Technology Lending Library Serves the Deaf and Hard of Hearing Persons... 50

I. The Commonwealth Requires All Hearing Aid Fitters and Sellers to Register With the Department of Health... 57

J. Pennsylvania, Like Most States, Does Not Mandate Insurance Coverage of Hearing Aids 59

K. Pennsylvania's Newborn Hearing Screening Program Is Accomplishing Its Universal Screening Goal and Specialized Early Intervention Providers Are Serving More Infants and Children 63

L. The Educational Resources for Children With Hearing Loss Committee Advises the Pennsylvania Department of Education on Matters Relating to the Education of Deaf and Hard of Hearing Children 68

M. Deaf and Hard of Hearing Children With Disabilities Affecting Educational Performance Are Served in a Variety of Settings 71

N. Pennsylvania's Magnet Schools for Deaf and Hard of Hearing Children Serve Students From Throughout the State... 76

Table of Contents
(Continued)

Page

II. Findings (Continued)

O. Pennsylvania's Medical Assistance Program Pays for Teachers for the Hearing Impaired and Other Services for Hearing Impaired Children in Special Education Through the School-Based ACCESS Program......... 84

P. Pennsylvania's Office of Vocational Rehabilitation Provides Vocational Services for the Deaf and Hard of Hearing Throughout the State.......... 90

Q. Pennsylvania Independent Living Programs Are Charged to Serve the Disabled and Several Have Special Programs for the Deaf and Hard of Hearing.......... 102

R. Several Community Agencies Provide Services for the Deaf and Hard of Hearing.......... 108

S. Pennsylvania Provides an Expansive Array of Publicly Funded Health and Human Services for Those Meeting Program Eligibility Requirements, Including the Deaf and Hard of Hearing 119

T. The Commonwealth Has Contracts for Sign but Not Oral and Cued Speech Interpreter Services.......... 164

U. The Department of Labor and Industry's Decision to Only Allow Interpreters Holding a National Certification to Be Placed on the State Registry of Interpreters Is Unnecessarily Restrictive and May Result in Interpreter Shortages 170

V. The Department of Education Has Taken Significant Steps to Assure All Education Interpreters Comply With the Requirements Established in Act 2004-57.......... 176

III. Appendices.......... 179

A. Senate Resolution 76 180

B. Survey of Deaf and Hard of Hearing Children and Youth in Special Education.......... 183

C. ADA Federal Oversight Agencies Contact Information.......... 193

D. Pennsylvania Regional Assistive Technology Resource Centers and Counties They Serve 197

E. PA Early Intervention Programs 200

F. The Federal Supplemental Security Income (SSI) Program.......... 203

G. Independent Living Centers and Services 205

H. Major Public Health and Human Service Benefits Available Through On-Line Application 208

I. Drug and Alcohol Services 212

J. Responses to This Report.......... 215

Report Summary and Recommendations

Senate Resolution 76 of 2005 directs the Legislative Budget and Finance Committee (LB&FC) to undertake a comprehensive evaluation of Commonwealth services for persons who are deaf and hard of hearing, including their availability and adequacy. Pennsylvania has a distinguished service history dating back to 1820 with the founding of the Pennsylvania School for the Deaf—the 3rd oldest school for the deaf in the United States. It is also one of 33 states with an Office for the Deaf and Hard of Hearing (ODHH).

We found:

- *Moderate and greater hearing loss, including deafness, are relatively low incidence conditions, and there is wide diversity among those with such conditions.* Nationwide, about 1.13 infants per 1,000 are born with permanent moderate degree and greater hearing loss, including 0.49 per 1,000 infants in well baby nurseries, and 4.8 per 1,000 infants in neonatal intensive care units. The Centers for Disease Control and Prevention (CDC) report 1.1 per 1,000 children ages 3 to 10 have moderate to profound hearing loss,[1] with 30 percent of such children having one or more other disabilities.[2] Later in life, the prevalence of hearing loss increases. One-third of adults ages 70 and older reported they "had trouble hearing" in the 1994 National Health Interview Survey, with 7 percent reporting they were deaf in both ears and another 8 percent reporting they were deaf in one ear.

  The deaf and hard of hearing are highly diverse groups of individuals. Someone with mild hearing loss cannot hear a whispered conversation in a quiet atmosphere at close range, whereas someone with profound loss cannot hear speech and may only hear extremely loud noises, such as a chain saw. Their diversity is reflected in their multiple modes of communication, which include Speech, Speech Reading, Cued Speech, Gestures, Pidgin Sign, Exact Signed English, Manually Coded English Sign, and American Sign Language (ASL). Many using ASL identify with Deaf Culture. Gallaudet's Research Institute reports about 1 of every 1,000 people in the United States use "sign language" to communicate, with "sign language" referring to all types of sign, not just ASL. Such signers include persons who are deaf and their hearing family members. Gallaudet researchers advocate for up-to-date national data on the deaf and hard of hearing population in the United States, including

[1]This compares with prevalence rates of 9.7 per 1,000 for mental retardation, 3.4 per 1,000 for autism, and 2.8 per 1,000 for cerebral palsy.
[2]Other disabilities include, for example, mental retardation, cerebral palsy, vision impairment, and epilepsy.

information on those who sign and those using ASL. Currently, such information is not gathered in the U.S. Census and other major national surveys.[3]

- *Pennsylvania is one of 40 states in the United States recognizing ASL as a foreign language with its own grammar and syntax.*[4] We identified (and note in the report) many Pennsylvania post-secondary and higher education institutions and community service agencies offering ASL classes. There is no single location or website identifying all ASL and deaf awareness classes available in the state. Ready access to information about the availability of such instruction is essential in particular for some hearing parents to be able to effectively communicate with their deaf and hard of hearing children. Eighty-eight percent of Pennsylvania's deaf and hard of hearing children and youth in special education have two hearing parents. The primary communication mode used in teaching such children is sign or sign and speech for 27 percent of such children, but only 17 percent are from families that regularly sign.

- *Several federal statutes, including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the 1990 Americans with Disabilities Act (ADA) prohibit discrimination excluding those with limited English proficiency*[5] *and the disabled from accessing programs.* Federal statutes provide for reasonable accommodations, but do not provide an absolute right of access or impose an affirmative action requirement, and cannot impose an undue burden, according to the federal courts. The federal courts, moreover, have ruled the statutes do not authorize federal agencies to issue regulations extending the obligations imposed by statute. As a result, determination about the reasonableness of an accommodation is based on multiple factors that vary from case to case, and there is no one clear or simple rule that applies in all cases and all situations. Another consequence is the legal protections afforded are not as broad as many members of the deaf and hard of hearing community desire.

  Federal regulations (based on a unanimous U.S. Supreme Court decision) to implement Section 504 of the Rehabilitation Act and Title II of the ADA provide for public agencies to inform the public of the:

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[3]A member of the faculty of East Stroudsburg University, and Pennsylvania's Advisory Council for the Deaf and Hard of Hearing, has received support from the University to identify and survey individuals in Pennsylvania who are deaf and hard of hearing.
[4]In 2002, the General Assembly also enacted legislation allowing public high school students to study ASL and receive high school foreign language credits when courses are taught by PDE approved teachers.
[5]The federal Department of Health and Human Services' Medicare Provider Manual notes bilingual service costs are allowable provider costs to comply with Title VI, and ". . . the term bilingual includes the ability to communicate with the deaf through sign language."

- communication services it offers to provide equal opportunity to participate,
- opportunity to request a particular mode of communication, and
- the agency's preferences regarding auxiliary aids[6] when several different modes are effective.[7]

When interpreter services are provided as an auxiliary aid, federal regulations require the interpreter be "able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary"[8] to communicate effectively in the usual method of communication of the individual. They do not require interpreter licensure or certification, and do not limit "qualified interpreters" for the deaf and hard of hearing to sign interpreters. Oral and cued speech interpreters[9] are also within the federal definition.

- *To comply with the ADA, the Commonwealth has policies and procedures for hiring sign interpreters. However, policies and procedures are not in place for oral, cued speech,[10] foreign sign interpreters, and those who work with the mentally retarded who may sign but not in ASL.* While not required by the ADA, the Commonwealth requires agencies under the Governor's jurisdiction to hire interpreters who are nationally certified for ASL interpreting and/or English-based sign systems (i.e., transliterating). Federal agencies have in place procedures to notify the entity paying for interpreter services of problems encountered and assessing satisfaction with such services, and include performance standards (e.g., at least 90 percent of requests received outside normal business hours will have an interpreter respond onsite within 40 minutes, at least 95 percent of all confirmed interpreters respond to the properly scheduled event at least 15 minutes prior to start of event). Commonwealth policies advise state agencies to report dissatisfaction with interpreters to ODHH, though ODHH references for reporting dissatisfaction with an interpreter are no longer operative.

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[6]Auxiliary aids and services include, but are not limited to, qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
[7]28 C.F.R. pt. 39, note at 766.
[8]28 C.F.R. §35.104.
[9]Oral interpreters are specifically trained to articulate speech silently and clearly, sometimes rephrasing words or phrases to give higher visibility on the lips. Natural body language and gestures are also used. Cued speech interpreters function in the same manner as an oral interpreter except that they also use a hand code, or cue, to represent each speech sound.
[10]In 2004-05, about 10 percent of Pennsylvania's deaf and hard of hearing students in special education received sign interpreting support services and about 2 percent received oral or cued speech interpreting. Nine percent were from homes in which a language other than English was spoken/written in the home.

Commonwealth agencies can purchase interpreter services in several ways,[11] including a DGS contract for purchases over $3,000 and not in excess of $30,000. The DGS contract provides for wide variation in the hourly rate for interpreter services provided during normal business hours ($30 to $56 per hour), and significantly higher costs for after hours, legal, and psychiatric interpreting. Total state expenditures for interpreter services are not known, but through the DGS contract in 2004, $1.2 million were expended. Through different contract arrangements, however, we noted that the Department of Public Welfare in a single year paid $90,000 for an interpreter for one complex client. Some DPW programs that utilize interpreters have developed detailed protocols for their supervision while others have not. Currently, state mental health facilities are considering developing more detailed and uniform procedures for use of interpreters as part of consumer treatment plans.

Washington, according to the federal Office of Management and Budget, is among the states with the most experience in purchasing language assistance, including sign interpreting services, to assure access to public services. In 2003, Washington instituted a new system to purchase sign interpreter services and capped hourly payments at $28 per hour. It also developed standard procedures regarding payments for "client no shows," required interpreter requests come only from physicians and social agencies, and prohibited interpreter self referral practices. Washington purchases interpreter service from nationally certified interpreters and those seeking certification and working for an interpreter referral agency. Moreover, it specifically requires interpreters to agree to comply with all relevant state and federal laws related to service provision in children and youth and other special settings before listing an interpreter on its state registry. Such specific requirements are necessary as not until 2005 did the Registry of Interpreters for the Deaf (RID) modify its code of conduct to clarify that its code does not exempt nationally certified interpreters from reporting suspected child abuse, when required by law. As of June 2006, however, the ODHH Interpreter Registry was not utilizing the revised code as part of its interpreter registry process.

We also found the Commonwealth supports a wide array of services for the deaf and hard of hearing:

- *The PA Relay Service (accessed by dialing 711) is certified by the Federal Communication Commission (FCC) as meeting all federal requirements, and permits persons with hearing, speech and language disorders to receive telephone services functionally equivalent to those for hearing persons and to readily communicate with hearing persons in both English and Spanish.* In 2005, the PA Relay Service had over 1.3 million calls

[11]Non-bid service purchases for services less than $3,000 and agency contracts for services costing more than $30,000 in a given year.

(with about 30 percent initiated from voice telephones). Its use has been declining since the advent of e-mail and text messaging, despite efforts of the Pennsylvania Public Utility Commission (PUC) and its advisory committee to educate the public about this important service. The service is funded by a monthly wireline telephone customer surcharge, which also supports the Telecommunication Device Distribution Program (TDDP) established in 1995 by the General Assembly to provide telecommunication devices at no charge to persons with disabilities. For reasons explained in the report, the Department of Labor and Industry (DLI) has been administering the TDDP. Under its administration, the cost per person served dropped to just over $400 compared to over $1,500 under a DLI contractor. This decline is largely due to DLI's ability to secure one product at a cost of $2,500 compared to about $8,000 by the contractor.[12]

- *Pennsylvania's Assistive Technology Lending Library loans free of charge assistive technology for temporary or trial use to Pennsylvanians with a disability.* The program operates through an agreement between Temple University's Institute on Disabilities and DLI. DLI's Hiram G. Andrews Center is responsible for storing, maintaining, repairing, and free round trip mailing of requested technology. In FY 2004-05, over 6,000 devices were shipped for loan. Lending library branches are available in 59 of the state's 67 counties. Support services are also available at designated locations listed in the report.

- *Pennsylvania, like most states, does not mandate that health insurers cover hearing aids, but several public programs provide such assistance for low income and seriously disabled persons.* The Hearing Loss Association of America (HLAA) advocates state legislation requiring mandatory insurance coverage. The Pennsylvania Health Care Cost Containment Council (PHC4), which must review all legislative proposals mandating insurance benefits, concluded sufficient evidence was not provided to support a recent HLAA backed proposal. While sympathetic to those with hearing loss, especially in view of the high cost of aids ($1,700 to $7,000), the PHC4 noted such aids can be dispensed without medical examination.[13]

The Department of Public Welfare Medical Assistance Program (MA) and the Children's Health Insurance Program (CHIP) have hearing aid (and cochlear implant) benefit coverage for children. Like most states, MA does not provide such benefits for adults, though some adults participating in

[12]In FY 2003-04, a PUC audit found the DLI contractor complied with contract requirements, but was unable to provide supporting documentation related to its processes for identifying possible equipment vendors.
[13]In Pennsylvania, hearing aid sellers and fitters are required to register with the Department of Health. Fitters must also pass an exam and meet certain continuing education requirements.

various MA waivers can receive assistive technology benefits as part of an individual client's service plan. DPW cash assistance programs also provide special allowances for hearing aids. In 2004, 19 of the 52 Area Agencies on Aging reported providing hearing aids or other auxiliary devices for client use, including 13 providing direct financial assistance to purchase such devices, typically through the Family Caregiver Support Program or the Medicaid Waiver administered by the Pennsylvania Department of Aging. DLI also provides hearing aids. In 2004-05, the Office of Vocational Rehabilitation purchased over 1,600 hearing aids at an average cost of about $1,700.

- *The Pennsylvania Assistive Technology Foundation (PATF) receives federal and state funds to provide low cost loans for the elderly and disabled to purchase assistive technology, including hearing aids.* It also administers a mini-loan and small grant program for low income persons through the Department of Community and Economic Development's Neighborhood Assistance Program (NAP).[14] In addition, other voluntary programs and some employers provide hearing aid coverage, including the Pennsylvania Employee Benefit Trust Fund for active Commonwealth employees.

- *Pennsylvania's Newborn Hearing Screening Program is accomplishing its goal of universal screening, and early intervention programs specializing in serving infants and toddlers with hearing loss are serving more children.* In 2001, the General Assembly, based on a Department of Health model program, provided for statewide newborn screening recognizing that the earlier deafness and hearing loss is identified, the greater the likelihood a child will acquire language whether spoken or signed. Almost all Pennsylvania hospitals providing maternity services participate in the program. Our review of data from January to June 2005,[15] found Pennsylvania hospitals screened 99 percent of all newborns compared to 55 percent in 2002, and a performance better than the 95 percent goal set by the Joint Commission on Infant Hearing. Most infants who failed both the initial and subsequent screens were identified at hospitals with neonatal intensive care units. Thirty percent, however, were identified at hospitals without such units and without speech pathology and audiology services –a sign the program is identifying infants with possible hearing problems that might not otherwise have been identified immediately after birth.

  Early intervention providers with specialized programs report increased numbers of children served. The DePaul School for Hearing and Speech,

[14]Through NAP, businesses paying Pennsylvania corporate taxes can contribute to PATF and receive a tax credit worth 50 percent of their contributions up to a maximum of $10,000.
[15]The latest available at the time provided to the LB&FC staff by the Department of Health.

for example, reported in fall 2005, its program had seen a seven fold increase in the number of families served over the prior 18 months. The Western Pennsylvania School for the Deaf (WPSD), which serves children from 12 counties (through their county mental health and mental retardation programs), reported the average number of families served in any given week increased by almost 20 percent from 2003 to 2004. WPSD attributed such increases to earlier identification.

- *Pennsylvania recognizes the unique needs of children with hearing loss and helps school districts address such needs by soliciting guidance from the Educational Resources for Children with Hearing Loss Committee (ERCHL), providing technical and instructions support through the Pennsylvania Training and Technical Assistance Network (PaTTAN),[16] supporting a variety of educational settings, including four magnet schools for the deaf, and making available Medical Assistance funding to pay for teachers for the hearing impaired through the School-Based ACCESS program.* Pennsylvania school districts are responsible under the federal Individuals with Disabilities Educational Improvement Act (IDEIA) for providing special education and related services to 248,000 children with disabilities (including about 2,800 children ages 6-21 with hearing impairments) that are so severe they affect the child's educational performance. They provide services directly or through arrangements with Intermediate Units (IUs)[17] and other providers.

  In 2001, the Pennsylvania Department of Education's (PDE) state regulations for Special Education Services and Programs adopted by reference federal regulations implementing IDEIA, which provide for objective evaluation of a child possibly in need of special education services in the child's "native language"[18] and involvement of parents in consenting to the evaluation, participating in the required evaluation meeting, and in the meeting to develop their child's individual education program (IEP). All special education services are provided based on each child's IEP. Federal regulation also requires a child's IEP to provide access to a free and appropriate public education (FAPE) to the maximum extent appropriate with children who are not disabled. Children in need of special education are, therefore, served in a continuum of education placements, including regular classes, special classes, special schools, at home, and in institutions.

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[16]PaTTAN is a technical assistance and training resource funded by the Pennsylvania Department of Education, Bureau of Special Education.
[17]As of late 2005, 9 of the 29 IUs had special education supervisors with an academic training emphasis in the education of deaf and hearing impaired students.
[18]The language normally used by the child in the home or learning environment.

In 2003, 44 percent of all disabled children in Pennsylvania (ages 6-21) with approved IEPs were removed from regular class less than 21 percent of the day, 18 percent for greater than 60 percent of the day, and 3.4 percent were served in other locations. We found that for such children with hearing impairments: 58 percent received special education services outside of the regular class less than 21 percent of the day, 12 percent received special education services outside the regular class for more than 60 percent of the day, and 14 percent received special education services in other locations such as the approved private schools for the deaf.[19] The higher proportion of hearing impaired students served in "other locations" is largely due to Pennsylvania's four magnet schools for the deaf. The federal Department of Education (DOE) recommends when IEPs are developed they consider the communication needs of the child and the family's preferred mode of communication (including the specific form of sign language) along with social, emotional, and cultural needs. PDE provides for this in its IEP format.

Pennsylvania school districts rely on the state's four magnet schools[20] to provide special education services in approved IEPs. Such schools serve students from 49 of the 67 counties accounting for over 90 percent of the state's population, with more than one-third of the school districts having students at one or more magnet school. Some school districts also provide such services at out-of-state schools for the deaf when the school is closer to the student's home than an available in-state school.[21] Some Pennsylvania parents also place their children at Gallaudet's Model Secondary School for the Deaf (MSSD), which is funded entirely with federal dollars.

The state's four magnet schools offer full day educational programs, but their similarities end there. Two have dormitories able to house students during the school week, including the Scranton State School for the Deaf, which has a classroom specifically designed for deaf children with multiple special needs such as mental retardation, orthopedic handicaps, and cerebral palsy. Some schools participate in special research, such as WPSD's participation in national research tracking the educational

[19]Over a recent three-year period, PDE received only 11 formal complaints related to special education services for hearing impaired children of which only 5 required corrective action plans. In part, this low number may be due to the Call Resolution Process PDE has established to address parental concerns. Over a recent three-year period, 64 cases involving students with hearing impairments were brought to the attention of PDE. Such cases involved 29 school districts and 5 IUs, and most involved students with hearing impairments other than deafness.

[20]Western Pennsylvania School for the Deaf, Pennsylvania School for the Deaf, Scranton State School for the Deaf, and DePaul School for Speech and Hearing. Students attend such schools based on approved IEPs and with the agreement of PDE, which pays 60 percent of the schools' approved tuition costs with the local school district responsible for 40 percent. The PDE FY 2005-06 budget included over $30 million in appropriations for such schools.

[21]The Maryland School for the Deaf serves only in-state residents. Students from south central Pennsylvania for whom the Maryland school may be closer, therefore, cannot attend the Maryland school.

progress of students with cochlear implants relative to matched peers without such implants. WPSD also houses the Pressley Ridge School for the Deaf, which provides a year-round, 24 hour, 7 days per week supervised residential program of comprehensive services for seriously emotionally and behaviorally disturbed deaf children and adolescents and their families. Fourteen students from across the state were at Pressley Ridge when we visited in late 2005. In addition to PDE and school district support, Pressley Ridge services are financed by DPW Medicaid managed care plans and county children and youth programs.

Advocates from southeastern Pennsylvania have recognized the need for a residential program for deaf children who are seriously emotionally disturbed in their area. In early 2006, Pennsylvania had 17 (including 8 Philadelphia) children and young adults at the National Deaf Academy (NDA) in Florida—a private 84 bed residential mental health treatment program for deaf children and adults, including those who are suicidal and psychotic. With support from DPW, Philadelphia's Medicaid Behavioral Health managed care plan and other county mental health and mental retardation programs have taken steps to establish such a program. Despite availability of public funding, significant local planning, and several youth ready for discharge from NDA, the program is not in place and may not be for the 2006 school year.

Since the mid-1980s, partly in response to the PA Society for the Advancement of the Deaf's recommendation and partly as an outgrowth of earlier PDE advisory committees on deafness, ERCHL has advised PDE about the ramifications of hearing loss in the education of children. ERCHL, with support from PaTTAN, has had many accomplishments, including development of Pennsylvania's *Guidelines for Education of Children Who Are Deaf or Hard of Hearing* and overseeing development of an interpreter training grant that led to PDE's adoption in the mid-1990s of the EIPA[22] as a tool to improve the abilities of educational interpreters. PaTTAN sponsors many training and technical assistance sessions, including training for educational interpreters, who were required by Act 2004-57 to attain a legislatively specified EIPA[23] score to be allowed to interpret in schools. DLI and PDE, through a memorandum of understanding, extended the date for all educational interpreters to meet the Act 57 requirement so as not to jeopardize the ability of school districts to

[22]The Educational Interpreter Performance Assessment (EIPA) is a method of evaluating voice-to-sign and sign-to-voice skills of educational interpreters in mainstream elementary and secondary settings working with hearing impaired children who do not have other handicapping conditions and are receiving instruction in the general education curriculum. It is not a single test but, rather, several tests for different types of sign language and different grade levels.

[23]According to a national study of 2,100 educational interpreters (with 7.9 years interpreting experience), 38 percent achieved a 3.5 score (i.e., the score specified in Act 57) on the 2000 version of the EIPA.

implement approved IEPs. In Pennsylvania, many students in special education with a primary disability of hearing impairment who are taught in sign are served in one of the state's magnet schools, which do not typically rely on educational interpreters to instruct students.[24] Some special education students who receive educational interpreter support services outside of the magnet schools are cognitively impaired and have other disabilities in addition to hearing impairment. While such multiply disabled students require quality communication supports, the EIPA is not designed to assess the competency of school personnel working with such students. In June 2006, a prime sponsor of Act 57 introduced amendments deleting the act's specific educational interpreter requirements and assigning responsibility for such matters to the State Board of Education, and the General Assembly promptly acted on the amendment. Without the General Assembly's immediate action and the Governor's approval of the amendment, children with IEPs with interpreter services could have had their services disrupted in the 2006 school year.

In addition to significant financial support provided for special education, Pennsylvania has a special program that allows disabled children in special education to receive certain educational services financed by Medical Assistance without regard to family income. In 2004, this program expended approximately $4 million for services of teachers of the hearing impaired, and $300,000 for audiology and assistive technology services. The program paid for interpreter services; however, expenditure data for such services for deaf and hard of hearing children only are not available.

- *The Office of Vocational Rehabilitation (OVR) Provides Services for Deaf and Hard of Hearing Persons to Assist Them in Pursuit of Gainful Employment and Self-Sufficiency.* In addition to ODHH,[25] OVR has at least one vocational rehabilitation counselor for the deaf and hard of hearing assigned to each of its 15 district offices. Such counselors must meet the requirements for the vocational rehabilitation counselor position and have the ability to communicate in ASL as measured by an intermediate level rating on the SCPI.[26] In 2003-04, OVR expended about $9 million to serve deaf and hard of hearing clients.[27]

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[24]In 2004-05, sign only was the primary mode used in teaching deaf and hearing impaired students in Pennsylvania for 8 percent of students according to Gallaudet Research Institute. Speech only is the primary mode for 73 percent of such students.
[25]ODHH has a director and four regional service centers in Allentown, Erie, Harrisburg, and Johnstown.
[26]The Sign Communication Proficiency Interview was developed at the National Technical Institute for the Deaf to assess sign language skills.
[27]OVR reported 49 filed appeals involving services for the deaf and hard of hearing in FFY 2004. Only seven went to a hearing; and in five of the seven, OVR's decision was upheld. In that same year, the federal Client Assistance Program received eight complaints from deaf and 12 from hard of hearing persons about OVR services. All such complaints were resolved.

OVR's Hiram G. Andrews Center has operated a Deaf and Hard of Hearing Service Unit for the past 25 years. Deaf and hard of hearing students enrolled at the Center are evaluated to assess their need for adaptive equipment, which is provided without charge to the student. They also participate in a six-week vocational evaluation process to assess their interests and skills. Prior to entry into their chosen vocational programs, they may participate in the PREP program, which assists them to prepare for their areas of specialization through remedial programs in reading, math, English, and life skills. They also learn technical vocabulary and signs for their major areas of study. After entry to the vocational program, deaf students receive interpreter services in the classroom. In 2004, 44 students were served in the program.

- *Independent Living Programs are charged by the federal Rehabilitation Act of 1973 as amended to serve those too severely disabled to be eligible for vocational rehabilitation services; and several have developed special programs for the deaf and hard of hearing.* Such programs provide information and referral, independent living skill training, peer counseling, and individual and system advocacy. They may also provide counseling; assistance in securing housing; and assistive technology, interpreter, and personal assistance services. Nine independent living programs serving 48 of Pennsylvania's 67 counties provide services specifically designed to assist deaf and hard of hearing persons. Three of the nine are staffed by persons who are themselves deaf or hard of hearing, and four others operate their programs with staff who can communicate in sign language. A 2003 national evaluation of Centers for Independent Living reported a high level of consumer satisfaction, but the study also reported only 43 percent of those who need a sign language interpreter or cart reporter to communicate said their center always provided one. Several centers advised us that interpreters are in short supply in many areas, and the federal Client Assistance Program reports it has not received any complaints about independent living services from deaf and hard of hearing consumers.

- *At least 11 community programs (based in Allegheny, Berks, Chester, Delaware, Lancaster, Mercer, Philadelphia, Westmoreland, and York Counties), in response to locally identified needs, have developed services for the deaf and hard of hearing, including some that offer best practice examples of how services for the deaf and hard of hearing may be enhanced.* Ten of the 11 programs provide information and referral services. Nine regularly offer classes in ASL. Eight provide interpreter referral services, including five that contract with the Commonwealth. Five provide help with assistive technology, and four offer audiology services and assistance in obtaining low cost hearing aids. Four offer personal assistance services, and three provide literacy and life skills development

programs for deaf adults. Three provide job training and placement services. Four have relationships with county mental health and mental retardation and licensed mental health programs that involve them in assisting with the delivery of certain mental health services. Some programs provide consultation and professional services, such as the Center for Community and Professional Services in Philadelphia that at times provides social work services to families with a deaf member when a member is at risk for abuse or neglect through contracts with the Philadelphia children and youth agency. One program provides youth and recreation programs, and another regretted having to close a summer day camp and after school recreation activities for deaf youth due to absence of volunteers. In Chester County, the Center on Hearing and Deafness (CHAD) has developed a comprehensive volunteer program. All volunteers are trained, and those working with children under 18 must have a current child abuse clearance. CHAD volunteers serve in its Senior Friends, Hospice Support, Prison Visitors, and Service Friends Programs.

- *The Departments of Aging, Health, and Public Welfare*[28] *make available directly or through local programs an expansive array of publicly funded health and human services for deaf and hard of hearing persons who meet program eligibility requirements. Typically such public programs are targeted to those with low income and significant need, and not simply the presence of an impairment.* DPW, for example, serves the deaf and hard of hearing in several of its programs. Its Office of Mental Health and Substance Abuse Services (OMHSAS) has sponsored training programs to promote better understanding and cultural competency in mental health service provision for the deaf and hearing impaired. OMHSAS also directly cares for 3,500 persons in the eight state mental health centers, including 8 who are deaf, 1 deaf-blind, and 164 with some hearing loss. In 2001, OMHSAS developed, in cooperation with ODHH, policy guidance for state mental health centers outlining procedures for such facilities to assure access to their services for deaf and hard of hearing patients. We reviewed facility specific plans and contracts provided by OMHSAS and found them to be compliant with the 2001 policy and relevant federal requirements. OMHSAS purchases interpreter services, and uses interpreters as provided for inpatient treatment plans. During a recent three-year period, OMHSAS expended over $15,000 for hearing aids and their repairs for state mental health center patients and $370,000 for interpreter services.

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[28]DPW and other state agencies provide for on-line applications to many major programs. DPW allows non-profit and other public entities to enroll in a partnership program allowing such organizations to assist clients with on-line applications. None of the public or private agencies assisting the deaf and hard of hearing have thus far taken advantage of this option, and information on such on-line enrollment is not available at the ODHH website.

OMHSAS through the Community Hospital Integration Project Program (CHIPP) has provided financial support to local communities to develop their capacity to serve patients with complex needs that are able to be discharged from state hospitals. Such funds have been used in part to develop several community mental health programs designed to serve seriously mentally ill deaf and hard of hearing adults in western and southeastern Pennsylvania. These include certain services provided by Allegheny East MH/MR, Mercy Behavioral Health, Milestones, and intensive mental health case management in Erie. In 2004-05, OMHSAS surveyed the 46 county MH/MR programs about how they provide access to services for the deaf. In addition to access to interpreter services[29] when necessary, 16 of the 31 responding programs[30] reported at least one of its provider agencies had staff able to communicate in sign language and one other reported such staff in the county MH/MR administrator's office. Eight of the county programs representing almost one-half of the state's population reported having outpatient, intensive case management, partial hospitalization, and supportive housing providers with staff who communicate in sign language. Typically, such programs report the services are offered through Medicaid Behavioral Health *HealthChoices* plans. The county programs also stressed the specialized providers credentialed by the *HealthChoices* Plans are not necessarily within the county. Philadelphia, for example, contracts with a provider based in Bucks County to provide specialized mental health services for deaf children in Philadelphia. Counties involved in developing a specialized service continuum for deaf persons with serious mental illness also reported such services must operate on a regional basis, and have a significant population base to be viable. Supportive housing service, for example, can be very costly and it is not Medicaid reimbursable. Based on data provided by one county MH/MR program, supportive housing for one deaf adult client costs over $100,000 annually.[31]

DPW's Medical Assistance Program accounts for about 64 percent of the Department's $22 billion budget, and is relied on in part by most DPW program offices to provide services. Medical Assistance (MA) can be accessed through County Assistance Offices (CAOs), which have deaf and hard of hearing access policies that provide for interpreter services. In addition, MA provides special services, which include access to interpreter

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[29]The Philadelphia Medicaid Behavioral Health HealthChoices plan, for example, reported plans to expend almost $300,000 for sign interpreter services, or $5,500 on average annually for each identified deaf client.
[30]Non-responding programs included some that for several years have received special funding through OMHSAS for deaf and hard of hearing services.
[31]Some advocates for the deaf have expressed concern that drug and alcohol (D&A) services similar to those available through MH/MR are not available to the deaf. The public D&A and MH/MR service systems are different, operate under different legislative bases, and provide different services. For this reason, all services available for deaf mentally ill clients are not available to deaf drug and alcohol clients.

services, for eligible recipients through its fee-for-service, mandatory physical and behavioral health *HealthChoices*, and AccessPLUS programs. During this study, we learned of a Physical Health *HealthChoices* Special Needs Unit assisting one deaf service provider to develop an exception plan to serve an individual with complex medical problems. When we contacted special services for the fee-for-service and AccessPLUS programs to inquire about interpreter services, however, we were told such services are not available even after we indicated the relevant MA client handbook said they were (and we were aware of DPW direct voice and TTY numbers to schedule such services for physician fee-for-service visits). When advised of this, DPW immediately instituted an investigation as it has in place regulations requiring providers to comply with relevant federal requirements. In response to the investigation, DPW's contractors took steps to revise procedures to assure proper responses by staff. DPW moreover, immediately revised its ongoing monitoring procedures to specifically review its contractors' responses to similar requests.

MA pays for scheduled language and interpreter services when necessary for fee-for-service and AccessPLUS physician services provided by a physician enrolled in the MA program for an MA covered benefit. DPW data indicate from 2001 through July 2005, the MA program paid for sign language interpreters for physician services for 10 unduplicated clients with an average reimbursement of about $1,720 per client and $820 per unit of service provided.[32] Such unit service costs are substantially higher than MA payments for some major medical procedures, and for this reason, the physicians themselves might not have been required to pay for interpreter services based on federal requirements and guidance.

[32]These data understate provision of interpreter services for MA recipients. Most MA recipients receive services through managed care rather than fee-for-service, and Medicaid managed care plans also provide interpreter services. DPW does not collect data for interpreter services provided through Medicaid managed care. It also does not have information on MA providers' expenditures for interpreter services for MA recipients.

MA pays for most county mental retardation services[33] through Medicaid waivers. A Medicaid waiver also supports Valley View[34] assisted living services for adults over age 40 who are deaf and deaf-blind, many of whom have Usher's Syndrome—a devastating disease for congenitally deaf persons who experience gradual loss of vision and total blindness by mid-life. In FY 2003-04, 41 deaf and deaf-blind clients were served through this Medicaid waiver at an average annual cost just under $30,000 per person. The program did not have a waiting list for services under this waiver during the course of this study.

In Pennsylvania, county children and youth programs administer children and youth services with federal and state funds available through DPW's Office of Children, Youth and Families (OCYF). Thirty-eight (out of 50 responding[35]) county children and youth agencies reported 166 active out-of-home placement cases with deaf and hard of hearing children and/or adults, with Philadelphia accounting for about one-quarter of the reported cases. OCYF also approves and licenses public and private providers of children and youth services. Through such OCYF (and other program office) licensure, DPW has in place processes for compliance with relevant federal requirements.

Some advocates for the deaf have expressed concern that children and youth agencies investigate suspected child abuse reports without interpreters. Such advocates apparently are not aware that state law requires county children and youth agencies to investigate reports of suspected child abuse and begin such investigation immediately upon receipt of the report if emergency protective custody has been taken or is needed, or it cannot be determined from the report whether or not emergency protective service is needed. Interpreters, however, are in short supply and often not always immediately available even when agencies have contracts in place for interpreter services. DPW advised us that the children and

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[33]In addition to community mental retardation services, DPW serves mentally retarded persons at several state centers. The Office of Mental Retardation (OMR) reports there are 183 residents in state centers for the mentally retarded with hearing loss. Those with hearing loss have individual support plans that address their communication needs. Such plans are developed by speech and language specialists. When the plan includes assisting the individual to acquire sign language skills, it typically does not involve ASL. According to OMR, due to the cognitive level of the majority of state center residents, the sign system taught is generally not ASL because it is too abstract.

[34]The Pennsylvania Society for the Advancement of the Deaf began operation of assisted living services for the deaf in 1902, and turned over responsibility for such services to Elwyn Institute in 1972. In 1996, the residents were transferred from the George W. Nevil Home to a new building called Valley View. Elwyn's George W. Nevil Home now houses the Deaf and Hard of Hearing Senior Citizens of Delaware Valley senior center, which receives some support from the Philadelphia Area Agency on Aging. It also houses the Deaf and Hard of Hearing Council of Southeastern Pennsylvania. Elwyn also offers several programs for deaf and hard of hearing infants, toddlers, children, and adults in southeastern Pennsylvania, and operates a group home for deaf and mentally retarded adults.

[35]All 67 counties were surveyed. Allegheny, Beaver, Chester, and Westmoreland were among the non-responding counties.

youth agencies request interpreters, however, when there is a report of suspected child abuse or neglect, if an interpreter is not available to accompany a caseworker, the caseworker must still see the child immediately in most cases to assess and assure the child's safety and whether or not there is a need for immediate medical care. Such practices are necessary since, tragically, children are abused and each year children die as a result of such abuse.

- *Act 57 requires paid interpreters, with some important exceptions, to register with the Department of Labor and Industry or be subject to fines and penalties.* Prior to Act 57, ODHH maintained a voluntary interpreter registry to assist state agencies and others seeking to obtain sign interpreter services. The national Registry of Interpreters for the Deaf (RID) in early 2006 listed 319 Pennsylvania members, and prior to the passage of Act 57, ODDH estimated 300 nationally certified interpreters would register under Act 57. We found in February 2006, only about 200 interpreters listed on the ODHH mandatory registry, with about 75[36] indicating they were regularly available to interpret during a typical work week.

  The relatively few interpreters on the state registry appears due to an ODHH requirement that all registered interpreters obtain national certification by RID or the National Association of Deaf Interpreters (NAD) to be placed on its registry. Such certification is not required by Act 57. Interpreter shortages created by ODHH's registry criteria are exacerbated by problems with the RID/NAD national certification processes, and may contribute to the difficulties some Pennsylvania higher education programs are having in attracting interpreter students.

Recommendations

Although we found the Commonwealth offers substantial programs and services for deaf and hard of hearing persons, we think recommendations are warranted in the following areas:

1. **The Office of Deaf and Hard of Hearing should update and provide additional information on services available to the deaf and hearing impaired.** ODHH was created, in part, to develop directories of public services and provide information on how they can be accessed by the deaf and hard of hearing. Recently, ODHH leadership has recognized the need to update some of

[36]Based on telephone area codes, they include 16 from Philadelphia area, 13 from Harrisburg and south central Pennsylvania, 11 from Scranton-Wilkes-Barre and northeastern Pennsylvania, 9 from the Pittsburgh area, 9 from Reading, Allentown, and southeastern Pennsylvania, 7 from New Castle and southwestern Pennsylvania, 2 from Erie and northwestern Pennsylvania, and 9 from out-of-state.

the information it provides to the public, and for the first time posted some information on its website. Much of the information that we have included in the report, however, is not available through ODHH, such as information on how a deaf person may obtain an interpreter to take a Pennsylvania Driver's Exam, how to contact a Medical Assistance managed care special needs unit, how to obtain an interpreter for MA physician services, and how to apply on line for major public benefit programs.

We also recommend ODHH gather and provide updated contact information on organizations that offer sign language classes. Ready access to such information about such classes would be a simple and significant step to foster effective parenting and essential for quality child development.

2. **The Commonwealth should review its policies and procedures on interpreter services and purchase of such services**. Commonwealth-wide policies and DGS contracts should be revised to address oral and cued speech interpreters and non-ASL and non-English-based sign interpreters when such interpreters are required for effective communication under federal requirements. During the course of this study, DGS advised LB&FC staff it was taking steps to address this contract omission and advised the LB&FC staff state agencies could purchase interpreter services outside of its contract to comply with relevant federal requirements. State agencies using interpreters in direct work with clients should also develop standard guidelines for monitoring such interpreters. Some state agency programs have taken steps to develop detailed guidelines, and others may benefit from such guidelines.

3. **The Department of Education should work with the State Board of Education to develop standards for educational interpreters.** In June 2006, the Pennsylvania General Assembly assigned responsibility for development of standards for educational interpreters to the State Board of Education. The Pennsylvania Department of Education (PDE) with assistance from ERCHL and PaTTAN, and those with expertise in special education should define educational interpreting, identify skill sets required for such interpreting, and identify relevant methods for assessing such skills. Such standards should address differing needs of students in special education and be consistent with federal IEP requirements.

4. **The Department of Labor and Industry should allow graduates of interpreter training programs on its registry.** So as not to further exacerbate the shortage of interpreters in Pennsylvania, the Department of Labor and Industry should allow graduates of college or university interpreter programs to be placed on the State Registry of Interpreters for the Deaf. Currently, only interpreters with national certification from either the national Registry of Interpreters for the Deaf (RID) or the National Association of Deaf Interpreters can be placed on the State Registry. This requirement appears more stringent than in other states and may not be in the best interest of the Commonwealth's deaf and hearing impaired community.

5. **The Department of Public Welfare should continue to assure that its contractors' staff are familiar with requirements for Medical Assistance special needs services for the deaf and hard of hearing.** Although many of the MA providers we contacted appeared knowledgeable about the services available for deaf and hard of hearing clients, some important providers were not. To assure all DPW managed care and other contractors direct MA recipients to available special services for the deaf and hard of hearing, the Department should continue to monitor such contractors for their compliance using revised monitoring protocols developed during the course of this study.
6. **The Department of Public Welfare should continue to support efforts to develop a residential treatment program for seriously emotionally disturbed deaf and hearing impaired youth in southeastern Pennsylvania.** DPW providers, including those in the Philadelphia Medicaid Behavioral *HealthChoices* program, have taken many steps to enhance mental health services for children and adults in the past year. We found, however, that there are currently deaf children in out-of-state residential treatment who could be discharged to their communities if "step-down-services" and plans were available. To the extent that such children continue to require structured living environments, it may be appropriate to consider special services options, such as residential treatment facilities or therapeutic foster care, to assist in returning such children and youth to their communities.
7. **The Department of Public Welfare should consider developing training programs and identify current best practices for county children and youth agencies serving deaf and hearing impaired children and families, in particular in child abuse investigations.** The Department's Office of Mental Health and Substance Abuse Services has, over the years, sponsored many activities to facilitate better understanding among mental health providers and the deaf community. Such activities have not, however, occurred statewide for county children and youth services and those working with families with a deaf or hard of hearing member. As part of such training, DPW should educate interpreters and others about state requirements related to child abuse reporting and investigations and the important role of such services in protecting all children, and provide training to enhance the cultural competency of children and youth agency staff when working with deaf and hard of hearing parents and children. OCYF may also wish to consider special training for foster parents and others involved in providing out-of-home care to deaf and hard of hearing children.

I. Introduction

Senate Resolution 76 of 2005 directs the Legislative Budget & Finance Committee to undertake a comprehensive evaluation of Commonwealth services provided to persons who are deaf or hard of hearing. The resolution requires the LB&FC to report on the availability and adequacy of programs and services for the deaf and hard of hearing in the Commonwealth. Appendix A provides a copy of the resolution.

Study Objectives

Specifically, the study sought to:

1. identify state programs and services provided to persons who are deaf or hard of hearing through state departments and agencies;
2. identify revenues and expenditures by source and amount for such programs and services;
3. identify the number of people served by each of the programs and services;
4. assess the adequacy, effectiveness, and efficiency of the programs and services;
5. identify overlapping or duplicative programs or services; and
6. identify service gaps or need for new programs and services.

Study Methodology

To identify state programs and services provided to persons who are deaf or hard of hearing, we surveyed and met with key state departments involved in provision of programs and services, including the Departments of Aging, Education, Health, Labor and Industry, and Public Welfare. The Pennsylvania Public Utility Commission also provided information on state telecommunications programs serving the needs of deaf and hard of hearing citizens.

To identify revenues and expenditures by source and amount for each of the programs and services, we relied on financial data provided by the Departments. We also relied on revenue and expenditure information from the Governor's Budget and various federal reports.

To identify the number of deaf and hard of hearing persons served in each program, we surveyed the relevant state agencies. Such agencies track the number of persons served based on program eligibility requirements rather than the presence of conditions such as deafness and hearing impairment. Such programs, moreover, typically serve those with multiple impairments and capture only a single disability in their data sets. As a consequence, data for major programs serving the deaf and hard of hearing that we report understate the extent such individuals receive publicly funded services. In some instances, we requested service counts from publicly funded deaf and hard of hearing service providers, and we have included such information in the report.

To assess the adequacy, effectiveness and efficiency of the available programs and services, we reviewed various federal and state statutes, regulations, and program guidelines. Such sources provide criteria to assess service provision for deaf and hard of hearing persons in publicly funded programs. We also reviewed complaint data for certain public programs with formal complaint processes.

To identify overlapping or duplicative programs and services, we reviewed the extensive materials provided by the relevant departments and met with their staff. We visited three magnet schools for the deaf that offer specialized programs for parents, infants, and toddlers in addition to providing educational services. We also visited major regional providers of parent/infant and toddler pre-school programs and education services, including one of Pennsylvania's largest and comprehensive publicly funded auditory-oral programs. Such site visits allowed us to observe the many similarities and differences in the available programs and the similarities and differences in the populations they serve.

We met with representatives from one of the largest counties in the state. As a result of its work, Allegheny County has prepared an inventory of public programs serving deaf and hard of hearing persons and information on the types of service available through such programs.

We also contacted and received information on relevant programs from parents whose children received pre-school services through specialized programs, community service providers serving the deaf and hard of hearing, and publicly funded providers offering specialized programs. We also spoke with representatives of colleges and universities offering programs in American Sign Language and Interpreter Training programs and community interpreters.

To identify specific service gaps or need for new Commonwealth programs, we spoke with service providers and attended meetings involving advocacy and stakeholder groups. Such groups included:

- The Advisory Council for the Deaf and Hard of Hearing (ACDHOH) was created by Act 1986-184 to advise the Department of Labor and Industry and, more specifically, the Office for the Deaf and Hard of Hearing (ODHH). The council is composed of 17 members and includes the Secretaries of Aging, Education, Health, Labor and Industry, and Public Welfare; the Governor or his designee; one member of the House of Representatives appointed by the Speaker of the House; one member of the Senate appointed by the President Pro Tempore; and nine public members appointed by the Governor. The nine public members must include at least four persons who are deaf, and they are selected from schools, organizations, and non-state agencies.

- The Advisory Committee for Persons Who are Deaf and Hard of Hearing (ACPDHH) was created by the State Board of Vocational Rehabilitation in 1979 to advise it on Office of Vocational Rehabilitation (OVR) programs and policies as they relate to persons who are deaf and hard of hearing. The Committee consists of 13 members with persons who are deaf and hard of hearing accounting for at least 51 percent of its members. The Committee also includes non-voting representatives from the State Board of Vocational Rehabilitation, the State Rehabilitation Council, the Client Assistance Program, and the ODHH.

- The Educational Resources for Children With Hearing Loss Committee (ERCHL) was created to advise the Bureau of Special Education within the Pennsylvania Department of Education concerning education programs and services for Pennsylvania children with hearing loss.

- The Infant Hearing Screening Advisory Committee (IHSAC) was created by Act 2001-89 to advise the Department of Health on matters related to the state's infant hearing screening program. The Secretary of the Department of Health appoints the committee's six members, who must include audiologists, medical and osteopathic physicians, and parents of children with hearing loss.

For purposes of this report, we considered services to include services that are publicly funded and available to anyone who qualifies. At times during the course of our study, those serving the deaf and hard of hearing reported "gaps" in services. To the extent that such reported "gaps" are not services that are publicly financed and made available to the general public with similar needs, we have not included them in this report. At times issues such as the amount of funding available or the adequacy of payment levels, particularly for the Commonwealth's Early Intervention programs, were identified during the course of our site visits. Such issues have not been reviewed as part of this report since they are not unique to deaf and hard of hearing providers, and therefore, outside the scope of this report.

LB&FC staff completed field work for this study in June 2006. Information in the report reflects agency activity as of that date.

Acknowledgements

We thank the staff of the Department of Labor and Industry's Office for the Deaf and Hard of Hearing and the Office of Vocational Rehabilitation, and staff from the Departments of Aging, Education, Health, and Public Welfare and the Pennsylvania Public Utility Commission for the excellent cooperation and assistance afforded us during this review. Additionally, we would like to acknowledge the assistance offered by advisory committee members and providers and, in particular, the deaf and hard of hearing students we met during site visits.

Important Note

This report was developed by Legislative Budget and Finance Committee staff. The release of this report should not be construed as an indication that the Committee or its individual members necessarily concur with the report's findings and recommendations.

Any questions or comments regarding the contents of this report should be directed to Philip R. Durgin, Executive Director, Legislative Budget and Finance Committee, P.O. Box 8737, Harrisburg, Pennsylvania 17105-8737.

II. Findings

A. Deaf and Hard of Hearing Individuals Are Highly Diverse With Differing Communication Modes and Potential Service Needs.

The deaf and hard of hearing are highly diverse groups of individuals. Their diversity can be explained in part by a variety of factors. These include differences in the type and severity of hearing loss, reasons for the loss, age at onset, and differing modes of communication used by deaf and hard of hearing individuals.

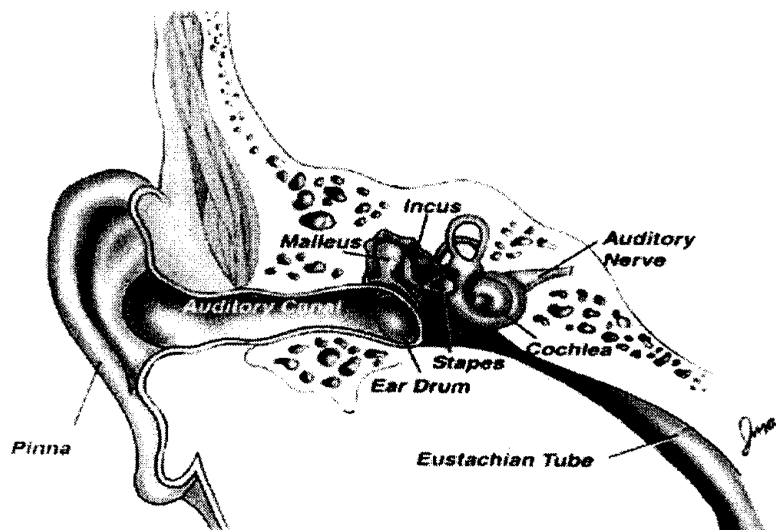
Normal Hearing and Hearing Loss

The ear itself has three main parts: the outer, middle, and inner ear. As shown in Exhibit 1, the outer ear opens into the auditory canal. The eardrum separates the ear canal from the middle ear. The small bones in the middle ear help transfer sound to the inner ear, which contains the auditory (hearing) nerve, leading to the brain.

Any source of sound sends vibrations or sound waves into the air. These funnel through the ear opening, down the ear canal, and strike the eardrum, causing it to vibrate. The vibrations are passed to the small bones of the middle ear, which transmit them to the hearing nerve in the inner ear. Here, the vibrations become nerve impulses and travel to the brain, which interprets the impulses as sound. While this may seem simple, it is not. The auditory receptor organ, or cochlea, for example, shown in the exhibit has over one million moving parts.

Exhibit 1

Parts of the Ear



Source: National Institute on Deafness and Other Communication Disorders.

Normal hearing requires all parts of the auditory pathway to work correctly, including the external ear, middle ear, inner ear, auditory nerve, and connections between the auditory nerve and the brain. The exact location and nature of the problem in the auditory pathway determines the type[1] and severity of hearing loss. A specific individual's hearing loss, moreover, may be due to more than one problem at more than one location along the auditory pathway.

Hearing loss is typically measured by decibel level. Hearing is considered "normal" when a person can hear sound at a loudness of between 0-15 decibels (dB). Exhibit 2 provides general information on the four broad categories of hearing loss as measured by decibel level.

Exhibit 2

Four Categories of Hearing Loss

Hearing Loss	Decibel Level	Sound Equivalent
Mild	15-40 dB	Cannot hear a whispered conversation in a quiet atmosphere at close range.
Moderate	40-60 dB	Cannot hear normal conversation in a quiet atmosphere at close range.
Severe	60-90 dB	Cannot hear speech; can only hear loud noises such as a vacuum cleaner or lawn mower at close range.
Profound	Over 90 dB	Cannot hear speech; may only hear extremely loud noises such as a chain saw at close range or the vibrating component of loud sound.

Source: American Academy of Otolaryngology.

Reasons for Hearing Loss

Hearing loss occurs for many different reasons. Some causes of hearing loss are present even before a baby is born. Such causes include genetic disorders and infections. About half of all cases of hearing loss among children are thought to be associated with genetic factors.

[1]There are four types of hearing loss. Hearing loss caused by something that stops sounds from getting through the outer or middle ear is referred to as *conductive loss*. Loss occurring when there is a problem with the way the inner ear or hearing nerve works is referred to as *sensorineural loss*. Hearing loss that includes conductive and sensorineural hearing loss is referred to as *mixed hearing loss*. With *central hearing loss*, the problem lies in the central nervous system at some point in the brain. Sound enters the ear normally but it is not understood or interpreted. The causes of central hearing loss are not fully understood, according to the National Institute on Deafness and Other Communication Disorders. Hearing loss in one ear is referred to as unilateral hearing loss, and in both ears as bilateral loss.

Problems during or soon after birth are also risk factors for developing hearing loss.[2] Normal birth weight children can have hearing loss, but children who are born early or are low birth weight are much more likely to have problems leading to such loss.[3]

Children and adults born with normal hearing can incur hearing loss as a result of infections, injuries, or certain drugs. High noise levels also damage a person's hearing.

Prevalence of Hearing Loss

Hearing loss is more common among the elderly than among children. One-third of adults ages 70 and older reported they had trouble hearing in the 1994 National Health Interview Survey. Seven percent reported they were deaf in both ears and another 8 percent reported they were deaf in one ear.

About 1.1 per 1,000 children ages 3 to 10 years have moderate to profound hearing loss in both ears, according to the national Centers for Disease Control and Prevention. Such children are unable to hear normal conversation in a quiet atmosphere at close range without the use of hearing aids.

Age at Onset

Hearing loss occurring before a child learns to speak is referred to as pre-lingual hearing loss. Post-lingual hearing loss is loss that occurs after language has been acquired.

Age at onset of hearing loss is very important from a developmental perspective and has important implications for possible service needs. Children with hearing loss are likely to require services to address their hearing loss and foster normal child development. Low birth weight children with hearing loss, moreover, may experience multiple developmental disabilities and have other complex medical problems and service needs.

Those with post-lingual hearing loss have acquired speech prior to the onset of hearing loss. Such individuals are confronted with many challenges. They are less likely, however, to experience many of the critical developmental challenges that accompany pre-lingual hearing loss, including language acquisition—a key child development milestone.

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[2]Such risk factors include the baby not getting enough oxygen (hypoxia), bleeding in the brain, and severe jaundice (hyperbilirubinemia).

[3]The prevalence rates for permanent bilateral moderate degree and greater hearing loss is 1.13 per 1,000 overall, but differs according to nursery. The prevalence rate is 0.49 per 1,000 for well baby nurseries, and 4.8 per 1,000 for neonatal intensive care units.

Communication Options

The earlier deafness and hearing loss are identified in children, the greater the likelihood the child will acquire language, whether spoken or signed.[4] Each child with hearing loss is unique, and each family must make decisions about how it will communicate with its child. In making their decisions, parents often turn to professionals, other parents of deaf and hard of hearing children, and a review of a wide range of information available from many different sources.

Because the communication mode(s) chosen by parents vary, a variety of communication modes are used in the education of deaf and hard of hearing children. Deaf and hard of hearing individuals communicate in a variety of modes with one another and with hearing individuals. Exhibit 3 lists major communication options used in the education of deaf and hard of hearing children.

Exhibit 3

Communication Options in Deaf and Hard of Hearing Children's Education

Communication Options	Description
American Sign Language....	A visual-gestural language used in the deaf community characterized by handshapes, hand/arm/body movements, and facial expressions which represent words, concepts, and letters of the English alphabet in a grammatical structure independent of the English language.
Auditory/Oral	An educational method that emphasizes the use of speech, speech reading, and residual hearing as the primary modes of communication and learning for children with hearing loss.
Auditory/Verbal....................	An educational method that develops the use of amplified residual hearing as the exclusive means of learning in a spoken language environment.
Cued Speech	A method of communication in which the hands are used to supplement the phonemic information visible on the lips of the speaker.
Manually Coded English	A sign system that represents the English language as explicitly as possible, allowing the user to speak and sign simultaneously.
Total Communication	A philosophy which advocates the use of any form or mode of communication that leads to mutual understanding, including (but not limited to) speech, speech reading, residual hearing, manual codes of English, American Sign Language, reading, and writing.

Source: *Guidelines: Education of Students With Hearing Loss,* Pennsylvania Department of Education.

Deaf and hard of hearing children usually learn to communicate by one primary method, although two or more different communication methods may be learned depending on individual circumstances. Some children may try one mode of

[4]For hundreds of years, some have debated the best way to provide communication and education for deaf and hard of hearing children. These debates, which are not within the scope of this study, continue today. Public policy recognizes that such decisions are best made by the families of infants and children with hearing loss.

communication and then later change to another. "Total communication" educational settings offer multiple modes of communication, including American Sign Language.

All the communication modes listed in Exhibit 3 are not available in every community. Highly urbanized areas of the state typically have more communication options available to deaf and hard of hearing children. In other areas, parents may have to choose from among existing communication modes that are available, perhaps consider moving to another area of the state where their desired communication option is available, or arrange through their school district for their child to attend one of the state's magnet schools for the deaf (see Finding N).

The communication mode chosen often has important implications for personal and cultural identity. Culture is a set of learned behaviors of a group of people who have their own language, rules of behavior, and traditions. Such communities typically share a rich heritage and take pride in their language and culture. American Sign Language (ASL), which is one of several recognized forms of sign language, is a language with its own syntax and grammar. Among the American deaf community, ASL is an essential link to Deaf Culture. Many, though not all, deaf individuals use ASL, and many of these identify with the Deaf Culture.

Some of the diversity among persons who are deaf and hard of hearing is associated with differences in their communication modes and cultural identities. Exhibit 4 highlights some of the diversity in the deaf and hard of hearing population based on communication mode and cultural identity.

Exhibit 4

Diverse Population of Persons Who Are Hearing Impaired

Types of Deafness	Description
Big "D" Deaf	Cultural identification with members of the deaf community and the use of American Sign Language as the primary communication method.
Little "d" Deaf	Any person with hearing loss so severe that communication and learning is primarily by visual methods, but not necessarily through American Sign Language.
Hard of Hearing	People who have some degree of hearing loss, varying from mild to profound and can benefit from assistive listening devices but rely on English as their primary language, are not affiliated with the deaf community and function primarily in the hearing world.
Late Deafened	Have a severe to profound disability with onset after the development of speech and language but derive little or no benefit from assistive listening technology and require visual representation of English including visual display technology.

Source: *Providing Adequate Services for the Deaf and Hard of Hearing Population in the Commonwealth of Kentucky: A Strategic and Long Range Plan.*

Estimates of the Number of Deaf and Hard of Hearing Persons: The U.S. Census Bureau no longer attempts to count the number of persons who are deaf and

hard of hearing in the population census. As a result, limited information is available about the number of deaf and hard of hearing in Pennsylvania. Based on a model derived from U.S. Census Bureau data collected in 1994-95 for non-institutionalized persons 16 and over, about 575,500 Pennsylvanians were hard of hearing (i.e., have difficulty hearing normal conversation) in 2004, and another 48,500 were deaf (i.e., unable to hear normal conversation).[5]

Even less information is available concerning the communication modes utilized by persons who are deaf and hard of hearing. The "best available" information indicates that in 1972, about 0.14 percent of the people in the United States were deaf and "good" signers—in other words, a little more than 1 out of every 1,000 people in the United States. The term "sign" as used in the study referred to all forms of sign language and did not separately identify those who signed using ASL. (Finding C provides additional information on the use of ASL.)

[5]Gallaudet Research Institute website, April 2006.

B. Pennsylvania, Like Many States, Has a State-Level Office for the Deaf and Hard of Hearing.

All states participate in the federal Rehabilitation Act of 1973 programs that assist individuals with disabilities to attain gainful employment, independence, self-sufficiency, and full integration into community life.[1] As a result, states typically have state coordinators of rehabilitation services for deaf and hard of hearing persons within the state agency responsible for administering vocational rehabilitation services. In addition, 33 states,[2] including Pennsylvania, have state commissions or offices for the deaf and hard of hearing.

In 1986, the Pennsylvania General Assembly created the state's Office for the Deaf and Hard of Hearing (ODHH) in the Department of Labor and Industry (Act 1986-184 as amended) to:

1. Advocate and promote the accessibility to all governmental services to deaf and hard of hearing citizens, including those with multiple disabilities.
2. Advocate and promote the establishment of a directory of agencies, both public and private, that provide community services, evaluate the extent to which they make services available to deaf and hard of hearing people, and cooperate with the agencies in coordinating and extending these services.
3. Advocate and promote the establishment of regional service centers for the deaf and hard of hearing.
4. Advocate and promote the mutual exchange of ideas and information on services for deaf and hard of hearing people among federal, state, and local governmental agencies and private organizations.
5. Advocate and promote the use of qualified interpreters for the deaf and hard of hearing.
6. Collect, systematize, and make available for other agencies information in regard to deaf persons and other persons who are hard of hearing in the Commonwealth, including their numbers and characteristics, such as the nature, causes, and severity of their hearing losses, their educational and economic status, and any other relevant information.

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[1]The federal Rehabilitation Act of 1973 as amended provides for vocational rehabilitation services, research and training, professional development and special projects and demonstrations, a National Council on Disability, rights and advocacy, employment opportunities for individuals with disabilities, and independent living and community integration. Additional information on several of these major programs and their role in serving the deaf and hard of hearing in Pennsylvania can be found in Findings P and Q of this report.

[2]Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, North Carolina, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

7. Maintain a listing of persons qualified in various types of interpreting for deaf and hard of hearing persons and make this information available to local, state, federal, and private agencies.
8. Act as a source of information for the deaf and hard of hearing to state agencies and public institutions providing services to the deaf and hard of hearing and to local agencies and programs.
9. Act as an advocate for and promote the interests of the deaf and hard of hearing before any department, division, board, bureau, commission, or agency of the Commonwealth, or of any political subdivision thereof, as might be needed to enable it to properly carry out its activities.[3]

The General Assembly further specified that the activities and responsibilities set forth in statute should only be performed by the Office "to the extent that they do not conflict with or duplicate services currently provided by the Office of Vocational Rehabilitation."[4]

The General Assembly also created the Advisory Council for the Deaf and Hard of Hearing (ACDHOH) to include representatives of the deaf and hard of hearing communities to advise ODHH and support its work. To assist the advisory council, the General Assembly included on the council the Secretaries of Aging, Education, Health, Labor and Industry, and Public Welfare, or their designees, and representatives of the Governor and both chambers of the General Assembly.

The General Assembly did not create regional service centers for the deaf and hard of hearing. Rather, it provided for the development of a plan to consider implementation of regional service centers to:

- Inform deaf and other hard of hearing persons and their families of services offered both locally and elsewhere and coordinate referral to appropriate public or private agencies.
- Coordinate communication between deaf and other hard of hearing persons and the desired agencies or organizations and promote the accessibility of community services to hard of hearing persons.
- Coordinate provision of interpreting services to hard of hearing persons.
- Promote and expand adult education opportunities for hard of hearing persons.
- Coordinate the provision of instruction in sign language to persons in community agencies.

[3]43 P.S. §§1461-1467, at §1463.
[4]Id. at §1463(10).

- Inform interested staff of community and professional organizations about the nature of deafness and hearing impairments and the capabilities of deaf and other hard of hearing persons.
- Serve as an advocate for the rights and needs of people with hearing impairments, including deaf and hard of hearing persons with multiple disabilities.

The General Assembly specifically directed that such service activities be performed only to the extent they do not duplicate current services of the Office of Vocational Rehabilitation.

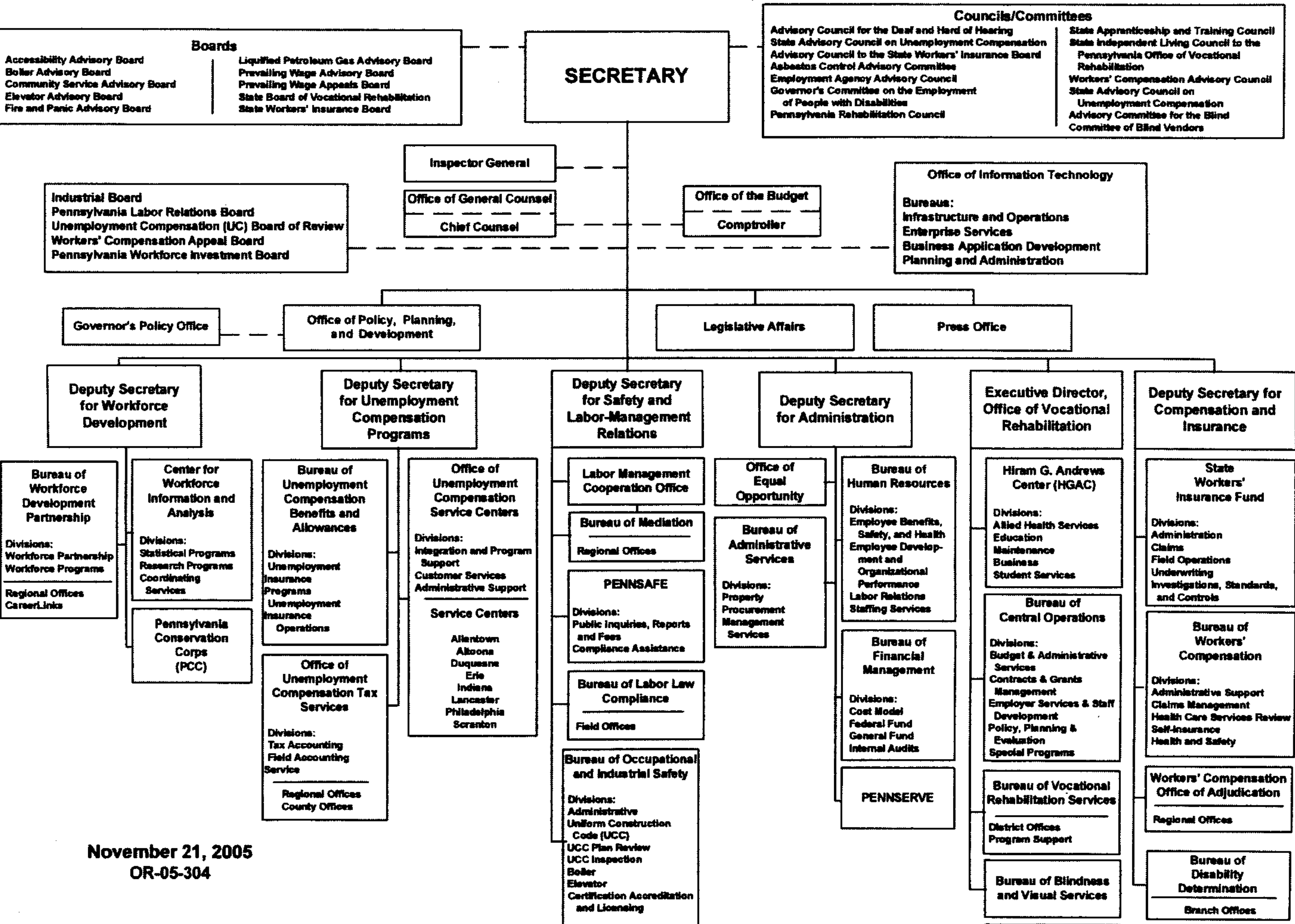
As shown in Exhibit 5, the Department of Labor and Industry's Office for the Deaf and Hard of Hearing is part of the Office of Vocational Rehabilitation. ODDH has a director and four regional service centers located in Allentown, Erie, Harrisburg, and Johnstown. Such offices typically are staffed by individuals who are themselves deaf and hard of hearing. Currently, regional offices are not located in Allegheny and Philadelphia counties that have community programs (under contract with various public agencies and receiving local community support) providing some of the services assigned to regional service centers (see Finding R).

As shown in Exhibit 6, each county in Pennsylvania is assigned to one of the regional centers or offices. All citizens, including deaf and hard of hearing citizens, may contact ODDH offices for assistance. Each office has a designated text telephone (TTY) number, and can be contacted by the hearing community through the PA Relay Service. (See Finding F for information on the PA Relay Service and its operation.)

During calendar year 2005, ODHH responded to requests from both deaf and hard of hearing and hearing persons. As shown in Table 1 almost one-half of ODHH's 1,738 unduplicated public contacts were from persons who did not report a hearing impairment. Table 2 provides information on the types of requests received by ODHH staff.[5] In some cases, callers had multiple requests.

[5]ODHH reports that in FY 2004-05 it had budgeted revenues of $427,505 and expenditures of $392,244. Approximately 80 percent of expenditures were for personnel costs.

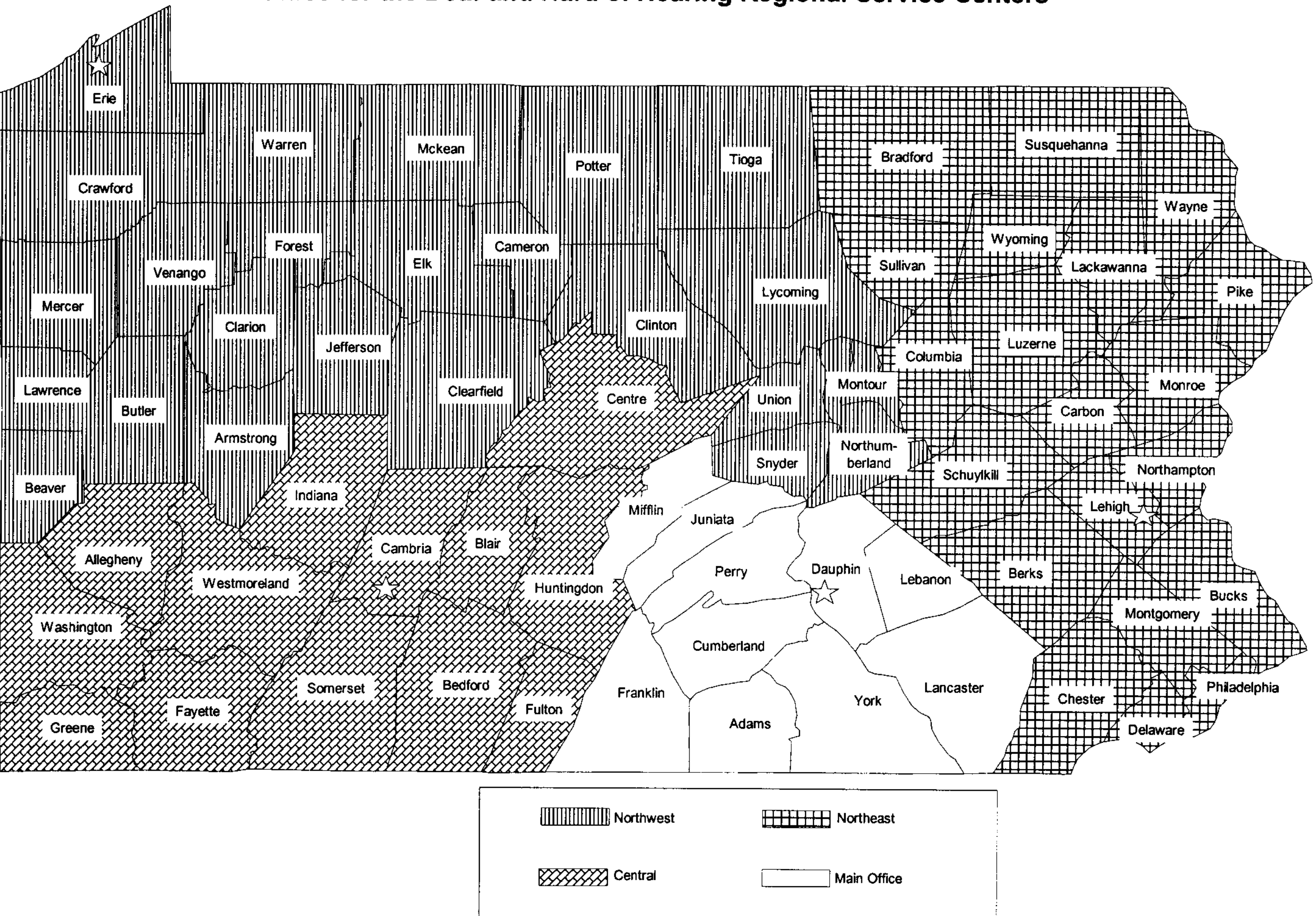
Exhibit 5



Source: Pennsylvania Department of Labor and Industry.

Exhibit 6

Office for the Deaf and Hard of Hearing Regional Service Centers



Source: Developed by LB&FC staff from information obtained from the Office for the Deaf and Hard of Hearing.

Table 1

Contact Information for the Office of Deaf and Hard of Hearing Calendar Year 2005

Hearing Status of Caller	Number
Deaf	448
Deaf Blind	19
Hard of Hearing	297
Hearing	844
Did not Announce	110
Total	1,718[a]

[a]Total does not include 20 callers with additional disabilities.

Source: Office of the Deaf and Hard of Hearing.

Table 2

Requests of ODHH in Calendar Year 2005

Type of Request	Number
Individual Advocacy	287
System Advocacy	541
Interpreter Services	363
Information and Referral	513
American Sign Language	64
Hearing Aids/Cochlear Implants	154
TTY and Other Equipment	50
Assistive Listening Devices	53
Other	260

Source: Office of the Deaf and Hard of Hearing.

In addition to responding to requests during this period, ODHH staff provided numerous education/training presentations. They also conducted outreach activities with colleges, schools, state agencies, and nonprofit agencies that assist the deaf and hard of hearing; participated at various state advisory committee meetings; and provided staff services for the Office's Advisory Council.

ODHH staff also worked with community groups and state agencies to implement Act 2004-57, which provides for a state registry for ASL and English sign system language interpreters. Prior to the passage of Act 57, ODHH maintained a registry of interpreters as required by Act 184 to assist local, state, federal, and private agencies. The registry maintained by ODHH, however, does not provide for all the "various types of interpreting for deaf and hard of hearing persons," as required by state statute.

The ODHH registry, for example, does not include oral and cued speech interpreters required under federal statutes for effective communication with certain deaf and hard of hearing individuals. As a consequence, state agencies must develop lists of interpreters that include the various types of interpreting services required to meet federal requirements. PENNDOT, for example, in its *Pennsylvania Driver's Manual* advises deaf and hard of hearing individuals that it will provide an interpreter upon request to persons who are hearing impaired and communicate through sign language and want to take the driver licensing exam. The manual provides information on how to contact PENNDOT to request and schedule an interpreter. It also asks the applicant to identify the type of interpreter the applicant prefers to use. In addition to American Sign Language interpreters, the manual identifies three other types.[6]

During the course of our study, ODHH staff have been involved in developing a brochure for the Office. As required by Act 184, ODHH staff have also started to prepare a current directory of agencies, both public and private, that provide community services for the deaf and hard of hearing, and for the first time started an online directory of resources and services.

Complete information on public services available in the Commonwealth for the deaf and hard of hearing and how they can be accessed, however, is not currently available through ODHH. ODHH's website, for example, does not direct deaf and hard of hearing individuals requiring interpreter services to take a drivers exam to the relevant information at PENNDOT'S website. The website does not direct deaf and hard of hearing individuals who participate in the Medicaid program how to access an interpreter for medical services. Such information is available at the Department of Public Welfare's website, and also included in Medicaid consumer handbooks. The ODHH website, moreover, provides no information about the Medicaid Managed Care Special Needs Units the Department of Public Welfare requires its physical health managed care contractors to operate to assist persons with special needs to effectively utilize the services available through the plans in which they are enrolled, and it does not provide the link to the Department of Public Welfare's website with the TTY/TDD numbers for such Special Needs Units. The website, moreover, does not link directly to state agency websites providing on-line access to major public programs and information on their eligibility requirements (see Finding S).

ODHH also has not maintained an updated list of providers in the Commonwealth that offer programs on deaf culture and sign language classes. Act 184 specifically directed regional offices to "coordinate the provision of instruction in sign language to persons in community agencies." As discussed in Finding C, Pennsylvania recognizes American Sign Language as a language and has many community and college programs available to the public and professionals interested in learning

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[6]Signed Exact English (SEE), oral interpreters (a person who reads lips), and Pidgin Sign Language (PSE).

about deaf culture and sign language. Promoting access to such information is an important way in which public understanding of deafness and hard of hearing can be enhanced. Greater exposure to sign language for staff in community agencies is one of many steps to encourage those in the helping professions to take interest in acquiring language skills and better understanding of the needs of deaf and hard of hearing consumers. It is also important since most deaf children in Pennsylvania, and nationwide, are born to hearing parents and many deaf children in Pennsylvania who sign are in homes where family members do not regularly sign (see Finding C).

In September 2005, the Advisory Council for the Deaf and Hard of Hearing held a retreat to determine its priorities for improving services for the deaf and hard of hearing in Pennsylvania. Council members' priorities included:

- All state agencies provide appropriate accommodations for consumers.
- Increase Americans with Disabilities Act education.
- Continue to identify the needs of consumers in the workplace and at home.
- Identify available resources and classify them as either "reliable" or "not reliable."
- Review the completed study of the Legislative Budget and Finance Committee on services to this population.
- Simplify the referral/contact process—one number/one agency.
- Develop the ACDHH agenda and customize the ODHH's Director's report to match the Council's "need to know."
- Conduct an annual review of ODHH and the ACDHH priorities and goals.

C. Pennsylvania Recognizes American Sign Language (ASL) as a Foreign Language, and Many Programs Offer ASL Classes.

Nationally, interest in American Sign Language is increasing. In 2004, the U.S. Census Bureau reported the largest percent increase in number of higher education enrollments in foreign languages was for American Sign Language with student enrollment increasing by 433 percent.[1] Forty states, including Pennsylvania, currently have legislation recognizing American Sign Language (ASL) as a foreign language, according to Gallaudet University.[2] In 2002, the Pennsylvania legislature recognized ASL as a language.[3] ASL is a language with its own grammatical rules, and one of several recognized forms of sign language.[4]

The General Assembly further recognized the importance of ASL in 2002 when it enacted legislation allowing public high school students to study ASL and receive high school foreign language credits. In order for high school students to receive foreign language credits for ASL studies, the statute requires classes be taught by certified foreign language teachers who have completed foreign language training programs approved by the Pennsylvania Department of Education.

Post-Secondary and Higher Education Institution Classes: Many Pennsylvania post-secondary schools and higher education institutions currently offer courses in American Sign Language. Eleven of Pennsylvania's 14 community colleges offer ASL classes. Such classes are taught as part of ASL and interpreter associate degree programs offered by the Community College of Philadelphia and the Community College of Allegheny (discussed in Finding U). At least nine other community colleges[5] also offer ASL classes. Typically, such classes are offered for credit as part of an academic program leading to an associate degree. Three of the 11 community colleges offer ASL classes as part of a non-credit continuing education program.

Many Pennsylvania public and private colleges and universities also offer ASL classes. Such classes are often required as part of college and advanced degree programs in deaf education and in communication sciences and disorders. Pennsylvania institutions of higher learning offering deaf education teacher preparation programs include, for example:

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[1]In 1998, 11,400 higher education students were enrolled in ASL classes, by 2002, 60,800 students were enrolled, according to the U.S. Census Bureau, December 2004.
[2]In 1864, the U.S. Congress chartered Gallaudet University as an educational institution to provide programs for the deaf.
[3]See 24 P.S. §15-1524 (adopted in 2002 and effective July 1, 2003).
[4]Other forms of sign language include, for example, Manually Coded English or Signed Exact English (SEE). Other foreign and communal languages also have their own sign languages.
[5]Bucks County Community College, Butler County Community College, Cambria County Area Community College, Harrisburg Area Community College, Lehigh Carbon Community College, Montgomery County Community College, Northampton County Area Community College, Reading Area Community College, and Westmoreland County Community College.

- Bloomsburg University,
- Indiana University of Pennsylvania, and
- University of Pittsburgh.

Pennsylvania institutions of higher education with communication sciences and disorders programs include:

- Bloomsburg University,
- California University of Pennsylvania,
- Clarion University of Pennsylvania,
- Duquesne University,
- East Stroudsburg University,
- Edinboro University of Pennsylvania,
- Indiana University of Pennsylvania,
- LaSalle University,
- Marywood University,
- Pennsylvania State University,
- Temple University,
- University of Pittsburgh, and
- West Chester University.

Public and private colleges in Pennsylvania that award degrees in early childhood development and special education also offer ASL classes. Such classes are offered either as part of the degree requirement or as a world language course offering.

Community Classes: In addition to ASL classes available through post-secondary and higher education institutions, local programs frequently sponsor ASL classes in their communities. Such classes are available through Pennsylvania's schools for the deaf, intermediate units, and community service agencies. For example,

- The Pennsylvania School for the Deaf (PSD) Center for Community and Professional Services provides sign language classes attended each year by over 500 people. The Center provides community courses, special classes for parents of deaf children, and specially designed classes at the request of area businesses, churches, and schools.

- The Western Pennsylvania School for the Deaf has offered introductory courses in ASL on its main campus "for decades." In February 2006, the school enrolled 57 hearing students in a six-week introductory course. Currently, the school offers three classes of ASL (Levels I, II, and III) three times a year. The School also offers ASL classes at its outreach center in Camp Hill.
- The Scranton School for the Deaf indicates thousands of residents from the area have availed themselves of its community sign language classes since their inception in 1976.

Finding R provides information on additional programs providing ASL classes in their communities.

Number of Users of ASL: According to the Gallaudet Research Institute's Annual Survey of Deaf and Hard of Hearing Children and Youth in 2004-05, 8 percent of Pennsylvania's deaf and hard of hearing children and youth in special education utilized only sign as their primary communication mode in school, and 19 percent use both speech and sign.[6] Only 17 percent of Pennsylvania's deaf and hard of hearing children in special education, however, are from families where family members (both hearing and hearing impaired) regularly sign, according to the Annual Survey. Eighty-two percent are from families that do not regularly sign.[7] For approximately 9 percent of Pennsylvania's deaf and hearing impaired children, a language other than English was spoken or written in the home. (Appendix B provides additional information from the 2004-05 Annual Survey of Deaf and Hard of Hearing Children and Youth.)

No one knows how many people in the United States currently use ASL or other forms of sign language. Mitchell and colleagues[8] from the Gallaudet Research Institute have noted several significant problems with existing surveys and estimates of the numbers of people that sign in the United States, including the misunderstanding that all deaf persons communicate using sign language. Mitchell and colleagues consider the work of Schein and Delk[9] as the "ultimate source" of information on numbers of persons in the United States using "manual communication skills." This work, however, was completed in the 1970s and "manual communication skills" reported in the study do not necessarily equal ASL use. Mitchell

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[6]Speech only was the primary mode of communication for over 70 percent of such children.
[7]Mitchell and Karchmer have reported the Annual Survey findings indicate that less than five percent of deaf and hard of hearing students in special education are known to have at least one deaf parent. See *Chasing the Mythical Ten Percent: Parental Hearing Status of Deaf and Hard of Hearing Students in the United States*, Gallaudet Research Institute, 2002.
[8]Mitchell, R., Young, T., Bachleda, B., and Karchmer, M., *How Many People Use ASL in the United States" Why Estimates Need Updating*, draft manuscript accepted for publication in *Sign Language Studies*, Volume 6, Number 3, 2006.
[9]Schein, J.D., & Delk, M.T., Jr, (1974) *The Deaf Population of the United States*, Silver Springs, MD.: National Association of the Deaf.

estimates based on analysis of Schein and Delk's work that nationally possibly as many as 408,000 people were "good signers" in the home in 1972, including:

- 277,000 prevocationally deaf signers,
- 101,000 hearing children of deaf adults who may have signed at home and were still in the home with their deaf parents, and
- 30,000 hearing spouses of deaf adults who sign.

Mitchell and her colleagues recommend several federal agencies, including the U.S. Census Bureau, revise their surveys to identify the number of deaf who rely primarily on sign language and how many ASL only users there are in the United-States. Data from the 1970s cannot be reliably used because of the significant population and technology changes that have occurred since that time. Such information, moreover, is essential for health and social services planning to assure those who communicate primarily through sign language have access to public services.

Currently, a faculty member of East Stroudsburg University, and a member of the Advisory Council for the Deaf and Hard of Hearing is undertaking a survey of persons who are deaf and hard of hearing in Pennsylvania to assist the work of the Council. The Council has not, however, worked with other states and interested organizations to alert the U.S. Census Bureau and other federal survey agencies about the need for reliable national and state data about the deaf and hard of hearing population, including their primary modes of communication.

D. Federal Statutes Require That Reasonable Accommodations Be Made for Those With Limited English Proficiency and Those With Disabilities to Access Publicly Funded Programs.

Several federal statutes prohibit discrimination that excludes those with limited English proficiency and the disabled from accessing publicly funded programs. The relevant federal statutes include Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Congress, in developing these statutes, required they be implemented in a coordinated manner, and they have been interpreted by the federal courts and understood by federal agencies in such a manner.

The three federal statutes provide for reasonable accommodations to access publicly funded programs. They do not provide an absolute right of access or impose an affirmative action requirement, and do not impose an undue burden, according to the federal courts. As a result, a determination about the reasonableness of an accommodation is based on multiple factors individually analyzed from case to case, and there is no one clear or simple rule that applies in all cases and situations. Another consequence is that legal protections afforded deaf and hard of hearing persons are not as broad as advocates would prefer.

Title VI of the Civil Rights Act of 1964

Section 601 of Title VI of the Civil Rights Act provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."[1] Federal financial assistance means:

> Any grant, loan, contract . . . or any other arrangement by which the Department provides or otherwise makes available assistance in the form of: (1) funds, (2) services of Federal personnel, or (3) real and personal property or any interest or use of such property . . . .[2]

Examples of entities that may receive federal financial assistance include hospitals, nursing homes, home health agencies, state and local agencies, and public and private contractors and their subcontractors.

Federal financial assistance does not include:

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[1]42 U.S.C. §2000d.
[2]34 C.F.R. §104.3(h).

- any federal financial assistance by way of insurance or guaranty contracts, or
- use of any assistance by any individual who is the ultimate beneficiary under any program that receives federal financial assistance.

Providers who only receive Medicare Part B[3] payments, therefore, are not required to comply with Title VI requirements.[4]

Title VI Section 602 authorizes federal agencies to issue regulations to "effectuate the provisions"[5] of Section 601. Section 602 provides for enforcement of such regulations and specifies that such enforcement actions may not be taken:

> Until the department or agency concerned has advised the appropriate persons of the failure to comply with the requirement and has determined that appropriate compliance cannot be secured by voluntary means.[6]

All such enforcement actions are subject to judicial review. Furthermore, if an agency attempts to terminate program funding, additional restrictions apply, including the requirement that every agency taking enforcement action:

> File with the committees of the [U.S. Congress] House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such actions.[7]

Termination of federal funding, moreover, cannot become effective until thirty days after the filing of the required reports. Similar provisions apply to Section 504 of the Rehabilitation Act of 1974.

Title VI regulations implementing Section 601 have been applied to prohibit conduct that discriminates against limited English proficient (LEP) persons because such conduct constitutes national origin discrimination.[8] To guide the implementation of federal Title VI regulations on August 11, 2000, the President signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English

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[3]Medicare Part B is an optional insurance program for the elderly and disabled that requires payments of monthly premiums. It covers certain medical and outpatient services, including physician care.
[4]Federal Register, August 8, 2003, Volume 68, Number 153.
[5]42 U.S.C. §2000d-1
[6]Id.
[7]Id.
[8]A limited English proficient (LEP) person is one who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. The United States Supreme Court in 2001 ruled that such regulations do not create an individual private right of action to enforce such regulations. See Alexander V. Sandoval, 21 S. Ct. 1511 (2001).

proficiency (LEP), and develop and implement a system to provide "reasonable steps to ensure meaningful access" to those services by LEP persons. Such plans are to be consistent with the fundamental mission of the agency and not unduly burdening the agency. The Order further directs federal agencies to work to ensure those receiving federal financial assistance (such as state governments) also take "reasonable steps to ensure meaningful access." The Order does not define "reasonable steps to ensure meaningful access," but directs the Department of Justice to provide guidance and coordinate implementation of the Order.

Reasonable Steps to Ensure Meaningful Access: In 2001, and more recently in 2002,[9] the U.S. Department of Justice issued guidance on how federal agencies and those receiving federal financial participation could implement the Order. In the introduction to its 2002 Guidance, the Department of Justice set forth the general principles underpinning its Guidance. The Department of Justice stated:

> As with most government initiatives, this [Guidance] requires balancing several principles . . . . First, we must ensure that Federally-assisted programs aimed at the American public do not leave some behind simply because they face challenges communicating in English. This is of particular importance because, in many cases, LEP individuals form a substantial portion of those encountered in Federally-assisted programs. Second, we must achieve this goal while finding constructive methods to reduce the cost of LEP requirements on small businesses, small local governments, or small non-profits that receive Federal financial assistance.[10]

The U.S. Department of Justice guidance makes clear that federal agency and federal fund recipients' obligations to ensure meaningful access to their programs is determined on a case by case basis and turns on the totality of the circumstances. According to the United States Department of Justice, the starting point for such a determination is an individualized assessment that balances four factors:

- the number or proportion of LEP individuals;
- the frequency of contact with the program;
- the nature and importance of the program, activity, or service; and
- the resources available and costs.

According to the Guidance, recipients have two main ways to provide such language assistance: oral and written.

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[9]The 2002 guidance was issued following the Office of Management and Budget's submitting a Report to Congress: Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166, Improving Access to Services for Persons with Limited English Proficiency, in March 2002 as required by Congress.
[10]67 Fed. Reg. 41455-41472, at 41458.

After completion of the four-factor analysis and deciding what language assistance, if any, is appropriate, the Guidance suggests a recipient develop a language assistance plan for use by its employees. Such a plan is key to documenting compliance with Title VI, according to the U.S. Justice Department. The Guidance states:

> Recipients have considerable flexibility in developing this plan. The development and maintenance of a periodically-updated written plan on language assistance for LEP persons . . . for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance [with Title VI and the Executive Order] and providing a framework for the provision of timely and reasonable language assistance.[11]

Such a plan can include:

- Identification of LEP individuals who need language assistance.
- Identification of the ways in which language assistance services will be provided.
- Staff training.
- Provision of notice, if based on the four-factor analysis, the agency determines it will be providing language assistance.
- Provision for plan monitoring and updating.

In situations where oral language assistance is required, the Guidance notes such assistance should be provided by those who are "competent." They note oral assistance can be provided by:

- hiring bilingual staff,
- hiring staff interpreters,
- contracting for interpreters,
- using telephone interpreter lines,
- using community volunteers, and
- using family members and friends.

The Guidance notes that federal financial recipients providing oral language assistance should not plan to rely on family and friends to provide meaningful access to important programs. The Guidance, however, permits such use when desired by the LEP person in place of or as a supplement to free language service offered by the recipient. It also notes if LEP persons elect to use a professional

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[11]Id. at 41464.

interpreter of their choice rather than the recipient's language service, the LEP person is responsible for the cost of such an interpreter.[12]

Coordinated Compliance Monitoring: The federal agencies responsible for assuring federal financial recipient compliance with Title VI of the Civil Rights Act are also responsible for compliance with Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA. The federal Department of Health and Human Services (DHHS) Office for Civil Rights, for example, is responsible for overseeing implementation of all three statutes for programs administered by DHHS, and in 2003, DHHS revised its guidelines for federal financial assistance recipients' communication with those with limited English proficiency to be consistent with the Department of Justice's 2002 Guidelines.[13]

The Department of Health and Human Services' Office for Civil Rights also developed a sample policy on communicating with limited English proficiency persons for agencies to comply with Title VI of the Civil Rights Act. The sample policy suggests "federal fund recipients should maintain a similar policy on communicating with deaf/hard of hearing and speech impaired persons."

After Executive Order 13166 was issued, DHHS's Center for Medicaid and State Operations (now known as the Center for Medicare and Medicaid Services) advised state Medicaid directors that federal funds could be used for translation activities and services to comply with the Order noting:

> Under both the SCHIP and Medicaid programs, Federal matching funds are available for States' expenditures related to the provision of oral and written translation administrative activities and services provided for SCHIP and Medicaid recipients. Federal financial participation is available in State expenditures for such activities or services whether provided by staff interpreters, contract interpreters, or through a telephone service.[14]

The DHHS further advised that "bilingual" services include communication with the deaf through sign language. In its Medicare Provider Manual in Section 2147 DHHS stated:

> The costs incurred for bilingual services are allowable provider costs to the extent the costs are reasonable both as to the amount and in relationship to the extent of need for the services. They include, but are not limited to, the costs of translators for communication between providers and patients, printed provider informational materials

[12] Id. at 41462.
[13] *Federal Register*, August 8, 2003, Volume 68, Number 153, pages 47311-47323.
[14] Letter to State Medicaid Directors, August 31, 2000.

distributed to patients, and special personnel recruitment efforts designed to recruit bilingual employees. For purposes of Medicare reimbursement, the term bilingual includes the ability to communicate with the deaf through sign language. Providers are encouraged to make bilingual services available to patients whenever the services are necessary to adequately serve a multilingual patient population.

Such policy clarifications are significant since various federal statutes providing civil rights protection, including Title VI, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act are not accompanied by federal financial assistance to facilitate their compliance. The Department of Public Welfare's plans and procedures to comply with Title VI and related federal statutes are discussed in Finding S.

Section 504 of the Rehabilitation Act of 1973

Title VI of the Civil Rights Act of 1964 is the model for subsequent federal statutes prohibiting discrimination on the basis of disability. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by Federal agencies and in programs receiving federal financial assistance.[15] Section 504 of the Rehabilitation Act states that "no otherwise qualified individual with a disability in the United States . . . shall solely by reason of her or his disability, be excluded from the participation in, denied the benefits of, or be subjected to discrimination under" any program or activity that either receives federal financial assistance or is conducted by any Executive agency or the United States Postal Service.

Section 504 only applies to physical and mental impairments that substantially limit a person's ability to carry out major life activities. In the case of children with such substantial disabilities, their educational performance need not be adversely affected such that they require special education services to address their need for accommodations.[16]

The federal courts have played an important role in interpreting obligations imposed by Section 504. The United States Supreme Court in *Southeastern Community College v. Davis*[17] in a unanimous opinion affirmed that Section 504 does not provide a disabled individual access to a publicly funded program if the individual is not "otherwise qualified," and explained that "an otherwise qualified person is one who is able to meet all of a program's requirements in spite of his handicap."

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[15]It also prohibits discrimination in Federal employment and in the employment practices of Federal contractors, and it requires applicable employers to make reasonable accommodation for disabilities.
[16]As it pertains to education services, Section 504 is enforced by the U.S. Department of Education Office of Civil Rights.
[17]442 U.S. 397 (1979).

The Court held that Section 504 imposes no requirement to substantially modify program standards to accommodate a handicapped person. The Court also noted that the language, purpose, and history of Section 504 do not reveal an intent "to impose an affirmative action obligation on all recipients of federal funds . . ." and that the statute did not authorize federal agencies to issue regulations that extend the obligations imposed by the statute. As a result, Section 504 does not require recipients of federal financial assistance to substantially modify their programs or require accommodations that result in "undue financial and administrative burdens." The Court further noted that federal agency regulations implementing Section 504 provide for "auxiliary aids" to provide for reasonable accommodations but explicitly exclude "devices or services of a personal nature."

Following the *Davis* decision, the United States Department of Justice issued regulations for federal agencies based on the court's interpretation of Section 504 of the Rehabilitation Act. Subsequently, in 1990, when Congress enacted the Americans with Disabilities Act (ADA) sections applicable to state and local government programs (Title II), it specifically required ADA Title II regulations be consistent with the regulations issued by the Department of Justice to implement Section 504 concerning "program accessibility, existing facilities," and "communications."[18]

In its final regulations implementing Section 504 for federal agencies, the Department of Justice explained:

> Section 504 does not create an absolute right to access. The Supreme Court stated in *Davis* that recipients [of federal financial assistance] need not undertake modifications to their programs to meet the requirements of section 504 that would result in "undue financial and administrative burdens.[19]

The preamble set forth several principles the Department of Justice would rely on when applying language in the regulations concerning "fundamental alteration" and "undue financial and administrative burdens." Such principles include considering the resources and capabilities available to a particular program, requiring an agency head or designee make decisions about whether a requested accommodation requires a fundamental alteration or presents an undue financial or administrative burden, and requiring provision for some accommodation other than a requested accommodation when the requested accommodation is a fundamental alteration or an undue burden to the program.

In the regulatory preamble, the Department summarized the intent of the communications section of its regulations that requires federal agencies to "take appropriate steps to ensure effective communication with applicants, participants,

[18] 42 U.S.C. §12134.
[19] 28 C.F.R. pt. 39, note, at 765.

personnel of other Federal entities, and members of the public,"[20] including furnishing appropriate auxiliary aids[21] where necessary to afford a handicapped person an equal opportunity to participate.[22]

> In general, the agency intends to inform the public of (1) the communication services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids when several different modes are effective.[23]

The Department's regulatory preamble notes that steps to ensure effective communication include "procedures for determining when auxiliary aids are necessary," though such procedures are not specified in the regulation. The preamble also indicates:

> The agency shall honor the [expressed] choice [of the handicapped person] unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required . . . [because it involved a fundamental alteration or undue administrative or financial burden].[24]

While not stated in the regulations, the regulatory preamble explains necessary auxiliary aids (excluding those that require a fundamental alteration to a program or are an undue administrative or financial burden or a personal service) are to be provided at no cost to the handicapped person. The preamble also states that provision of necessary auxiliary aids relates only to communications necessary to obtain the benefits of the federal program and does not extend to "nonprogram materials" or activities. To the extent that the auxiliary aid or service is "not directly related to a federally conducted program or activity, it would be inappropriate to require them at Federal expense."

The Americans With Disabilities Act

As noted above, the federal Americans with Disabilities Act (ADA) of 1990 is modeled on the Rehabilitation Act of 1973. Exhibit 7 briefly summarizes the four

[20] Id. At 766.
[21] The regulation defines auxiliary aids as "services or devices that enable persons with sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices." 28 C.F.R. pt. 39, §39.103.
[22] 28 C.F.R. pt. 39, note at 766.
[23] Id.
[24] Id.

major sections of the ADA, including Titles II and IV—the parts of the statute most significant from the perspective of Commonwealth services for persons who are deaf and hard of hearing. Title II extends the prohibition of discrimination in federally assisted programs established by Section 504 of the Rehabilitation Act of 1973 to all activities of state and local governments, including those that do not receive federal financial assistance.

Exhibit 7

Americans With Disabilities Act of 1990 Summary

- **Title I** requires private-sector employers to justify job requirements and evaluation criteria for every employee unless the employee is unable to demonstrate disability. Employers, however, are only required to provide "reasonable accommodation" and do not have to make accommodation beyond the point at which it causes undue hardship.
- **Title II** of the ADA prohibits discrimination in public services and also imposes an accommodation requirement on state and local government providers of services.
- **Title III** prohibits discrimination in places of public accommodation and commercial facilities, and imposes obligations both to remove physical barriers from existing facilities and to design new facilities to facilitate access by the disabled.
- **Title IV** amends the Telecommunications Act of 1934 by imposing new requirements on communications systems so they can be made more accessible to hearing- and speech-impaired individuals.

Source: Developed by LB&FC staff.

Section 501 of the ADA harmonizes the ADA with the Rehabilitation Act of 1973. Section 107(b) of the ADA requires enforcement agencies to develop procedures to ensure that complaints filed under both the ADA and the Rehabilitation Act are handled so as to avoid duplication of efforts and the application of conflicting standards.

Several federal agencies are responsible for overseeing compliance with the ADA. Exhibit 8 lists the nine federal agencies assigned to investigate disability-related discrimination complaints filed against state and local government programs under Titles I and II of the ADA (and Section 504 of the Rehabilitation Act and Title VI of the Civil Rights Act) and lists examples of programs and services for which the relevant federal agency has oversight responsibility. As discussed in Finding F, the Federal Communication Commission is responsible for overseeing Title IV of the ADA and state compliance with telephone relay requirements.

Exhibit 8

Federal Agencies Designated to Investigate Disability-Related Discrimination Complaints Filed Against State and Local Government Programs

Federal Agency	Relevant Program Examples
U.S. Department of Agriculture, Office of Civil Rights	Food Stamps
U.S. Department of Education, Office for Civil Rights	Programs, services, or activities related to public elementary and secondary education, higher education, vocational education, or libraries (other than schools of medicine, dentistry, nursing, and other health related fields)
U.S. Equal Employment Opportunity Commission, Field Management Programs	State and local government employment practices
U.S. Department of Health and Human Services, Office for Civil Rights	Programs, services, or activities related to child care, elder care, preschool, social services, or health care programs (including schools of medicine, dentistry, nursing, and other health-related fields)
U.S. Department of Housing And Urban Development, Office of Fair Housing and Equal Opportunity	Community development, homeless shelters
U.S. Department of Labor, Directorate of Civil Rights	Programs, services, or activities related to labor and the work force, including employment services, job training, unemployment insurance, worker's compensation, and occupational safety and health
U.S. Department of Interior, Office for Equal Opportunity	U.S. Park Service
U.S. Department of Transportation, Departmental Office of Civil Rights	Highways, automobile licensing and inspection, and driver licensing
U.S. Department of Justice, Civil Rights Division	Complaints about programs, services, or activities related to law enforcement or public safety, administration of justice, including courts and correctional institutions, commerce and industry (banking, finance, consumer protection, insurance, and small business), state and local government support services (e.g., audit, personnel, comptroller, administrative services), and all other government functions not assigned to other federal agencies

Source: U.S. Department of Justice, *Civil Rights Division, Disability Rights Section, ADA Designated Investigative Agencies*, September 2005. Appendix C provides a copy of this document that lists how to contact the relevant federal oversight agencies and their contact information.

Congress did not intend that the law under ADA diverge from the law under the Rehabilitation Act. Typically, federal court interpretations of the ADA have been consistent with their interpretation of Section 504 of the Rehabilitation Act of 1973.

Disability Versus Impairment: Some of the most important interpretations of the statute by federal courts address what is meant by the term disability. The ADA only protects individuals with disabilities. Merely having an impairment does not make a person disabled for purposes of the ADA.[25]

The ADA requires one of three different conditions to be met in order for a person to be statutorily defined as "disabled." The Act defines "disability" as follows:

> The term "disability" means, with respect to an individual (A) a physical or mental impairment[26] that substantially limits one or more of the major life activities[27] of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.[28]

The federal courts have also ruled a case-by-case determination is required to determine if an individual's particular situation meets the ADA's statutory definition of a disability. "Disability" is defined by the Act with respect to "an individual" and in terms of the impact of the impairment on "such individual." Whether an individual, therefore, has a disability is not necessarily based on the name or diagnosis of the impairment but rather is based on the effect of the impairment on the life of that individual.[29]

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[25] *See*, Toyota Motor Manufacturing Kentucky, Inc. v. Williams, 122 S. Ct. 681 (2002).

[26] Regulations (by the Department of Justice and applicable to Title II of the ADA) define "physical or mental impairment" to mean and include:

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(C) Orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic, tuberculosis, drug addiction, and alcoholism.)

[27] The phrase "major life activity" (again pursuant to the Department of Justice regulations under Title II of the ADA) refers to functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

[28] 42 U.S.C. §12102(2).

[29] Albertson's, Inc. v. Kirkingburg, 119 S. Ct. 2162 (1999) (quoting Sutton v. United Airlines, Inc., 130 F. 3d 893 (C.A. 10 1997). Several courts have considered whether a particular physical impairment constitutes a disability per se under the ADA. The U.S. Supreme Court has held that asymptomatic HIV infection constitutes a "physical impairment during every stage of the disease" but the Court specifically declined to rule on whether HIV infection is always a disability under the ADA. The Court preferred to conduct an individualized inquiry to determine if HIV infection would substantially limit one or more major life activity of the plaintiff. Bragdon v. Abbott, 118 S. Ct. 2196 (1998). The 5th Circuit U.S. Court of Appeals likewise declined to recognize that seizures are to be found to be a disability in all cases but rather stated that disability determinations must be made on an individualized basis. Deas v. River West, L.P., 152 F. 3d 471 (5th Cir. 1998).

For an individual to be deemed disabled under the ADA there must be an impairment of a major life activity and that impairment must be substantial in comparison with normal people. Whether an impairment "substantially limits" a major life activity depends on the individual and the impairment. The U.S. Supreme Court noted that individualized assessment of an impairment is particularly necessary when symptoms vary widely from person to person.[30]

"Qualified" Individual: Similar to Section 504 of the Rehabilitation Act, Title II of the ADA additionally requires that the individual with the disability be "qualified." This means that the individual must meet all eligibility requirements for receipt of services or participation in programs or activities. Title II of the ADA, for example, does not provide protections for individuals who are disabled and do not meet all eligibility requirements for receipt of a public funded benefit.

Obligations Under Title II of the ADA: As noted above, to ensure that disabled persons are not discriminated against in access to public health and social service programs, Title II of the ADA requires the Department of Justice promulgate regulations consistent with regulations promulgated to implement Section 504 of the Rehabilitation Act of 1973 with respect to "program accessibility, existing facilities" and "communications." Such regulations do not require the public entity to make modifications that would fundamentally alter the nature of the service, program, or activity when fundamental alteration can be demonstrated by the public entity, and they do not require provision of personal devices, such as wheelchairs, individually prescribed devices, such as prescription eyeglasses or hearing aids, readers for personal use or study or services of a personal nature including assistance in eating, toileting, or dressing.

The U.S. Department of Justice Section 504 regulations and ADA Title II, moreover, do not entitle a disabled person to the accommodation of his or her choice. They provide for only adequate accommodation resulting in reasonable access to the public program in question. According to the federal courts, the ADA further does not require that substantially different services be provided to the disabled, no matter how great their need for the services may be. It requires only that covered entities make reasonable accommodation to enable meaningful access to such services as may be provided, whether such services are adequate or not.[31]

Effective Communication: In the regulatory preamble to its ADA Title II regulations, the Department of Justice explains that to ensure effective communications, the public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice.

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[30]Toyota Motor Manufacturing Kentucky, Inc. v. Williams, 122 S. Ct. 681 (2002).
[31]Wright v. Guiliani, 230 F. 3d 543 (2d Cir. 2000).

The preamble notes that "deference to the request of the individual with a disability is desirable because of the range of disabilities, the variety of auxiliary aids and services, and different circumstances requiring effective communication."[32]

Such communication request need not be honored, however, if:

- there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person who is deaf or hard of hearing, or
- doing so would fundamentally alter the nature of the activity or service in question or would cause an undue administrative or financial burden based on a determination of the agency head or his/her designee.

In its regulatory preamble, the Department of Justice notes there are a range of auxiliary aids that provide for effective communication and the auxiliary aid that is necessary will vary based on several factors. According to the U.S. Department of Justice, such factors include the:

- Individual's usual method of communication.
- Nature of the communication at issue.
- Importance of the communication at issue.
- Duration of the communication at issue.

Department of Justice ADA Title II regulations defined auxiliary aids and services broadly to include, for example:

> qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments . . . .[33]

When interpreter services are provided as an auxiliary aid, the ADA statute and ADA Title II regulations require that the interpreter be "qualified." ADA Title II regulations define a qualified interpreter as "able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary." The federal statute and regulations do not require licensure or

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[32] 56 Fed. Reg. 35694

[33] 28 C.F.R. §35.104. The ADA II regulations also identify other auxiliary aids and services that can assist the blind and those with other disabilities to access public programs.

certification of interpreters. They, moreover, do not limit qualified interpreters for the deaf and hard of hearing to sign language interpreters.[34] Oral interpreters[35] and cued speech interpreters[36] are also covered within the federal definition. Forms of sign language other than American Sign Language, including "home sign" are also recognized and covered if they are the individual's usual method of communication. A qualified interpreter must be able to communicate in the "native language" of the disabled individual. Provision of interpreters unable to communicate with the individual in their "native language" is not effective communication as required by federal ADA Title II regulations.

The U.S. Department of Justice as part of its responsibilities provides technical assistance related to the implementation of the ADA. As part of such assistance it has provided guidance concerning the factors to be considered when a public entity determines if an interpreter is the necessary auxiliary aid. Recently, the Department provided several examples for law enforcement concerning situations requiring an interpreter. These examples are found in Exhibit 9. They illustrate the complexity of decisions regarding auxiliary aids to be provided in particular situations.

ADA Telecommunication System Requirements: Title IV of the ADA imposes obligations on communications systems to allow those services to be made more accessible to hearing- and speech-impaired individuals. The ADA requires the Federal Communications Commission (FCC) to promulgate regulations implementing the telecommunications provisions of the ADA; to establish functional requirements, guidelines, and operational procedures for relay services; and to establish minimum standards for the provision of telecommunications relay services. See Finding F for information on the FCC compliance process and Pennsylvania's compliance with relevant FCC requirements.

***Captioning*:** Closed captioning is an assistive technology designed to provide access to television for persons with hearing disabilities. Through captioning, the audio portion of programming is displayed as text superimposed over the video.[37] Closed captioning of television programs began in the 1970s. In 1990, Congress first required television receivers to contain circuitry designed to decode and display closed captioning.

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[34]Sign language is a visually interactive language that uses a combination of hand motion, body gestures, and facial expressions. There are several different types of sign language, including, for example, American Sign Language (ASL) and Signed Exact English.
[35]Oral interpreters are specifically trained to articulate speech silently and clearly, sometimes rephrasing words or phrases to give higher visibility on the lips. Natural body language and gestures are also used.
[36]Cued speech interpreters function in the same manner as an oral interpreter except that they also use a hand code, or cue, to represent each speech sound.
[37]Closed captioning is hidden as encoded data transmitted within the vertical blanking interval of the television signal which, "when decoded, provides a visual depiction of information simultaneously being presented on the aural channel (captions)." 47 C.F.R. §73.682(a)(22).

Exhibit 9

What Law Enforcement Situations Require an Interpreter?

Generally interpreter services are not required for simple transactions—such as checking a license or giving directions to a location—or for urgent situations—such as responding to a violent crime in progress.

> **Example**: An officer clocks a car on the highway going 15 miles per hour above the speed limit. The driver, who is deaf, is pulled over and is issued a noncriminal citation. The individual is able to understand the reason for the citation because the officer points out relevant information printed on the citation or written by the officer.

> **Example**: An officer responds to an aggravated battery call and upon arriving on the scene observes a bleeding victim and an individual holding a weapon. Eyewitnesses observed the individual strike the victim. The individual with the weapon is deaf. Because the officer has probable cause to make a felony arrest without an interrogation, an interpreter is not necessary to carry out the arrest.

However, an interpreter may be needed in lengthy or complex transactions—such as interviewing a victim, witness, suspect, or arrestee—if the person being interviewed normally relies on sign language or speech reading to understand what others are saying.

> **Example**: An officer responds to the scene of a domestic disturbance. The husband says the wife has been beating their children and he has been trying to restrain her. The wife is deaf. The officer begins questioning her by writing notes, but her response indicates a lack of comprehension. She requests a sign language interpreter. In this situation an interpreter should be called. If the woman's behavior is threatening, the officer can make an arrest and call for an interpreter to be available later at the booking station.

It is inappropriate to ask a family member or companion to interpret in a situation like this because emotional ties may interfere with the ability to interpret impartially.

> **Example**: An officer responds to the scene of a car accident where a man has been seriously injured. The man is conscious, but is unable to comprehend the officer's questions because he is deaf. A family member who is present begins interpreting what the officer is saying.

A family member *may* be used to interpret in a case like this, where the parties are willing, the need for information is urgent, and the questions are basic and uncomplicated. However, in general, do not expect or demand that a deaf person provide his or her own interpreter. As a rule, when interpreter service is needed, it must be provided by the agency.

Source: *Communicating with People Who Are Deaf or Hard of Hearing ADA Guide for Law Enforcement Officers*, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, January 2006.

As part of the Telecommunications Act of 1996, Congress instructed the FCC to require video program distributors[38] to phase in closed captioning of their television programs. In 1997, the FCC implemented rules to provide a transition schedule for video program distributors to follow in providing more captioned programming. These rules require that distributors provide an increasing amount of captioned programming according to a set schedule.

There are, however, some important exemptions to the FCC's captioning requirements (for both English and Spanish language programming). These exemptions are self-executing and do not require the filing of a petition for exemption. Examples include but are not limited to the following:

- most programs that are shown between 2 a.m. and 6 a.m. local time;
- locally produced and distributed non-news programming with no repeat value (e.g., parades and school sports);
- commercials that are no more than five minutes long;
- instructional programming that is locally produced by public television stations for use in grades K-12 and post secondary schools (only covers programming narrowly distributed to individual educational institutions);
- programs in languages other than English or Spanish;
- programs shown on new networks for the first four years of the network's operations;
- public service announcements and promotional announcements that are shorter than 10 minutes, unless they are federally-funded or produced; and
- programming provided by program providers with annual gross revenues under $3 million (although such programmers must pass through video programming that has already been captioned).

In addition to the above self-executing exemptions, a video programming provider or distributor may file with the FCC a petition for an exemption for specific programming if supplying captions for that programming would result in an undue burden for the provider or distributor.

Pennsylvania Cable Network (PCN) is a nonprofit nonpartisan cable television network responsive to the interests and needs of Pennsylvania and its people. PCN serves as the Commonwealth's version of C-SPAN, with unedited live and same-day coverage of Pennsylvania Senate and House floor proceedings, committee hearings, press conferences, speeches, and other public forums where the business

[38]A video programming distributor is any television broadcast station licensed by the FCC and any multichannel video programming distributor, and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the FCC.

of the state is debated, discussed, and decided. PCN is funded by Pennsylvania cable television companies that voluntarily carry the service on their channel lineup. The network receives no state or federal funds. Currently, PCN is exempt from federal captioning requirements because its annual gross revenues are under $3 million.

E. The Commonwealth Has Policies Addressing Compliance With Relevant Federal Requirements.

The Pennsylvania Constitution prohibits discrimination by the Commonwealth and its political subdivisions[1] and state law prohibits discrimination in employment, housing, and public accommodations.[2] The reasonable accommodation of the limited English proficient and persons with disabilities, however, is primarily accomplished pursuant to the implementation of federal requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. Commonwealth agencies have detailed policies and plans to comply with such relevant federal statutes as discussed in Finding S.

The Commonwealth also has several "umbrella" policies in place directing agencies under the Governor's jurisdiction to comply with the Americans with Disabilities Act. These include for example:

- Management Directive 205.26 (issued July 1992) directing state agencies to implement the ADA, and
- Executive Order 2002-5 prohibiting discrimination in employment and access to state services, programs, and activities.

To assure that those doing business with the state comply with ADA requirements, the Governor's Secretary of the Budget issued Management Directive 215.12 in 2001. This directs executive branch agencies to include, in any contracts they establish, two provisions related to the Americans with Disabilities Act (ADA). The first provision requires contractors to not exclude any individual who is disabled from participation in the contract. The second provision also requires the contractor to assume full responsibility for all losses, damages, expenses, claims, demands, suits, and actions brought by anyone against the Commonwealth because of the contractor's failure to comply with the first provision. All existing contracts are to be reviewed to ensure they contain these provisions. The agency Comptroller is to ensure that the provisions concerning the ADA are contained in all contracts except when a written waiver is attached.

To assure those with need for accommodations at public meetings are provided such accommodations, the Governor's Office of Administration revised the Management Directive providing guidance on such meetings. Management Directive 250.1 provides guidance to executive branch agencies for giving public notice of meetings or hearings as required by the state Sunshine Act.[3] In setting forth

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[1]Article 1, §26 states "Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right."
[2]See the Human Relations Act, 43 P.S. §951 et seq. The term "public accommodation" includes Commonwealth facilities and services."
[3]65 P.S. §§271-286.

responsibilities under the Sunshine Act, this management directive provides that each agency include in Sunshine Act meeting notices a brief statement referencing Management Directive 205.26, regarding compliance with Title II of the ADA. Such a statement is to provide, for example, that if an accommodation is needed due to a disability by a person wanting to attend a meeting, the person with a disability must be in touch with an agency contact person within a designated time frame.

Sign Interpreter Policies: In an effort to comply with relevant federal requirements, Management Directive 205.32 was implemented to require Commonwealth agencies hire interpreters and transliterators for Commonwealth and Commonwealth-related activities. Management Directive 205.32 was implemented in 1999 to establish policy and assign responsibilities regarding the hiring of interpreters and transliterators for Commonwealth and Commonwealth-related activities.[4] The directive defines interpreting,[5] transliterating,[6] national certifying bodies, and grievance and requires that agencies only hire interpreters/transliterators who hold a current acceptable certification by two national certifying boards.[7]

Agency heads are required to ensure that their agencies comply with the directive by communicating it to agency personnel responsible for procuring such services and seeing that any necessary changes regarding the procuring of interpreters and transliterators are adopted. The Office of Deaf and Hard of Hearing is to maintain and distribute to agencies a list of interpreters/transliterators who hold a current acceptable certification, provide technical assistance and other necessary information to agencies, and be contacted when there is a service grievance.

The Management Directive addresses sign language interpreters. ADA provisions related to interpreters include other interpreters for the deaf and hard of hearing who are not sign interpreters. Oral and cued speech as well as foreign and "native" language sign interpreters may be required for "effective communication" under the ADA. Provision of a sign interpreter for a person in need of an oral or cued speech interpreter, for example, would not provide for effective communication. Currently, there are no Management Directives advising state agencies on their responsibilities to provide interpreter services other than certain sign interpreters when required for effective communication under Section 504 of the Rehabilitation Act and the ADA. See Finding T for additional information on state interpreter contracts.

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[4]The directive applies to all agencies, independent boards, councils, and commissions under the Governor's jurisdiction.
[5]"Interpreting" refers to conveying English in grammatically correct American Sign Language (ASL) and the process of conveying ASL in grammatically correct English.
[6]"Transliterating" refers to conveying spoken/written English in an English-based sign system and the process of conveying an English-based sign system in spoken or written English.
[7]National certifying boards are identified as the National Association of the Deaf and the Registry of Interpreters for the Deaf, Inc.

F. The Pennsylvania Public Utility Commission Implemented a Statewide Telecommunications Relay Service to Ensure Equal Access to Telecommunication Services for the Deaf and Hard of Hearing.

In July 1990, the Americans with Disabilities Act amended the federal Communications Act of 1934.[1] The amendment added a new section for services for deaf or hard of hearing persons and persons with speech and language disorders by requiring common carriers to provide telephone services to deaf or hard of hearing persons and/or persons with speech and language disorders that are functionally equivalent to services provided to hearing individuals.

To provide functional equivalency, telecommunications relay services were introduced. With the introduction of standard telecommunication relay services, when a person who is deaf or hearing impaired initiates a call to the relay service, the caller keyboards what he or she wants to say, and the message is relayed by a specially trained operator (called a communications assistant or CA) who voices or relays the message to the person being called. The CA then keyboards to the caller the hearing individual's voiced responses. Similarly, hearing persons with voice telephones can access the relay service to communicate with the hearing impaired.

Currently, such services are available in both English and Spanish and are accessed simply by dialing 711.[2] Pennsylvania's relay service provider has detailed instructions on the use of standard and other relay services[3] at its website (www.consumer.att.com/relay/tty/numbers.html).[4]

Prior to the enactment of federal legislation, the Pennsylvania Telephone Association (PTA) had proposed and the Pennsylvania Public Utility Commission (PUC) issued an order implementing the Pennsylvania telecommunications relay service (PA TRS). In 1989, the Pennsylvania Telephone Association (PTA) submitted a White Paper to the Pennsylvania Public Utility Commission (PUC) recognizing the needs of the deaf and hard of hearing communities and supporting the establishment of a statewide telecommunications relay system. Subsequently, the PUC agreed and directed the PTA to submit a definitive plan or petition to establish

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[1]42 U.S.C. §12101 et seq. and 47 U.S.C. §201 et seq.

[2]In 2001, the FCC required TRS providers to provide Spanish-speaking persons with speech or hearing disabilities with access to Spanish-speaking CAs who receive messages either by voice or TTY in Spanish and convey the message to the called party in Spanish, if necessary. PA TRS complies with this requirement.

[3]Speech-to-speech relay and voice carry over relay services are also available through the PA TRS service. Speech-to-speech service allows a person whose speech may be difficult to understand to communicate over the telephone with the help of a trained communications assistant. No special telephone is needed for such relay service. Voice Carry Over (VCO) relay provides captioning assistance for callers who can speak, but do not hear well enough for a traditional phone conversation. The communications assistant provides the captioning services, with the text of the conversation appearing on special telephone equipment used by the person with a hearing disability. Telebraille relay services are also available.

[4]Links for this site are also available through the Pennsylvania Public Utility Commission's website under telecommunications.

such a system. To implement such a plan, the PTA developed a Request for Proposal (RFP) for a statewide relay service. Four prospective providers responded to the RFP, and the bid committee recommended AT&T be selected. In May 1990, the PUC issued an Order granting the PTA's petition to:

- establish the Pennsylvania Relay Services for the Deaf, Hard of Hearing, and Speech Impaired Communities;
- award AT&T a Certificate of Public Convenience and Necessity to provide the relay services necessary for delivering telecommunication relay services in Pennsylvania;
- authorize a uniform monthly surcharge to be imposed on wireline telephone ratepayers and collected by Pennsylvania's Local Exchange Carriers (LECs) to recover charges associated with the operation of the service;
- designate a TRS surcharge Fund Administrator[5] to receive the surcharge revenues and disburse the fund monies necessary for the operation of the service; and
- establish the Pennsylvania Relay Service Advisory Board[6] as a consumer group to provide feedback and guidance to the TRS provider regarding communication assistant training, problem solving, and service enhancements.

FCC Certification: The Federal Communications Commission (FCC) is responsible for implementing federal legislation concerning telecommunications, including state telecommunications relay services. To be in compliance with the Americans with Disabilities Act, the Pennsylvania TRS system established in 1990 had to be certified by the FCC and must be recertified every five years.

Since 1993, the FCC has certified Pennsylvania's TRS program. Most recently, in May 2003, the FCC certified the PA TRS program for another five years. In other words, based on such certification, the FCC has determined Pennsylvania's program:

- meets or exceeds all operational, technical, and functional standards in FCC regulations;
- makes available adequate procedures and remedies for enforcing state program requirements; and
- does not conflict with the federal law.

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[5]Wachovia Bank in Philadelphia, Pennsylvania, is the current Fund Administrator.

[6]The 12 board members are appointed by the Commission and serve two years. The Commission requires the board to include one representative from the PTA, the Office for the Deaf and Hard of Hearing, the TRS provider, two representatives from the Commission, and seven representatives from the communities representing people who are deaf, hard of hearing, or who have speech disabilities.

Volume of PA Relay Calls: The PUC reports AT&T handled 1,950,487 relay calls, including 1,772,491 intrastate, 177,399 interstate, and 597 international calls in 2002. Total relay call volume decreased by 2 percent from 2001 to 2002.

Since 2002, the total relay call volume has continued to decline. In 2005, AT&T reported to the PUC that it handled 1,324,908 calls. This decrease is likely due to the increasing use of alternatives to traditional telephone service, including internet e-mail, wireless text messaging, and other information and telecommunication services not regulated by the PUC.

In recent years, the PUC has been conducting an extensive consumer education program to inform the public about Pennsylvania's Telecommunication Relay Services and that by dialing 711 hearing persons and those with hearing loss and speech disabilities can communicate with one another by telephone. The PUC initiated the campaign after a study showed than less than 9 percent of Pennsylvania's hearing population was aware of the relay service in 2003. Such awareness increased to 14 percent in 2005, according to the PUC. In 2005, about 30 percent of the relay calls were initiated by hearing people from voice telephones, with the remainder initiated from text telephones (known as TTYs).

Monthly Surcharge: Relay services are financed by monthly surcharges on wireline telephone ratepayers. Each year the PUC establishes the amount of the monthly surcharge based on the total number of wireline access lines, estimated minutes of TRS use, estimated charges submitted by AT&T, estimated Advisory Board expenses, and estimated compensation to the Fund Administrator. For 2005-06, the monthly TRS surcharge on a resident access line is $0.06 and $0.09 for a business line.[7] In 2006-07, the resident line surcharge will increase to $0.08.

In 2004, the PUC modified the way in which the surcharge costs have been apportioned among residential and business ratepayers. Historically, costs were apportioned in such a way that business lines implicitly subsidized residential lines. With the advent of competition in the telecommunications industry following the passage of the federal Telecommunications Act of 1996, such subsidies are not sustainable. As a result, residential customers, who are the primary users of TRS according to AT&T, will be increasingly responsible for surcharge costs associated with the Telephone Relay Services and the Telecommunication Device Distribution Program.

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[7]The total surcharge amount that appears on a ratepayer monthly bill is $0.07 for each residential access lines and $0.10 for each business access line. In 2006-07, the total surcharge for residential lines will increase from $0.07 to $0.08 and be reduced to $0.09 for business lines. The total surcharge includes the separate monthly surcharge for the Telephone Device Distribution Program (TDDP), and the Print Media Access Program. As discussed in Finding G, the 2005-06 TDDP Monthly Surcharge is $0.01 per access line for both residential and business ratepayers.

Complaints: The AT&T Relay Services is required to report complaints it receives to the FCC. Based on such reports, Pennsylvania relay service consumers have had relatively few complaints. AT&T reported to the FCC it received less than 40 Pennsylvania consumer complaints (3 voice, 36 TTY) from June 1, 2001, through May 31, 2002.

To assure continued quality relay service in Pennsylvania in March 2006, the Pennsylvania Public Utility Commission approved an informal investigation of AT&T's proposed Pennsylvania workforce reductions. The PUC initiated the investigation to determine if further action is warranted following AT&T's announcement that it planned to eliminate approximately 50 out of 200 positions at its New Castle (Lawrence County) call center, which serves TRS customers in Pennsylvania. In late 2005, when the Commission approved the merger of AT&T and SBC Communications Inc., AT&T indicated the merger would not affect AT&T-PA's role as Pennsylvania's Telecommunication Relay Service (TRS) provider.

CapTEL Trial: CapTEL is a form of relay service that uses a voice recognition mechanism and a captioning telephone to display the user's conversation almost simultaneously with their spoken word to the called party. It is intended for use by persons with some degree of hearing loss who can speak. The FCC has not mandated that state relay services include Captioned Telephone Relay Service as of early 2006. The FCC has not imposed such a mandate on telephone relay services since captioned telephone relay service, while valuable to consumers, is very expensive, and currently only available from one provider that controls the licensing of the service and is not subject to price competition.

In 2003, the PUC, even though it does not regulate CapTEL services, approved a trial of CapTEL telephone relay technology. During the trial, CapTEL equipment was provided free of charge to trial participants and the PA TRS surcharge funded the cost of providing the service. To allow consumers continued access to the service, in May 2005, the PUC modified the trial to develop an interim service agreement with CapTEL for equipment and relay service. As of March 2006, the PUC was in the process of developing a detailed Request for Proposal and plan for ongoing provision of CapTEL service. Such a plan is expected to address complaint handling, including reporting of complaints to the PUC.

Consumer representatives on at least one Department of Labor and Industry advisory committee have complained about the quality of CapTEL since May 2005 when the PUC trial ended. During the course of this study, LB&FC staff also experienced call disconnection during a call placed to a CapTEL user. Since the PUC does not have the authority to regulate CapTEL services, it does not have the authority to require CapTEL to report the number of complaints it receives nor the authority to address consumer complaints. The PUC anticipates addressing such issues in the contract it develops with the CapTEL provider.

In February 2006, the captioned telephone voice-carry-over relay service had just over 14,000 calls, and 353 active service users. The number of users of this service as well as its costs to the TRS fund have been increasing monthly, according to the PUC.

G. Pennsylvania Established a Telecommunication Device Distribution Program for Low Income Disabled Individuals.

In July 1995, the General Assembly enacted legislation[1] creating the Telecommunication Device Distribution Program (TDDP).[2] In 2002, the statute was amended to expand the definition of disability used within the program.[3] Pennsylvania's Telecommunication Device Distribution Program provides specialized telecommunications devices at no charge to persons with disabilities that prevent them from making or receiving telephone calls independently using standard telecommunications equipment.

The 1995 state legislation authorized the use of the Telecommunication Relay Service Program (TRS) surcharge to fund the Telecommunication Device Distribution Program, and directed that the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry (DLI) administer the program.[4] The legislation further prohibited use of the TRS surcharge for program administrative costs and prohibited program expenditures exceeding the surcharge revenues collected.

***Eligibility Criteria*:** To qualify for the program, an individual must:

- be a Pennsylvania resident,
- have a qualified disability,[5]
- be at least 6 years old,
- have phone service,
- have the ability to learn to use the telecommunications device, and
- have gross income less than 200 percent of the federal poverty level.[6]

TDDP Surcharge: The Pennsylvania Public Utility Commission (PUC) annually establishes the monthly surcharge wireline telephone customers pay to finance the TDDP. The Commission establishes the surcharge based on the program budget prepared by OVR.

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[1]Act 1995-34, 35 P.S. §§6701.1-6701.4.
[2]Federal law and regulations do not require states to offer telecommunication device distribution programs. Pennsylvania is one of the states that has elected to provide such services.
[3]Act 2002-181.
[4]The legislation also indicated that the state telecommunication fund surcharge could be used to fund the Print Media Access System program, which allows blind persons to access newspaper reports. The Pennsylvania Telephone Association (PTA) has indicated that the Print Media Access System is not a telecommunications related program and questioned the logic of funding such a service from a surcharge on Pennsylvania's local telephone customers. The PTA further noted that in today's competitive telecommunications environment, local telephone companies' collection of the surcharge places them at a disadvantage since all telecommunication competitors are not required to collect such surcharges.
[5]A licensed physician, audiologist, speech pathologist, or representative of a qualified state agency must certify the disability.
[6]$19,140 per year for a single individual in 2005.

Prior to 2004, only business ratepayers were required to pay the TDDP monthly surcharge. For the first time in 2004, the PUC applied the surcharge to residential customers. For 2005-06, the approved PUC monthly surcharge for the TDDP program is $0.01 for each residential and business access line in Pennsylvania.

Issues related to financing the TDDP program were highlighted in FY 2003-04, when the TDDP program expended more funds than were remitted in surcharge revenues during the same period. Because of its oversight responsibilities, the PUC directed an audit of the TDDP fund. [7]

FY 2003-04 TDDP Audit: PUC auditors found that in general OVR's TDDP contractor had:

- adequately verified program participant eligibility,
- properly billed consumer educator expenses charged to the program, and
- utilized TDDP equipment contractors that adhered to the terms and conditions set forth in OVR's contract.

They noted, however, they were unable to verify that OVR's contractor had fully adhered to OVR's equipment contractor selection requirements since the TDDP contractor could not provide "supporting documentation related to its process for determining which potential equipment and device vendors ultimately received RFPs . . ." inviting them to bid to participate as equipment contractors.

Limited distribution of the RFP for TDDP equipment contractor selection may have contributed to the differences in the cost per person served from July 1, 2004, through September 30, 2004, when OVR contracted for the operation of the TDDP and October 1, 2004, through July 5, 2005, when OVR operated the program. As shown in Table 3, the cost per person served in the TDDP program has been significantly less since OVR has operated the program.

[7] The PUC Bureau of Audits (Issued May 25, 2005, Docket No. D-04SPA045) found that telecommunication companies remitted $369,839 to the Fund for the period July 1, 2003, through June 30, 2004, and the TDDP program fund expended or committed $393,300.

Table 3

Comparison of Telecommunication Device Distribution Program Participant Costs for Office of Vocational Rehabilitation and Its TDDP Contractor
(July 1, 2004, Through June 30, 2005)

	OVR Contractor 7/1/04 – 9/30/04	OVR 10/1/04 – 6/30/05
Eligible Applicants	88	393
Total Equipment Cost...........	$134,851.61	$159,782.70
Cost Per Person Served.......	$1,532.40	$406.57

Source: Developed by LB&FC staff from information reported to the Pennsylvania Public Utility Commission by the Department of Labor and Industry for the 2005 Annual Report to the General Assembly.

Such differences in unit costs per person served appear to be due to differences in payments to vendors for similar products. Eighty-three percent of the disbursements for devices by OVR's contractor are accounted for by one vendor's products. OVR's contractor provided such products to 14 eligible applicants at a cost of about $8,000 per applicant. After OVR started to operate the program, it provided similar products from a different vendor to eight eligible applicants at a cost of $2,500 per applicant.

In March 2004, OVR issued a Request for Proposal for the selection of a contractor to administer the TDDP with the intent the contract would be in place by October 1, 2004. Four proposals were received in response to the RFP, and the Department of Labor and Industry identified one entity meeting the minimum technical requirements of the RFP. One of the bidders, however, challenged the results of the competitive selection process and petitioned the courts to review the order of the Secretary of the Department of Labor and Industry denying it the contract.

In February 2005, the Commonwealth Court of Pennsylvania affirmed the order of the Secretary of Labor and Industry. As of March 2006, the case continued under appeal. Since October 2004, the Office of Vocation Rehabilitation's Hiram G. Andrews Center has been responsible for the operation of Pennsylvania's telecommunication device distribution program. OVR will continue to operate the program until all legal matters are resolved. (Findings H and P provide additional information on the Hiram G. Andrews Center and its services.)

H. Pennsylvania's Assistive Technology Lending Library Serves Deaf and Hard of Hearing Persons.

Pennsylvania's Assistive Technology Lending Library is a free service available to Pennsylvanians of all ages with any type of disability, including persons who are deaf and hard of hearing. The program loans assistive technology devices to people with disabilities and provides support services to assist with their use. The library allows disabled individuals to borrow assistive technology for several weeks and become familiar with it prior to purchasing it. Pennsylvania's Assistive Technology Lending Library operates through a Memorandum of Understanding between Temple University's Institute on Disabilities[1] and the Department of Labor and Industry's Office of Vocational Rehabilitation.

The federal Assistive Technology Act of 1998,[2] authorizing the establishment of assistive technology lending libraries and services, defines an assistive technology device as:

> any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of individuals with disabilities.[3]

Assistive technology services include "any services that directly assist an individual with a disability in the selection, acquisition, or use of an assistive technology device."[4]

The library itself is physically located at the Department of Labor and Industry, Office of Vocation Rehabilitation's Hiram G. Andrews Center in Johnstown. The Center provides staff, office and equipment storage space, equipment maintenance and repair, and free round trip shipping to those requesting assistive technology equipment for trial use. As shown in Table 4, the use of the program has been increasing.

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[1]The Institute on Disabilities at Temple University is one of the 61 University Centers for Excellence in Developmental Disabilities Education, Research and Service funded by the Administration on Developmental Disabilities, U.S. Department of Health and Human Services. A number of different programs are offered through the Institute to support the needs of the disabled. The Institute administers Pennsylvania's Initiative on Assistive Technology (PIAT), the Commonwealth's statewide, cross-age and cross-disability program under the federal Assistive Technology Act of 1998. The PIAT is supported by federal and state funds.
[2]See 29 U.S.C. §3001 et seq.
[3]See 29 U.S.C. §3002(3).
[4]See 29 U.S.C. §3002(4).

Table 4

Number of Requests Received and Clients Served Through the Assistive Technology Lending Library Program

	FY 2002-03	FY 2003-04	FY 2004-05
Requests Received	3,370	3,946	4,018
Requests Processed	3,249	3,791	3,852
Devices Shipped	5,096	5,477	6,077

Source: Department of Labor and Industry Budget Request for FY 2006-07.

Requesting a Device: Pennsylvania's Lending Library has thousands of devices from which to choose. The catalog[5] includes equipment for communication, computer access, control, education, house/personal, professional training, recreation, and vocational management. Requests to borrow devices can be made by a person with a disability, a family member, friend or advocate, or someone helping with an assistive technology need (e.g., a therapist, teacher, or rehabilitation counselor). Applicants can submit requests directly to the program.[6] They can also become familiar with the catalog of devices and receive assistance in making a request from a local Assistive Technology (AT) lending library branch. As shown in Exhibit 10, such libraries are available at a variety of community organizations in almost all of Pennsylvania's 67 counties.

Support Services: Assistance can also be obtained from nine designated Assistive Technology Resource Centers. The Institute on Disabilities at Temple University and several centers for independent living and united cerebral palsy programs serve as Assistive Technology Resource Centers for defined geographic areas of the state. (Appendix D provides a list of the centers, their location, and contact information.)

The centers provide information as to when a requested device is expected to arrive. They also provide free advice on the use of the device and device demonstrations and can direct the consumer to a support person able to assist with helping to learn how to set up, use, and maintain the requested device.

The centers inform individuals about available funding to acquire assistive devices. They also assist in linking consumers with the Pennsylvania Assistive Technology Foundation, created as a result of the federal Assistive Technology Act and originally operated by the Institute on Disabilities. Finding J provides additional information about the Pennsylvania Assistive Technology Foundation and its role in assisting persons who are deaf and hard of hearing.

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[5]The catalog is accessible on-line through Temple's Institute on Disabilities website.
[6]The library can be reached at 877-722-8536 (voice), 800-204-7428 (voice), or 800-750-7428 (TTY).

In addition to the Pennsylvania Assistive Technology Lending Library, assistive technology is also available on a short-term loan basis for local education agencies for trial and evaluation. Such assistive technology loans are available through the Pennsylvania Training and Technical Assistance Network (PaTTAN). Pennsylvania educators who are employed or contracted by a local educational agency that serves students with disabilities can participate in the loan program. Educators may use the technology and resource materials included in the Short Term Loan Kits to assess and evaluate the assistive technology needs of students up to age 21. PaTTAN's website lists technology and resources available for deaf, hard of hearing, and deaf-blind persons that can be borrowed. Findings L and V provide additional information on PaTTAN and its services.

Exhibit 10

Pennsylvania's Assistive Technology Lending Library Branches

County[a]	Organization
Adams	Gettysburg Home Health Care UCP of South Central PA, Inc.
Allegheny	Three Rivers CIL OVR Pittsburgh District Office Community College of Allegheny County Goodwill Industries of Pittsburgh Health South of Sewickley
Beaver	Beaver County Lighthouse
Bedford	Everett Free Library
Berks	OVR Reading District Office Spectrum Community Services Threshold
Blair	OVR Altoona District Office ARC of Blair County Roaring Spring Community Library
Bradford	Area Agency of Aging Bradford County Human Services Bradford County Library System Mather Memorial Library Monroeton Public Library Penn York Opportunities, Inc. Sayre Public Library
Bucks	Bucks County Association for the Blind Delta Community Supports LifePath, Inc./Ridge Crest Wood Services
Butler	Area Agency on Aging – Butler ARC Butler County
Cambria	OVR Johnstown District Office Hiram G. Andrews Center Senior Activities Center of Cambria County
Cameron	Emporium Senior Center Guy & Mary Felt Manor Northern Tier Community Action Corp. Headstart
Centre	Centre County Library Holt Memorial Library
Chester	Center on Hearing and Deafness CPA of Chester County, Inc. Main Line Rehab Association West Chester University
Clarion	Clarion County Area Agency on Aging Clarion Co. MR & Infant Stimulation Program Clarion University of PA/Special Ed. United Comm. Independence Program

Exhibit 10 (Continued)

County[a]	Organization
Clearfield	OVR DuBois District Office Clearfield Society for Handicapped/Disabled Citizens DuBois Area Careerlink DuBois Public Library DuBois Senior & Community Center
Clinton	Annie Halenbake Ross Library
Columbia	Bloomsburg Public Library Bloomsburg Senior Center
Crawford	UCIP Faith in Action
Cumberland	UCP Central PA
Dauphin	OVR Harrisburg District Office Bureau of Blindness & Visual Services Keystone Children & Family Services PA Protection & Advocacy, Inc. The ARC of Dauphin & Lebanon Co. Tri-County Assoc. for the Blind
Delaware	Freedom Valley Disability Center Hearing Discovery Center Mercy Fitzgerald Hospital Outpatient Center
Elk	Life and Independence for Today Bennetts Valley Senior Center Johnsonburg Public Library Office of Human Services Regional Ambulatory Surgery Center, L.L.C. Ridgmont Assisted Living Ridgway Public Library Ridgway Senior Center St. Marys Area School District St. Marys Public Library Wilcox Public Library
Erie	Comm. Resources for Independence OVR Erie District Office Vision and Blindness Resources Edinboro University AT Center
Fayette	Patriots for Independent Living
Franklin	Dr. Joel McGahen, OD, PC (2 locations) Easter Seals Waynesboro Center Franklin/Fulton County MH/MR Penn State Mont Alto Campus UCP of South Central PA, Inc.
Fulton	Fulton County Catholic Mission
Greene	Greene ARC Inc.
Huntingdon	Bricktown Senior Center Huntingdon County PRIDE, Inc.
Indiana	Aging Services, Inc. Indiana County Blind Association, Inc. Indiana University of PA

Exhibit 10 (Continued)

County[a]	Organization
Jefferson	Brockwayville Depot Community Center Jefferson County Area Agency on Aging
Lackawanna	UCP of Northeastern PA Marywood University St. Joseph's Center
Lancaster	United Disabilities Services Schreiber Pediatric Rehab Center
Lawrence	Challenges Options in Aging New Castle District OVR
Lebanon	Lebanon Community Library
Lehigh	OVR Allentown District Office Good Shepherd Long Term Care Facility Lehigh Valley CIL The ARC-Lehigh & Northampton Co.
Luzerne	Allied Services John Heinz Institute Anthracite Region CIL Family Services Assoc. of Wyoming Valley OVR Wilkes-Barre District Office Pittston Senior Center United Rehabilitation Services, Inc.
Lycoming	CIL of Northcentral PA OVR Williamsport District Office Hub's HealthCare Corporation
McKean	Bradford Area Public Library Friends' Memorial Public Library Greater Bradford Senior Act. Center Hamlin Memorial Library Kane Community Hospital S.W. Smith Memorial Library Seneca Highlands Intermediate Smethport Area Jr./Sr. High School
Mercer	Sharon Regional Health System
Mifflin	Mifflin/Juniata Agency on Aging Mifflin/Juniata Special Needs Center
Monroe	Burnley Employment & Rehab. Services Clymer Public Library E. Stroudsburg University Fitzmaurice Community Services, Inc. Frankie's Lighthouse
Montgomery	Chestnut Hill Rehabilitation Hospital Montgomery Co. Assoc. for the Blind OVR Norristown District Office Pennsylvania Assistive Technology Foundation The ARC of Montgomery County (MARC) The Sierra Group, Inc.

Exhibit 10 (Continued)

County[a]	Organization
Northampton	Visual Impairment & Blind Services (VIABL)
Northumberland	Milton Public Library
Perry	Duncannon Community Center
Philadelphia	Institute on Disabilities OVR Philadelphia District Office Bureau Blindness & Visual Services Easter Seal of Southeastern PA Liberty Resources, Inc. Magee Rehabilitation Northwestern Woodhaven, Inc. Urban Affairs/WorkStream Program We Are Able 2
Pike	OVR Wilkes-Barre District/Pike County
Potter	Potter County Education Council (2 locations)
Schuylkill	Schuylkill County Office of Senior Services Avenues
Somerset	Somerset County Blind Center, Inc.
Sullivan	Sullivan County Library
Tioga	North Campus of Penn College
Venango	UCIP Faith in Action Venango County Area Agency on Aging
Warren	Warren County Human Services
Washington	California University of PA/OSD Children's Therapy Center of Washington Hospital OVR Washington District Office TRIPIL Patriots UCP of Southwestern PA
Wayne	Devereux Pocono Center UCP of Northeast PA Wayne Memorial Hospital
Westmoreland	Westmoreland County Blind Association Adams Memorial Library Kreinbrook Psychological Services UCP of Western PA
Wyoming	H.A.N.D.S. of Wyoming County Wyoming County Senior Center
York	OVR York District Office ARC of York County UCP of Southcentral PA York County Blind Center

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[a]Armstrong, Carbon, Forest, Juniata, Montour, Snyder, Susquehanna, and Union Counties do not have local lending library branches.

Source: Temple University, Institute on Disabilities.

I. The Commonwealth Requires All Hearing Aid Fitters and Sellers to Register With the Department of Health.

The Pennsylvania Hearing Aid Sales Registration Law, Act 1976-262, as amended by Act 1998-153, requires all fitters or sellers of hearing aids to annually register with the Pennsylvania Department of Health's Hearing Aid Program. The program is administered by the Department's Office for Quality Assurance, Bureau of Community Program Licensure and Certification.

Hearing Aid Dealer and Fitter Requirements: The statute established different requirements for hearing aid dealers and hearing aid fitters. Hearing aid dealers (i.e., any individual engaged in the business of selling hearing aids) and hearing aid fitters (i.e., any individual engaged in the practice of fitting and selling hearing aids) must annually register and pay an application fee. Hearing aid fitters are also required to pass a practical examination to qualify for the initial certificate of registration and meet continuing education requirements to qualify for subsequent certificates. State statute effectively does not require a medical exam before hearing aids are dispensed.[1]

The Department of Health prepares, approves, grades, and conducts the practical hearing aid fitter examination. Department staff administer the exam at least twice a year.

As part of the state's registration requirements, hearing aid fitter applicants must also demonstrate they have completed 20 hours of continuing education with Department approved sponsors during the two years immediately preceding initial and subsequent registrations. Such applicants must report the total number of hours earned for each reporting year and course names and their completion dates.

Random audits and inspections may be performed by Department staff to determine compliance with program requirements. Disciplinary action may be taken by the Department against fitters who fail to comply with minimum education requirements or submit fraudulent information.

Registry: The Department of Health annually registers approximately 450 hearing aid fitters, 330 hearing aid dealers, and 60 apprentice fitters. All registration certificates expire at midnight on April 15 of each year if not renewed. In FY 2004-05 the Hearing Aid Program generated revenues of $101,700 in registration and renewal registration fees.

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[1]See Pennsylvania's Hearing Aid Registration Law, 35 P.S. §§6700-101 through 6700-802, at §§6700-403.

Complaints: The Department of Health receives approximately 35 hearing aid complaints a year, though not all are within the scope of the program's authority. Program staff is responsible for reviewing and resolving these complaints. Most complaints filed with the Department, however, concern problems with the hearing aid, questionable advertising practices, and delays in refunds when a consumer returns a hearing aid, which are not within the scope of the Department of Health's authority. If necessary, program staff works with the Attorney General's Office on complaints and violations of the law.

J. Pennsylvania, Like Most States, Does Not Mandate Insurance Coverage for Hearing Aids.

Persons who are hard of hearing often rely on hearing aids along with other assistive technology. Employer-based health insurance does not always include hearing aids as a covered health care benefit, and hard of hearing individuals with whom we spoke have identified the absence of a state mandate for such insurance coverage as a key gap in state services.

Hearing aids can be very costly with one aid costing approximately $1,700, and those incorporating the latest technology costing up to $7,000. Pennsylvania's Hearing Loss Association of America has strongly advocated legislation mandating insurance coverage, and at times bills have been introduced providing for such mandatory insurance coverage.

In Pennsylvania, all proposed legislation to require mandated insurance benefits is subject to Pennsylvania Health Care Cost Containment Council analysis and mandated benefit review as outlined in Act 1993-34 and Act 2003-14. In September 2005, the Council issued its review of House Bill 350, which requires insurers to provide hearing aid benefits. While noting it is "sympathetic to the fact that hearing loss isolates people, hinders communications, and adversely affects functionality in work, school, and social environments . . ."[1] the Council concluded sufficient evidence was not provided to support the legislation as proposed. It noted the proposed mandate did not:

- limit the benefit to any sector of the population;,
- impose any limitations on cost, type, or frequency of purchases; or
- require a medical examination prior to dispensing, as existing Pennsylvania legislation effectively allows for the dispensing without a medical exam.[2]

Other States: Seven states (Connecticut, Kentucky, Louisiana, Maryland, Minnesota, Oklahoma, and Rhode Island) mandate that insurers provide hearing aids. Such mandates, however, are limited for the most part to young children. They also limit the cost of the aid and the frequency of purchase, and include requirements for fitting and dispensing. Connecticut, for example, limits its mandated benefit to children 12 years of age or younger and aids costing up to $1,000 within a 24 month period. In Maryland, a licensed audiologist must prescribe, fit, and dispense hearing aids covered under its mandated insurance benefit.

Pennsylvania Programs With Hearing Aid Benefits: Several Commonwealth public programs provide hearing aid and assistive technology related benefits.

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[1]Mandated Benefits Review by the Pennsylvania Health Care Cost Containment Council on House Bill 350, Hearing Aids, September 2005.
[2]See Pennsylvania's Hearing Aid Registration Law, 35 P.S. §§6700-101 through 6700-802, at §§6700-403.

Children under age 21 participating in Pennsylvania's Medicaid and Children's Health Insurance Program have hearing aid benefit coverage. Such programs also cover cochlear implants for children. Like most states, Pennsylvania's Medicaid program does not provide a hearing aid benefit as part of its State Medicaid Plan services for adults. Some adults enrolled in the Medicaid program also receive services through special federal Medicaid waivers. Assistive technology services are covered services in some waivers if they are part of an individual client's service plan and within its financial cap (Finding S provides additional information on such waivers).

The Department of Public Welfare in its cash assistance programs (i.e., Temporary Assistance for Needy Families and General Assistance) provides those who qualify with a basic cash allowance (which is based on number of persons eligible to receive assistance and the county in which they live). Adults receiving a basic cash assistance allowance can also qualify for special cash allowances. Such special allowances include allowances associated with recurring need for hearing aid batteries and the cost of servicing or maintaining a hearing aid.[3] The Department, moreover, does not count income required to pay for impairment related non-medical appliances and equipment and residential modification required for employment, such as telecommunication devices for the deaf, when determining eligibility for Medical Assistance.[4, 5]

Pennsylvania's Department of Labor and Industry's Office of Vocational Rehabilitation (OVR) provides hearing aids to eligible adults with significant vocational handicaps when rehabilitative measures will make a difference in the individual's vocational life.[6] As shown in Table 5, OVR annually purchased over 1,000 hearing aids in two recent years.

The Pennsylvania Assistive Technology Foundation (PATF), which receives federal and state funding,[7] is a non-profit organization responsible for administering a low cost loan[8] program for people with disabilities and older adults so that they can purchase assistive technology (AT) devices and services. Family members

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[3]Cash Assistance Handbook, Section 138.7 Hearing Aid Batteries and Repairs (55 Pa. Code §175.23).
[4]Medicaid Eligibility Handbook, Section 303.2 (55 Pa. Code §140.282).
[5]The Food Stamp program also excludes income required for payments associated with the upkeep of a hearing dog in determining eligibility. Food Stamp Handbook, Section 550.5 Income Excluded in Computing Eligibility (7 CFR §273.9(c)(5).
[6]Homemaker is an allowable vocation for which OVR can purchase services. As discussed in Finding P, however, OVR funds are limited and a variety of criteria must be met in order for an individual to have a priority for receipt of OVR purchased services.
[7]The Institute on Disabilities at Temple University started the PATF as a project under the federal Assistive Technology Act. PATF currently receives a grant from the U.S. Department of Education to help finance a low cost loan program for the purchase of assistive technology devices and services. PATF also uses the Pennsylvania Department of Community and Economic Development's Neighborhood Assistance Tax Credit Program (NAP) to help finance the Mini-Loan/Mini Grant Program it administers. Through NAP, businesses paying Pennsylvania corporate taxes can contribute to PATF and receive a tax credit worth 50 percent of their contribution up to a maximum of $10,000.
[8]Such loans have interest rates below prevailing market rates.

(as well as advocates, guardians, and authorized representatives) may apply for a loan on behalf of a child or other family member with a disability as long as the device or service is for the use of the disabled individual. Most PATF arranged loans are in the $500 to $25,000 range. Such loans are available for a variety of items, including hearing aids, flashing doorbells, computers with specialized software and/or hardware, and closed captioned televisions.[9]

Table 5

Number of Hearing Aids Purchased by OVR for Clients
(FFY 2004 and FFY 2005)

District Office	Number of Hearing Aids Purchased (FFY 2004)	Total Cost of Hearing Aids Purchased (FFY 2004)	Avg. Cost of Hearing Aid (FFY 2004)	Number of Hearing Aids Purchased (FFY 2005)	Total Cost of Hearing Aids Purchased (FFY 2005)	Avg. Cost of Hearing Aid (FFY 2005)
Harrisburg......	88	$ 163,142	$1,854	134	$ 275,071	$2,053
Philadelphia...	109	182,931	1,678	160	275,539	1,722
Pittsburgh	83	132,929	1,602	97	147,866	1,524
Wilkes-Barre	173	298,703	1,727	247	422,448	1,710
Altoona	78	135,770	1,741	95	167,317	1,761
Reading.........	29	44,369	1,530	56	75,037	1,340
Dubois	46	93,313	2,029	53	85,934	1,621
Erie................	96	166,555	1,735	158	265,161	1,678
Williamsport...	62	85,619	1,381	114	185,043	1,623
Johnstown	76	98,785	1,300	99	162,564	1,642
Norristown	70	122,666	1,752	95	163,326	1,719
New Castle....	74	128,186	1,732	99	187,638	1,895
York..............	91	154,667	1,700	119	189,683	1,594
Allentown.......	51	66,147	1,297	69	101,484	1,471
Washington ...	57	92,595	1,624	60	120,485	2,008
Total	1,183	$1,966,377	1,662	1,655	$2,824,596	1,707

Source: Developed by LB&FC staff from Office of Vocational Rehabilitation Hearing Aid Dispenser Reports.

In addition to low cost loan arrangements, the Foundation also administers a zero interest mini-loan and small grant program for low income persons needing an AT device including hearing aids. Such zero interest loans can range from $100 to $1,000, and have repayment terms extending up to three years based on the expected life of the equipment. To qualify for the zero-interest loan program, an individual's income must be less than 150 percent of the federal poverty level. Borrowers who have exhausted all funding sources may also qualify for a grant covering up to 50 percent of the total cost of the assistive technology device up to $1,000.

PATF contracts with four organizations for outreach and to make the public aware of the assistive technology loan program and other available funding sources.

[9]Low interest loans are also available for adapted vehicles, scooters and wheelchairs, and home modifications such as ramps and widened doorways.

These organizations are referred to as PATF Funding Assistance Centers (FACs).[10] The FACs respond to questions about the loan program and distribute PATF brochures, loan applications, newsletters and other materials. FAC staff can also assist with the completion of PATF loan applications.

Several county and community human service programs (discussed in Findings R and S) also assist deaf and hard of hearing persons to obtain hearing aids at reduced rates from foundations and community service groups. Programs frequently mentioned by such agencies include the Starkey Hearing Foundation's HEAR NOW program and the Lions Club International.

Voluntary Programs: The Starkey Hearing Foundation's HEAR NOW program assists individuals who are unable to afford hearing aids. To receive such assistance, a person must be a United States resident and have income below federal poverty guidelines. The work of HEAR NOW is supported through contributions (money, time and hearing aid donations) and receives no government funding. HEAR NOW reports it has provided hearing aids to more than 65,000 children and adults since 1995.

The Lions Club International Affordable Hearing Aid Project distributes the "Lions Affordable Hearing Aid" at a cost of $90-$120 to Lions Club hearing programs and individual clubs. The cost does not include the cost of hearing tests and hearing aid fittings. Local clubs arrange such services through local hearing professionals. At times, Lions Clubs assist low-income clients to cover hearing aid costs. Local clubs may also work with local audiologists to test and fit hearing aids for low-income individuals.

Hearing aid coverage, moreover, while not a mandated insurance benefit is often provided as a covered benefit in employer sponsored insurance and managed care coverage. The HearUSA Hearing Care Network (formerly the National Ear Care Plan), for example, offers capitated, funded fee-for-service, and customized plans for managed care organizations, insurers, unions and other benefit sponsors. Several large Pennsylvania employers currently offer hearing benefits through HearUSA for their employees.

The Commonwealth's Pennsylvania Employees Benefit Trust Fund also provides a hearing aid benefit for active employees. Active employees who purchase a hearing aid are eligible to receive certain reimbursement toward the purchase cost.

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[10]The four FACs are Life and Independence for Today (a Center for Independent Living) located in St. Marys and serving six counties in northcentral Pennsylvania; Pennsylvania Elks Home Service Program located in Washington County and serving 35 counties in northcentral, southcentral, and northeast Pennsylvania; Three Rivers Center for Independent Living (a Center for Independent Living) located in Pittsburgh, and serving 21 counties in southwest and northwest Pennsylvania; and United Cerebral Palsy of Philadelphia located in Philadelphia, and serving five counties in southeast Pennsylvania. Two of the four FACs (Life and Independence for Today and the Three Rivers Center for Independent Living) also serve as Regional Assistance Technology Resource Centers (see Finding G for information on such centers).

K. Pennsylvania's Newborn Hearing Screening Program Is Accomplishing Its Universal Screening Goal and Specialized Early Intervention Providers Are Serving More Infants and Children.

In 2001, the Pennsylvania General Assembly enacted legislation creating the Infant Hearing Education, Assessment, Reporting and Referral Program in the Pennsylvania Department of Health.[1] The legislation required newborn and infant hearing screening be conducted on no fewer than 85 percent of the live births in Pennsylvania health care facilities by July 2003. If the number of newborn and infants screened did not equal or exceed 85 percent, or subsequently fell below this threshold, the legislation authorizes the Department of Health to promulgate regulations implementing a statewide infant hearing screening program. Prior to the enactment of state legislation, the Department of Health's Bureau of Family Health successfully operated a newborn and infant screening program on a demonstration basis and assisted hospitals to acquire equipment to carry out such screening.

Universal Infant Hearing Screening: Almost all Pennsylvania hospitals providing maternity services (and children specialty hospitals) participate in Pennsylvania's Newborn Hearing Screening Program. The 126 Pennsylvania hospitals participating in the program include 59 hospitals with neonatal intensive care units[2] and 30 hospitals with speech pathology and audiology services.[3]

The 126 participating hospitals reported completing hearing screening for 99 percent of all infants from January to June 2005.[4] Less than 1 percent of families refused the initial hearing screen, according to hospital reports. Only 55 percent of newborns were screened for hearing loss in 2002. This suggests Pennsylvania's newborn hearing screening program is accomplishing its goal of universal screening of infants immediately following or shortly after birth, and surpassing the Joint Committee on Infant Hearing's quality indicator for infant screening during birth admissions.[5]

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[1]Act 2001-89, 11 P.S. §876-1 et seq.

[2]Neonatal intensive care units are specifically equipped and staffed for the care and treatment of high-risk infants and those otherwise in need of intensive care. High risk infants may include any infant with a birth weight below 2,000 grams or less than 34 weeks gestation and any other low birth weight or premature infant who shows any abnormal signs; any infant showing persistent and significant signs of illness, including those with respiratory distress, congenital anomalies, tumors, jaundice, seizures, infections, metabolic distress, or other conditions that pose an immediate threat to neonatal survival; any infant with a serious feeding difficulty, excessive lethargy, or instability of body temperature; any infant whose mother is drug addicted or habituated, diabetic, toxemic, isoimmunized, or having any other illness or condition that may affect the fetus; and any infant requiring major surgical procedures.

[3]Based on information hospitals reported on the Pennsylvania Department of Health Annual Hospital Questionnaire for the period July 1, 2003, through June 30, 2004.

[4]Of the 69,370 live births, hospitals reported 68,373 newborns screened prior to discharge.

[5]The Joint Committee on Infant Hearing, *Year 2000 Position Statement, Principles and Guidelines for Early Hearing Detection and Intervention Programs*, recommends at least 95 percent of infants be screened during birth admission.

During the first six months of 2005, just over 700 infants failed both the initial and subsequent hearing screens indicating a need for additional follow up.[6] Most such infants, as would be expected,[7] were identified at hospitals with neonatal units.[8] Of the infants failing both their initial and second hearing screens:

- 63 percent were identified at 59 hospitals with neonatal intensive care units,
- 6 percent were identified at hospitals with speech pathology and audiology services but without neonatal intensive care units, and
- 30 percent were identified at hospitals without speech pathology and audiology services and without neonatal intensive care units.

The relatively high proportion of infants identified at hospitals without specialty services suggests Pennsylvania's program is identifying infants with possible hearing problems that might not otherwise have been identified immediately after birth.

The data system in place for the Commonwealth's Early Intervention program for parents, infants, and toddlers (birth-3) is not designed to provide data to allow for an evaluation of the effectiveness of the Department of Health's Infant Screening Program in identifying children earlier and linking them with publicly funded early intervention services.[9] Nonetheless, there is evidence that more infants and children who are deaf and hard of hearing are being served in publicly funded early intervention programs since the Department of Health introduced the screening program statewide.

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[6]The screens are not clinical evaluations and, therefore, they do not confirm or diagnose hearing problems.
[7]The prevalence rate for permanent bilateral moderate hearing loss differs according to nursery. The prevalence rate overall is 1.13 per 1,000 births, with a rate of 0.49 per 1,000 for well-babies and 4.8 per 1,000 for babies in neonatal intensive care units.
[8]The statewide reporting system does not indicate if the infant failing the re-screen had been in the NICU.
[9]The Early Intervention Delivery data system is designed to identify children with developmental delays and does not require those entering the data to identify the specific reasons for the developmental delay. Based on our observation of such programs and discussions with program staff, the causes of such delay may be multiple and identification of a primary cause of the developmental delay challenging. The Department of Public Welfare (DPW) has been working to enhance the data system to better describe the children receiving early intervention services and scheduled training for spring 2006 as part of such efforts. DPW early intervention data systems report that 269 children are receiving hearing sensitivity services (i.e., special instruction provided by a trained instructor familiar with hearing impairment/delays) and 266 audiology services. Such counts, however, reflect services provided by the early intervention program and do not take into account all children enrolled in the program whose services (such as audiology) are delivered by other providers and paid for by private insurance or the Medicaid fee-for-service and managed care and CHIP program. Such data, therefore, underestimate the number of infants/toddlers with hearing problems (regardless of disability) and their parents who are receiving services through the state's network of early intervention providers.

Early Intervention Services:[10, 11] Statewide, specialized providers of early intervention programs for infants and children with hearing loss report that children with hearing problems are being identified earlier and more are being referred to their programs. The Western Pennsylvania School for the Deaf, for example, has contracts to provide such services for 12 of Pennsylvania's 67 counties (Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Greene, Indiana, Washington, Westmoreland, and Venango). The average number of families served by its program in any given week increased by almost 20 percent from 2003-04 to 2004-05. In its *2005-2006 Progress Report*, the school attributes the increase to "the earlier identification of deaf and hard of hearing children as a result of mandated newborn screening programs," and to greater "child find" efforts by communities.

The DePaul School for Hearing and Speech in Pittsburgh has also reported more physicians are referring children newly diagnosed with hearing loss to its early intervention program. In the fall of 2005, DePaul's early intervention program saw a sevenfold increase in the number of families served over the prior 18 month period.

Specialty providers in other areas of the state also report serving increased numbers of parents and infants since the initiation of the newborn hearing screening program statewide. In the southeast, for example, the Delaware County Intermediate Unit staff reported the number of children served in their Parent/Infant auditory-oral program increased about 20 percent after infant screening was mandated in Pennsylvania. Similarly, in northeastern Pennsylvania, the Scranton School for the Deaf, which is under contract with eight counties (Luzerne, Wyoming, Lackawanna, Susquehanna, Wayne, Carbon, Monroe, and Pike) to operate a Parent Infant Program for infants and toddlers with hearing problems, reported more referrals to the Parent Infant Program in recent years. In south central Pennsylvania, one large intermediate unit had referrals to its infant toddler program for deaf and hard of hearing infants increase from 15 in 2001-02 to 28 in 2004-05.[12]

The Pennsylvania Department of Health, which administers the state's screening program, has been participating in a national study to identify ways to

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[10]In FY 2004-05, $113 million in federal and state funds from several sources were available for the Early Intervention birth to 3 program (parent/infant) and at least $117.6 million in federal and state funds for the 3 to 5 year (toddler/pre-school) early intervention program. The federal and state funds available for the 3 to 5 year old early intervention program do not include federal and state Medicaid funds available to the program through the Medicaid School-Based ACCESS Program.

[11]Appendix E provides information on Pennsylvania's Early Intervention Program. Additional information on the program and its operations can be found in the Legislative Budget and Finance Committee's *Review of the Commonwealth's Early Intervention Programs*, November 1996.

[12]It should be noted that the reported counts of children in specialized programs understate the number of infants and toddlers with hearing loss identified and served in early intervention programs. The identified providers are not the only providers serving deaf and hard of hearing children in their areas. Moreover, based on information provided by one of the state's largest local early intervention program administrative agencies, we estimate about two-thirds of the children who are deaf and hard of hearing are served in specialized programs, and another one-third receive speech and hearing (and other services) in mainstream community programs.

promote follow-up after screening. It has also been working to extend the program to screen infants born outside of hospitals, upgrade screening equipment at certain facilities, and educate doctors about infant hearing screening and its importance. The Department is currently in the process of working with the program's advisory committee to refine program guidelines and improve existing hospital reporting systems and the comparability of reported data.

Obtaining comparable data from Pennsylvania hospitals may be challenging despite the extensive compliance and cooperation from hospitals in implementing the program. We reviewed the information hospitals provided to the Department of Health on their infant screening and referral procedures. Hospital protocols for initial and follow-up screens and referral for evaluations vary. Such variations appear to occur for a variety of reasons including the:

- configuration of professional services available at the birthing hospital (e.g., audiologists on staff),
- participation of a birthing hospital in a health system and the configuration of the system (e.g., the health system's neonatal intensive care unit operates at a facility different from the birthing hospital), and
- authorization protocols of insurers and managed care companies for specialized diagnostic and treatment intervention services.

Infant Hearing Education: The Department of Health is also working to address the educational component of the infant screening program requiring every health care facility to provide information to parents of newborns and infants. State statute indicates:

> An informational packet developed and supplied by the department shall explain in lay terms the importance and process of hearing screening, the likelihood of a newborn or infant having hearing loss, follow-up procedures and available early intervention services. The educational information shall also include a description of the normal auditory, speech and language developmental process in children.[13]

Currently, information is readily available to the Department of Health to allow it to accomplish this educational goal. For example, the National Institute on Deafness and Other Communications Disorders (NIDCD) supports a website (www.babyhearing.org) that provides information directed to parents with infants and children with hearing loss. The information covers hearing and amplification, language and learning, and parenting. The Pennsylvania Departments of Education and Public Welfare, which administer the Commonwealth's Early Intervention Programs, moreover, developed and distributed to early intervention sites

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[13] 11 P.S. §876-5(d)(3).

materials for parents developed by parents based on their review of available national and other state education resources and their personal experiences.

In March 2006, the Department of Health selected an experienced contractor to develop the brochure and provide training for those involved with parents in explaining screening results. In spring 2006, it initiated a series of statewide training sessions.

L. The Educational Resources for Children With Hearing Loss Committee Advises the Department of Education on Matters Relating to the Education of Deaf and Hard of Hearing Children.

In the mid-1980s in recognition of the unique needs of children with hearing loss, the Pennsylvania Department of Education (PDE), in part acting on a recommendation of the Pennsylvania Society for the Advancement of the Deaf, established a committee to make recommendations concerning how such children could best be educated in the range of educational placements available to them. In the early 1990s, the work of the committee was integrated into the Instructional Support Center of Pennsylvania (also known as the Pennsylvania Training and Technical Assistance Network or PaTTAN), and the committee was renamed the Educational Resources for Children with Hearing Loss (ERCHL). ERCHL provides the Department's Bureau of Special Education with consensus advice and counsel on matters pertaining to the unique nature of the ramifications of hearing loss in the education of children.

The Pennsylvania Department of Education's Bureau of Special Education[1] assists local educational agencies[2] in implementing the federal Individuals with Disabilities Education Improvement Act (IDEIA).[3] This federal statute requires public school systems to provide access to "free, appropriate public education" (FAPE) to children with disabilities that affect their educational performance. In 2001, the Pennsylvania Department of Education's state regulations for Special Education Services and Programs adopted by reference the federal Department of Education's regulations implementing IDEIA.

Educational Resources for Children with Hearing Loss Committee

ERCHL members are appointed by the Director of the Bureau of Special Education. The committee consists of representatives from Pennsylvania magnet schools for the deaf, local education agencies, the Pennsylvania Society for the Advancement of the Deaf, the Department of Public Welfare, the Office for the Deaf and Hard of Hearing, educational consultants, and parents. Specifically, ERCHL is responsible for:

- Responding to requests from the Bureau of Special Education for information and advice pertaining to the education of children with hearing loss.

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[1]The Bureau of Special Education's mission is to set high standards for all exceptional students receiving special education services and programs. The Bureau is responsible for providing effective and efficient administration and management of the Commonwealth resources dedicated to enabling school districts to maintain high standards in their delivery of a free and appropriate education.
[2]A school district, cyber charter school, charter school, area vocational-technical school, or intermediate unit.
[3]20 U.S.C. §1400 et seq.

- Bringing to the attention of the Bureau of Special Education current issues related to the education of children with hearing loss.
- Monitoring the evaluation of educational interpreters utilizing the Educational Interpreters' Proficiency Assessment (EIPA).[4]
- Developing and/or compiling documents concerning the education of children with hearing loss.

The committee has had many accomplishments. They include, for example:

- Organizing and hosting the first convocation of Pennsylvania's teachers of the hearing impaired.
- Assisting the Bureau of Special Education in developing *Pennsylvania Guidelines for Education of Children Who Are Deaf or Hard of Hearing*.
- Providing input to the Bureau of Teacher Certification concerning the certification of teachers who are hearing impaired.
- Developing accommodations for the administration of the PSSA (Pennsylvania System of School Assessments) test for children with hearing loss.
- Providing input to the Bureau of Special Education on a variety of issues, including mental health services for children with hearing loss and cochlear implants.
- Developing and providing oversight of a federal Interpreter Training Grant to improve the quantity and quality of educational interpreters, which led to PDE's adoption in the mid-1990s of the EIPA as a tool to evaluate the ability of educational interpreters.
- Providing recommendations to the Department of Education concerning sign language competencies of teachers of the hearing impaired.
- Assisting with the development of various workshops and training programs.

During the course of this study, members of the committee have been actively working to develop a state agenda comparable to the *National Agenda: Moving Forward on Achieving Educational Equality for Deaf and Hard of Hearing Students*.[5] The agenda will include specific mission statements and goals in eight areas

[4]The EIPA was initially developed by Boys Town National Research Hospital in 1991. It is a method of evaluating the voice-to-sign and sign-to-voice skills of educational interpreters in elementary and secondary classrooms.
[5]*The National Agenda: Moving Forward on Achieving Educational Equality for Deaf and Hard of Hearing Students (April 2005)* sets forth a number of priorities stated as goals to bring about significant improvement in the quality of educational services and programs for deaf and hard of hearing children.

to ensure educational opportunities for deaf and hard of hearing children are equivalent to those of children who are not hearing impaired.[6]

Pennsylvania Training and Technical Assistance Network (PaTTAN)

The ERCHL is part of the Pennsylvania Instructional Support Center, also known as PaTTAN. The Pennsylvania Department of Education's Bureau of Special Education established the Instructional Support Center of Pennsylvania to assist the Bureau and provide local educational agencies with opportunities for professional development and technical assistance to enhance their capacity to serve children with disabilities.

PaTTAN has three regional offices located across the state. Such offices develop and offer training, provide technical assistance, and serve as resources to school personnel and families to improve student outcomes. PaTTAN's primary focus is on programs for school age children, but it also provides support for early intervention, student assessment, tutoring, and other partnership efforts.[7] It maintains an extensive collection of materials that can be borrowed free of charge by families, social service agencies, and educators working in public, nonpublic, and private settings. Several of PaTTAN's staff and consultants have specialty training related to the educational needs of deaf and hard of hearing children and youth.

In recent years, Low Incidence Institute summer workshops have been offered by PaTTAN on topics related to hearing, vision, and autism. Training is offered for low incidence service providers and parents working with young children and students who are deaf, hard of hearing, deafblind, blind, visually impaired, and children who have multiple disabilities. The sessions address research, assessment, effective instruction, and service delivery models. The most recent series of workshops have been planned for July 2006.[8]

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[6]The eight focus areas are early identification and intervention; language and communication; collaborative partnerships; parents and families; accountability, high stakes testing; placement, programs, and services; technology; and professional standards.
[7]Finding V of this report describes the training that PaTTAN provides to school district interpreter staff.
[8]Although there is a registration fee for the workshop, Pennsylvania parents who wish to attend are not charged.

M. Deaf and Hard of Hearing Children With Disabilities Affecting Educational Performance Are Served in a Variety of Settings.

Pennsylvania has 501 school districts serving over two million students enrolled in school programs, including approximately 248,000 children with disabilities in need of special education. Each district is responsible for special education and related services for children with disabilities under the federal Individual with Disabilities Educational Improvement Act (IDEIA).[1, 2] School districts provide such services either directly or through arrangements with Intermediate Units[3] and other public and private providers.

IDEIA requires an evaluation to determine if a child has a disability and the nature and extent of the child's special education and related services needs. To qualify for special education and related services, a disabled child must require special education services by reason of their disability.

IDEIA Definition of Deafness and Hearing Impairment: For purposes of IDEIA, deafness means:

> A hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.[4]

Hearing impairment means:

> An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness . . . .[5]

Such determinations are based on objective evaluations that require use of the child's "native language." "Native language" refers to the language normally used by the child in the home or learning environment. For a child with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the child, such as sign language, Braille, or oral communication.

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[1]20 U.S.C. §1400 et seq.

[2]In FY 2004-05, over $1.45 billion in federal and state dollars were available to local education programs to provide special education services for children in grades K-12.

[3]Pennsylvania has 29 Intermediate Units providing regional education services to public, private, and nonpublic (religious) schools. All Intermediate Units provide curriculum and instructional support, professional development, and technology services. They also provide special and alternative education services on a regional basis on behalf of school districts.

[4]34 C.F.R. §300.7(c)(3).

[5]34 C.F.R. §300.7(c)(5).

Parental Involvement: Federal IDEIA requirements provide for parents to be involved in consenting to the evaluation and participating in the required evaluation meeting to determine if their child is disabled and has need for special education services. Parents are also requested to be involved in the meeting to develop their child's individual education program.

Educational Placement Settings: The disabled child's Individual Education Program (IEP) must ensure the child has access to a free and appropriate public education (FAPE) to the maximum extent appropriate with children who are not disabled. Federal regulations provide:

> That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.[6]

The continuum of educational placements for children with disabilities requiring special education includes:

- regular classes,
- special classes,
- special schools,
- home instruction, and
- instruction in hospitals and institutions.

The continuum also includes supplementary services such as resource rooms and itinerant instruction provided in conjunction with regular class placement.

The federal IDEIA requires states to monitor the extent to which children with disabilities have access to a free and appropriate public education in the least restrictive environment by reporting on various indicators. One such indicator is time spent outside of a regular classroom. The Pennsylvania Department of Education reports that in 2003 of all disabled children with an approved IEP:[7]

- 44 percent were removed from regular class less than 21 percent of the day,
- 18 percent were removed from regular class greater than 60 percent of the day, and
- 3.4 percent were served in other locations.[8]

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[6]34 C.F.R. §300.550(b)(2).
[7]Approximately 248,000 enrolled in kindergarten through 12th grade as of December.
[8]Pennsylvania Department of Education, *Part B. State Performance Plan: 2005-2010*, p. 25.

The other locations or settings included:

- approved private schools,
- residential treatment facilities,
- correctional facilities, and
- separate school buildings.[9]

For the approximate 2,700 children ages 6-21 with hearing impairments including deafness as their primary disability enrolled in special education in Pennsylvania in 2003-04:

- 58 percent received special educational services outside the regular class less than 21 percent of the day,
- 14 percent received special educational services outside the regular class for more than 60 percent of the day, and
- 14 percent received special education services in other locations.

For the approximate 2,800 children ages 6-21 children with hearing impairments including deafness as their primary disability enrolled in special education in Pennsylvania in 2004-05:

- 56 percent received special education services outside the regular class less than 21 percent of the day,
- 12 percent received special education services outside the regular class for more than 60 percent of the day, and
- 14 percent received special education services in other locations.[10]

Pennsylvania school districts providing special education services to hearing impaired children in regular school settings typically rely on Intermediate Units to provide services. As of late 2005, nine of the 29 Intermediate Units had special education supervisors with an academic training emphasis in the education of deaf and hearing impaired students. A substantial number of school districts also rely on Pennsylvania magnet schools to provide special education services for deaf and hard of hearing children with substantial hearing loss and other service needs. The unique communication needs of children who are deaf and hard of hearing and the large number of school districts utilizing Pennsylvania magnet schools (see

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[9]At times, such placements in other facilities are not within the control of the local education agency, according to the Pennsylvania Department of Education.

[10]Derived from data reported in the Pennsylvania Department of Education, *Special Education Statistical Summary, 2003-04 and 2004-05*, Table 11.

Finding N) probably accounts for the higher proportion of deaf and hearing impaired students served in other locations.

Complaints: Federal IDEIA requirements provide a variety of process and procedural safeguards to assure parent involvement in evaluation and educational placement decisions for their children. They also provide for complaint, mediation, and due process hearings.[11]

During the last three school years, the Pennsylvania Department of Education received relatively few complaints regarding special education services for hearing impaired and deaf children. Over the three-year period, PDE received a total of 11 complaints. Of the 11 complaints,

- 5 were investigated and required corrective action plans that were implemented,
- 3 were investigated and required no corrective action plan,
- 1 was in the process of being investigated,
- 1 was withdrawn, and
- 1 complaint was outside the jurisdiction of the PDE.

Call Resolution Process (CRP): In part, the number of formal complaints filed is low because the Pennsylvania Bureau of Special Education offers a Call Resolution Process. The Pennsylvania Special Education ConsultLine offers toll-free assistance[12] for parents and is staffed by individuals trained in special education laws and regulations. The trained consultants provide information to parents regarding state and federal laws and protections and rights of students with disabilities. At times, such consultants may identify potential compliance issues.

After discussing the issues with the parents and providing relevant information about their rights and options, the ConsultLine Specialist may, if indicated, offer to send an e-mail notice of potential compliance issues to the individual who oversees special education at the student's local education agency. With the parent's permission, the person overseeing special education in the local education agency then receives the information and has opportunity to address the concern. The Compliance Advisor with the Bureau of Special Education also is copied on the e-mail and informed of the local educational agency's opportunity to address the parent's concern. At this point, ConsultLine's role in the CRP process ends.

[11]See e.g., 34 C.F.R. §300.457, 300.506, and 300.507.
[12]1-800-879-2301 (Voice/TTY/TDD).

When the CRP process is used, parents are not precluded from filing a complaint with the Pennsylvania Department of Education, regardless of the outcome of the process. ConsultLine Specialists provide complaint forms to parents.

The ConsultLine averages 6,000 calls annually from parents, advocates, and others interested in obtaining special education information and resources. Over a recent three-year period, a total of 64 cases involving students with hearing impairment including deafness were brought to the attention of the Bureau's Office of Dispute Resolution as a result of the CRP process. Such cases involved 29 school districts and 5 intermediate units. Most such cases involved students with hearing impairments other than deafness.

N. Pennsylvania's Magnet Schools for the Deaf and Hard of Hearing Children Serve Students From Throughout the State.

In 1992, the federal Department of Education (DOE) issued policy guidance to ensure students who are deaf and hard of hearing are provided a free and appropriate education (FAPE) as required under the federal Individuals with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.[1] The federal Department of Education recommended state or local educational agencies, when developing an Individual Education Program (IEP) with the student's family, take into consideration factors such as:

- communication needs and the child's and family's preferred mode of communication;
- linguistic needs;
- severity of hearing loss and potential for using residual hearing;
- academic level; and
- social, emotional, and cultural needs, including opportunities for peer interactions and communications.[2]

The importance of addressing the complete range of deaf and hard of hearing children's needs, including their communication needs and their family's preferred mode of communication, was recently reiterated with the release of *The National Agenda for Moving Forward on Achieving Educational Equality for Deaf and Hard of Hearing Students.*[3]

The National Agenda[4] reiterates the federal policy guidance. It notes that:

> No [deaf or hard of hearing] child should go to school without access to sufficient number of age and language peers, role models, and educational staff who can communicate directly with them. . . . It is not always possible, of course, to provide large enough numbers of age and language peers for many deaf and hard of hearing children, especially those who use ASL or signing systems or who live in rural areas.

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[1]20 U.S.C. §1400(a) et seq. and 29 U.S.C. §794.

[2]*Federal Register*, Vol. 57, No. 211, October 30, 1992.

[3]Published in April 2005 and developed by representatives from the National Deaf Education Project, Gallaudet Leadership Institute, schools for the deaf, the Alexander Graham Bell Association of the Deaf, Association of College Educators-Deaf and Hard of Hearing, American Society for Deaf Children, Conference of Educational Administrators of Schools and Programs for the Deaf, Convention of American Instructors of the Deaf, CEC-Division of Communication Disorders, state departments of education and local education agencies, and the National Association for the Deaf.

[4]The National Agenda notes nationally deaf and hard of hearing children tend to have their literacy skills plateau at the 2nd and 3rd grade level.

It is because of this fact that the educational system must be sensitive to alternative ways to provide such access.[5]

Low Prevalence Rates for Hearing Loss: Provision of a full range of options tailored to the diverse individual needs of students with moderate to profound hearing loss can be challenging, in part, because hearing loss is a low incidence condition. According to the Centers for Disease Control and Prevention (CDC), for children ages 3 to 10 years the annual prevalence rate of hearing loss is 1.1 per 1,000.[6] This compares with prevalence rates of:

- 9.7 per 1,000 for mental retardation,
- 3.4 per 1,000 for autism, and
- 2.8 per 1,000 for cerebral palsy.

In addition to the relatively small number of children with moderate to profound hearing loss, development of individualized education programs can be challenging in view of the wide range of communication modes utilized by such children and their families. (Additional information on such communication choices can be found in Finding A.)

Prior to the federal Department of Education issuing guidance on factors to consider in providing services to deaf and hard of hearing children under IDEIA, Pennsylvania with its long history of serving such children[7] had stressed that a full range of educational options be considered, including regular classes, special classes, and special schools, often referred to as magnet schools. Pennsylvania's Individual Educational Program (IEP) standard format, moreover, requires a child's language and direct communication with peers and professional personnel and communication mode to be considered in the development of each child's IEP.

Pennsylvania's Magnet Schools for the Deaf and Hard of Hearing: The PDE has designated four schools as magnet schools for deaf and hard of hearing children:

- Pennsylvania School for the Deaf located in Philadelphia.
- Western Pennsylvania School for the Deaf located in Pittsburgh.

[5]Goals 2.7 and 2.8 and p. 21.
[6]Ninety percent of the children in the study whose type of hearing loss was recorded had sensorinueral loss, though the probable cause of such loss could only be identified in 22 percent of the children in the study. Sensorineural loss often affects a person's ability to hear some frequencies more than others. This means the sound may be distorted even with the use of a hearing aid. Sensorinueral loss can range from mild to profound. Finding A provides additional information on the several types of hearing loss. Thirty percent of the children with hearing loss in the CDC study, moreover, had one or more other disabilities in addition to hearing loss. Such disabilities include, for example, mental retardation, cerebral palsy, vision impairment, and epilepsy.
[7]Programming for deaf and hearing impaired children in Pennsylvania dates to about 1820 when the program now known as the Pennsylvania School for the Deaf opened.

- Scranton State School for the Deaf located in Scranton.
- DePaul School for Speech and Hearing located in Pittsburgh.

The four magnet schools offer comprehensive educational curricula, intensive experience in language development and cultural expression, specialized support services, and enhanced educational technology. In order for a student to attend one of the magnet schools, such attendance must be specified in the student's IEP (developed by the child's parents and local school district) and approved by PDE.

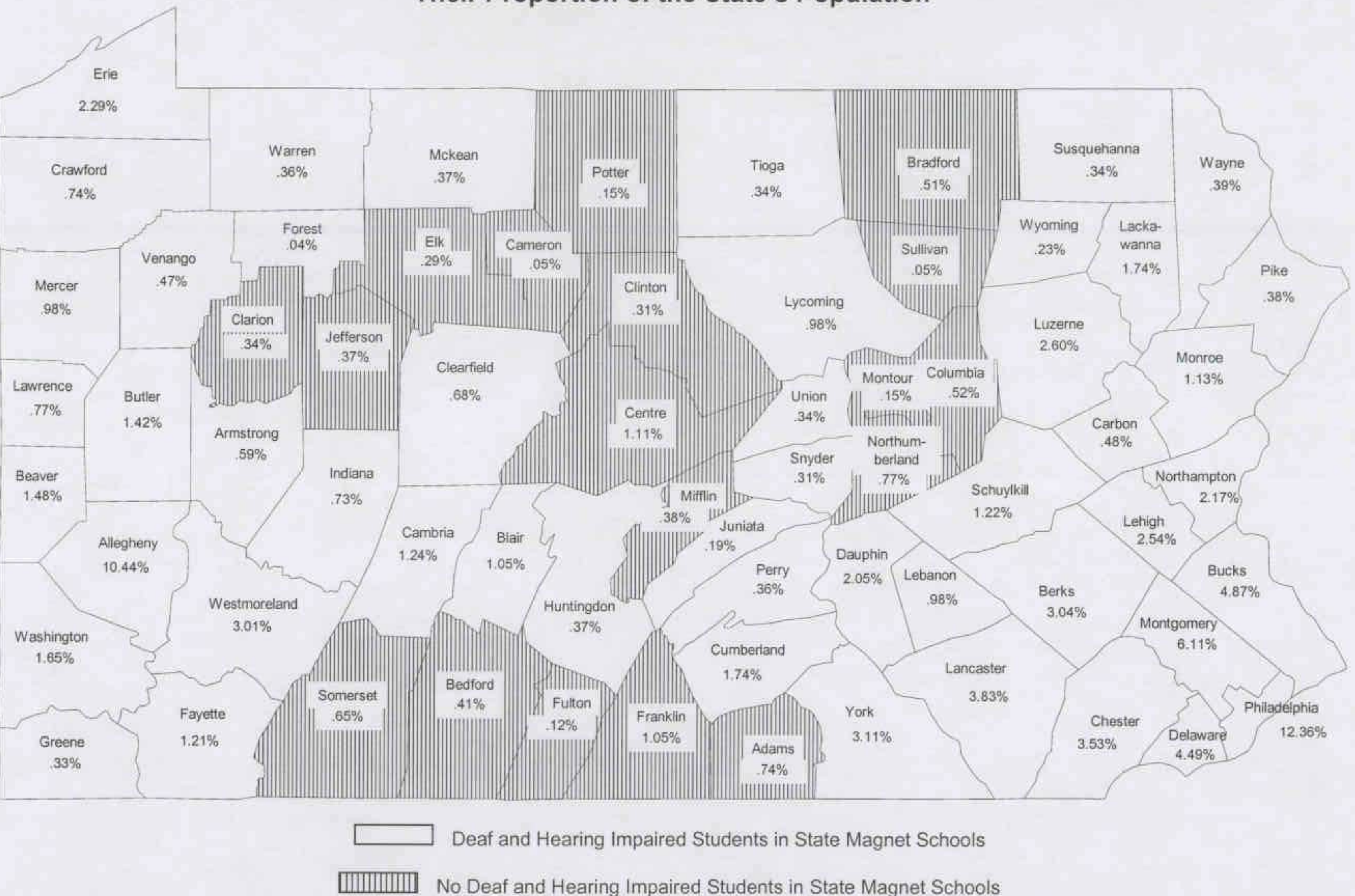
As shown in Exhibit 11, the PDE designated magnet schools serve deaf and hard of hearing students from across the state. Forty-nine of Pennsylvania's 67 counties accounting for over 90 percent of the state's population have school-age students attending one or more of Pennsylvania's designated magnet schools. More than one-third of Pennsylvania's school districts have students attending one or more of the state magnet schools.

- The Western Pennsylvania School for the Deaf currently serves almost 200 students from 33 of Pennsylvania's 67 counties and from 21 of Pennsylvania's 29 Intermediate Units.
- The Pennsylvania School for the Deaf program currently serves over 200 students from eight counties and seven intermediate units in southeastern Pennsylvania.
- The Scranton State School for the Deaf program currently serves almost 80 school-age children from 20 counties and 15 intermediate units in eastern and central Pennsylvania.
- The DePaul School for Speech and Hearing serves almost 50 students from five counties and six intermediate units in southwestern Pennsylvania.

Many children attending magnet school programs choose to graduate from such programs. Others choose to withdraw and return to their home school district. Students withdraw from magnet schools for a variety of reasons, including planned entry to mainstream programs, family and personal reasons (i.e., divorce, moving out of state, desire to be closer to home), transfer to other in-state programs, and serious medical problems. One deaf student with whom we met in her home school district spoke highly of her educational experiences at a state magnet school and stressed its importance in her personal development. This accomplished young woman, who had just been voted student of the month by her school, told us she decided to return to her home school district in order to graduate with all of her friends and take advantage of the district's advanced placement classes in view of her college and professional career plans.

Exhibit 11

Pennsylvania Counties With Deaf and Hearing Impaired Students in State Magnet Schools and Their Proportion of the State's Population



Source: Developed by LB&FC staff from information obtained from 2000 U.S. Census data and student and school district data provided by the Pennsylvania magnet schools.

Pennsylvania Students at Out-of-State Schools for the Deaf and Hard of Hearing: Some Pennsylvania deaf and hard of hearing students also attend out-of-state schools. Currently eight Pennsylvania deaf and hard of hearing students attend the New Jersey School for the Deaf as part of their approved IEPs, since the out-of-state school is closer to home than the nearest in-state magnet school.[8] Of the eight Pennsylvania students, all are day students with the exception of one student enrolled in the School's Positive Learning Understanding Support (PLUS) Program. The PLUS Program is designed to address the social, cultural, behavioral, and psychological needs of Deaf and Hard of Hearing students with emotional disturbance.[9]

Model Secondary School for the Deaf: The federal Department of Education provides support for the operation of Gallaudet University, which operates the Laurent Clerc National Deaf Education Center. As part of its mission, the Center operates two federally funded elementary and secondary education programs for students who are deaf—the Kendall Demonstration Elementary School (KDES) and the Model Secondary School for the Deaf (MSSD).

The federal government funds the elementary and secondary programs on the campus of Gallaudet in Washington, D.C., to support the development, evaluation and dissemination of model curricula, instructional techniques and strategies, and materials that can be used in a variety of educational environments serving individuals who are deaf and hard of hearing. Federal legislation further requires MSSD to include students preparing for postsecondary opportunities other than college and students with a broad spectrum of needs, including students who are lower achieving academically, come from non-English speaking homes, have secondary disabilities, are members of minority groups, or are from rural areas. While funded publicly, MSSD is not a public school. All students who apply, therefore, are not admitted.

Currently, 21 Pennsylvania students have met MSSD's admission criteria and been enrolled by their parents at MSSD.[10] These students come from nine Pennsylvania counties (Berks, Bucks, Chester, Delaware, Lackawanna, Lancaster, Lehigh, Montgomery, and Philadelphia) served by nine intermediate units.

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[8]There currently are no Pennsylvania students attending the Delaware School for the Deaf, or the St. Mary's School for the Deaf in Buffalo, New York. The Maryland School for the Deaf advised us that it only accepts students who are residents of Maryland and will not accept out-of-state students. The Maryland School for the Deaf has campuses in Frederick and Columbia, Maryland, which are geographically closer to parts of south central Pennsylvania than Scranton, Philadelphia, and Pittsburgh. Nonetheless, Maryland will not accept Pennsylvania residents into its state schools.

[9]The PLUS Program is not a treatment center and is not equipped to address the needs of students who are at active risk of suicide, actively psychotic, at imminent risk of serious violence to others, exhibiting behavior associated with severe or profound retardation, or requiring long term custodial care or full time placement outside the home.

[10]Unlike Pennsylvania magnet schools, such admission does not require an IEP and approval from the Pennsylvania Department of Education.

Programming at Pennsylvania Magnet Schools: Pennsylvania's magnet schools are both similar and different in the programs they provide and the students they serve. They are similar in that they all offer a full-day education program.[11] The Scranton State School for the Deaf and the Western Pennsylvania School for the Deaf also have dormitories where students who reside outside of the school's geographic area board during the school week before returning home for the weekend. With the exception of the DePaul School for Speech and Hearing, the schools' academic programs serve children from kindergarten through high school. DePaul's Academic Program extends from kindergarten to eighth grade.[12]

The DePaul School for Speech and Hearing is an auditory/oral program—an educational method that uses amplified auditory and visual cues to develop listening and speaking as the primary means of learning in a spoken language environment. The other three magnet schools have adapted a total communication philosophy—a philosophy that advocates use of any form or mode of communication that leads to mutual understanding, including (but not limited to) speech, speechreading, residual hearing with amplification, manual codes of English, American Sign Language, reading, and writing.

Some of the Pennsylvania magnet schools serve students with multiple social, medical, and educational needs, and have programs specifically designed to assist students with specialized needs. The Scranton School for the Deaf, for example, offers a designated special needs classroom for students with hearing loss in conjunction with one or more disabilities. Other disabilities include, but are not limited to, mental retardation, orthopedic handicaps, and cerebral palsy.[13] In addition to its academic curriculum, the Scranton School offers a vocational program in cooperation with the Lackawanna County Technology Center.

Some of the schools are involved in special projects, including research. The Western Pennsylvania School for the Deaf, for example, is taking part in national research tracking the educational progress of students with cochlear implants relative to matched peers without cochlear implants.

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[11]All four magnet schools also offer early intervention programs discussed in Finding K.

[12]The Pennsylvania Department of Education's FY 2005-06 budget included appropriations of $12.89 million for the Western Pennsylvania School for the Deaf, $8.99 million for the Pennsylvania School for the Deaf, $6.56 million for the Scranton School for the Deaf, and $1.73 million for the DePaul School for Speech and Hearing. The state and local school districts share in the cost of individual students with the local school district providing 40 percent of the approved student tuition costs and the state providing 60 percent of such costs.

[13]For a time in the late 1980s and early 1990s, the Scranton School for the Deaf also provided educational services to deaf youth from Friendship House, a residential treatment program for behavior disordered children and youth.

The Western Pennsylvania School for the Deaf campus also houses the Pressley Ridge[14] School for the Deaf.[15] This school was established in 1996 in collaboration with the Western Pennsylvania School for the Deaf to provide comprehensive services for seriously emotionally and behaviorally disturbed deaf children and adolescents and their families.

Pressley Ridge School for the Deaf offers a year-round educational program and a year-round, 24 hour, 7 days per week supervised residential program. Most youth who are in the supervised residence, however, are there during the week, returning home on weekends to their families. The school includes four self-contained Special Education Deaf (SED) classrooms. The group home residences for students are staffed by mental health workers (residential teacher/counselors). The program's medical director, who communicates in American Sign Language, evaluates and monitors medications for residential and education students.

When we visited the Pressley Ridge School for the Deaf in late 2005, there were 14 students[16] in attendance, including two from Allegheny and one from Westmoreland Counties who only participate in the educational day program. Youth participating in the educational day and residential programs were from Allegheny, Blair, Cumberland, Dauphin, Erie, Lancaster, Mercer, and Philadelphia Counties. At various times, the program has also served youth from Beaver, Bucks, and Clearfield Counties.

Youth in the Pressley Ridge School for the Deaf program experience serious emotional and behavioral problems and many have been abused. Funding to support their services comes from a variety of sources in addition to the local school district and PDE.[17] Such funding sources vary by child and include Medicaid behavioral health managed care programs, county juvenile probation offices, and county children and youth programs.

Advocates from southeastern Pennsylvania have recognized the need for a residential program for deaf children and youth who are emotionally disturbed in southeastern Pennsylvania. With support from the Department of Public Welfare, Philadelphia's Medicaid Managed Care Behavioral Health Program in cooperation with other county mental health and mental retardation programs has taken steps

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[14]Pressley Ridge operates programs for troubled and developmentally challenged children at programs in Maryland, Ohio, Pennsylvania, West Virginia, Virginia, Delaware, and the District of Columbia.
[15]The program is licensed by the Pennsylvania Department of Education as an approved private school and a private academic school. The residential component of the program is licensed by the Pennsylvania Department of Public Welfare as a child residential facility.
[16]At the time of our site visit, the arrival of a new student from Philadelphia was anticipated.
[17]For the special education component of this program, the Pennsylvania Department of Education FY 2005-06 appropriation for approved private schools included $2.53 million for Pressley Ridge at the Western Pennsylvania School for the Deaf. We did not attempt to identify the payment amounts from the various other sources for the residential and psychiatric care since such payments will vary for each student based on presenting need and the source of payment.

to establish a residential program for deaf youth in southeastern Pennsylvania. A contractor has been selected to develop the program in Philadelphia.

Several Pennsylvania children and youth who are deaf and emotionally disturbed are currently being served out-of-state. In January 2006, Pennsylvania had 17 children, youth, and young adults at the National Deaf Academy residential treatment facility in Florida. Six of the 17 are age 18 and older. Eight of the 17 youth are from Philadelphia County. The remaining youth are from Allegheny, Bucks, Delaware, Jefferson, Montgomery, and Northampton Counties.

The program offered by the National Deaf Academy differs from the program at Pressley Ridge. The National Deaf Academy in Florida is a privately-owned 84-bed residential treatment center for deaf and hard of hearing children, adolescents, and adults. The program is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). This highly specialized program serves those requiring treatment for pervasive developmental disorders, drug and alcohol abuse, and serious mental illness, including psychotic disorders, mood disorders (depression and biopolar), impulsivity, and antisocial behaviors. Staff from the Academy advised us most Pennsylvania resident care is paid for through the Pennsylvania Medicaid program.[18]

The National Deaf Academy has plans to discharge several students from Philadelphia. Such discharges are complicated, however, by the absence of the planned residential treatment program and the limited availability of specialized foster care for such children and youth. Despite the availability of public funding, and significant local planning and implementation efforts, this residential program likely will not be in place for the 2006 school year.

[18]Pennsylvania's Medical Assistance program reimburses Residential Treatment Facilities (RTFs) that are accredited through JCAHO for child and adolescent residential treatment. Such MA per diem reimbursement is based upon cost reports and covers medical care as well as room and board. Medicaid behavioral health plans are required to cover certain care in RTFs for children and youth (see Finding S).

O. Pennsylvania's Medical Assistance Program Pays for Teachers for the Hearing Impaired and Other Services for Hearing Impaired Children in Special Education Through the School-Based ACCESS Program.

Medicaid is a joint federal-state program that provides medical and rehabilitation services for low income people, some who are without medical insurance, and those whose medical insurance is inadequate to cover their medical and rehabilitation needs. As discussed in Finding S, Medical Assistance through its fee-for-service and managed care programs pays for most publicly-funded physical and behavioral health services in the Commonwealth. Children who are disabled and in special education can also receive such assistance through the Medical Assistance Pennsylvania School-Based ACCESS program[1] even though they are not enrolled in the Commonwealth's Medicaid managed care or fee-for-service programs.

The Medicaid program has established a priority on services to children. Federal law requires state Medicaid programs to provide all medically necessary services to eligible children when such services are identified through Medicaid's Early Periodic Screening, Diagnosis and Treatment program (EPSDT).[2] Such services include optional Medicaid services that a state has not included as a covered benefit in its State Medicaid Plan but which are reimbursable under the federal Medicaid program.

In 1988, the U.S. Congress enacted legislation[3] allowing, but not requiring, state Medicaid agencies to pay for medical and rehabilitation services included in a disabled child's Individual Education Program (IEP). In order for local education agencies to qualify for Medical Assistance reimbursement under Medicaid:

- the child receiving the services must be enrolled in Medicaid;
- the services must be covered in the state Medicaid plan or authorized in federal Medicaid statute;
- the services must be listed in the child's IEP; and
- the local educational agency or school district must be authorized by the state as a qualified Medicaid provider.

In June 1992, Pennsylvania initiated its Medical Assistance School-Based ACCESS program. The program operates through an interagency agreement

[1]Disabled children enrolled in MAWA (Mutually Agreed Upon Written Agreements) Early Intervention Programs for toddlers are also covered by this program for medical and mental-health related services included in the child's federally required Individual Family Service Plan.
[2]Medicaid's EPSDT program is a comprehensive and preventative program for individuals under 21 that provides comprehensive evaluations of a child's health through periodic screening and appropriate and timely treatment.
[3]Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360).

between several state agencies, including the Departments of Education, Health, Labor and Industry, and Public Welfare.

Unique Program Features: Authorization for Medical Assistance PA School-Based ACCESS services occurs through the process of developing a student's IEP and a practitioner deeming the service in the plan medically necessary. Restrictions that apply in the Pennsylvania Medical Assistance fee-for-service and managed care programs on benefits, services limits, and prior authorization requirements do not apply to School-Based ACCESS services. Such services, moreover, are "carve outs." In other words, they are in addition to services provided to a child already enrolled in Medical Assistance fee-for-service or managed care programs (discussed in Finding S).

Typically, Medical Assistance is a payor of last resort. In other words, if a person has private insurance or Medicare, the provider of service must first seek reimbursement through such coverage before billing the Medical Assistance program. Since private insurers rarely reimburse school districts for the medical and mental health-related services they provide, the Department of Public Welfare's Office of Medical Assistance and the Department of Education have entered into an agreement allowing the School-Based ACCESS Program to obtain blanket denials from private insurance companies once at the beginning of each school year. As a result, it is not necessary for school providers to obtain a denial for every service provided to a student with private health insurance who is also enrolled in the Medical Assistance School-Based ACCESS program.

Eligibility: Any student who meets the federal Social Security Administration's disability standards may be eligible for Medical Assistance in Pennsylvania regardless of the student's family income. [4] Such students can qualify because the income of the family is not taken into account in determining the disabled student's financial eligibility for Medical Assistance. This special Medical Assistance eligibility provision is sometimes referred to as "the MA Loophole."[5]

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[4]Pennsylvania's Department of Public Welfare does not determine eligibility for various federal disability programs, including the federal Supplemental Security Income Program (SSI)—the major source of financial support for low income disabled adults and the elderly. Such federal programs are administered by the federal Social Security Administration. Disabled individuals who are determined eligible for SSI by the federal Social Security Administration are automatically eligible to participate in the Commonwealth's Medical Assistance program. Appendix F provides additional information on the federal Supplemental Security Income Program.
[5]As part of the Commonwealth's FY 2005-06 Budget, the Pennsylvania Department of Public Welfare has proposed charging some families premiums for Medical Assistance coverage based on the family income and size. Nationwide, families with income and resources, including health insurance, at times elect to have a child participate in the federal state Medical Assistance programs because the program offers more comprehensive health and rehabilitation services for children and youth than those available through private insurers. The federal Deficit Reduction Act of 2005 signed by the President in February 2006 provides states with the option of extending Medicaid "buy-in" coverage to children with disabilities with family income up to 300 percent of poverty and charging income related premiums. Such families would be required to participate in employer-sponsored insurance if the employer covers at least 50 percent of the premium.

For the Medical Assistance School-Based ACCESS program, the Office of Income Maintenance has streamlined the application process. The application for students is the same application that is used in the Pennsylvania's Children's Health Insurance Program (CHIP). The Office of Income Maintenance has also designated at least one outreach liaison at each county assistance office to assist schools and families with obtaining eligibility and addressing eligibility issues.

School Services Eligible for Medical Assistance Reimbursement: For children under 21, the Medical Assistance program utilizes a broader definition of medical necessity than typically used by private health insurers. Some of the medically necessary services required by a disabled child to achieve the child's special educational goals and provided through the School-Based ACCESS Program, therefore, are typically not covered by private insurers. Such services include, for example, medical and mental health related services provided by teachers of the hearing impaired. Exhibit 12 provides a list of services and payment limits for Pennsylvania's Medical Assistance School-Based ACCESS Program.

Services of a teacher of the hearing impaired included in a child's IEP that may be billed to Medicaid include evaluation and instruction in communication skills for students whose cognitive and educational development have been affected primarily by impaired-hearing disability. Evaluation and instruction related to use of assistive devices to enhance hearing capabilities may also be billable. Examples of such billable services include:

- Testing, evaluations, and assessments to determine hearing deficit and the need for Teacher of the Hearing Impaired (THI) services.
- Re-testing, evaluation, and re-assessment to determine progress and the need for continuation of THI services.
- Conducting individual and group therapy.
- Conducting visual, tactile, and auditory checks of equipment with or without the student present.

Exhibit 12

Medical Assistance School-Based ACCESS Services
Service and Payment Limits

Service	MA Ceiling/15 min	Hourly Rate	Units/Day
*Audiology	$ 31.25	$125.00	32
*Interpreter	7.50	30.00	64
Nursing – LPN	31.25	125.00	32
Nursing – RN	31.25	125.00	32
*Occupational Therapy – Individual	50.00	200.00	32
*Occupational Therapy – Group	16.25	65.00	32
*Orientation and Mobility	31.25	125.00	64
*Personal Care Assistant	10.00	40.00	64
*Physical Therapy – Individual	50.00	200.00	32
*Physical Therapy – Group	16.25	65.00	32
*Physician	47.50	190.00	32
*Psychiatric	150.00/30 minutes	300.00	16
*Psychology – Individual	38.75	155.00	80
*Psychology – Group	13.75	55.00	48
*Social Work – Individual	28.75	115.00	48
*Social Work – Group	9.60	38.50	48
*Speech/Language/Hearing – Individual	36.25	145.00	48
*Speech/Language/Hearing – Group	12.50	50.00	48
*Teachers of the Hearing Impaired – Individual	31.25	125.00	48
*Teachers of the Hearing Impaired – Group	10.41	41.66	48
*Vision	53.75	214.00	32
IEP Meeting – Initial	600.00	Limit 1/Lifetime	
IEP Meeting – Review	350.00	Limit 3/365 Days	
Special Transportation	50.00	Maximum Daily Rate	
*Psychological Evaluation	20 Hours Maximum Per Evaluation		
Assistive Devices	Items Individually Priced		

*These direct services must be at least 7 ½ minutes in length in order to be billable.

Source: PA Department of Education, Pennsylvania School–Based ACCESS Programs Provider Manual, January 2005.

- Conducting instruction and practice to facilitate a student's access to equipment and electronic technology.
- Conducting receptive and/or expressive language assessments and instructions related to all vehicles of communication, oral or written.
- Interpreting oral language to an alternative communication mode, e.g., sign language.

Interpreter services (which are not limited to sign interpreters) may also be billable to Medicaid when they are rendered to assist deaf or hard of hearing students to benefit from medical/mental health services included in a student's IEP. Such services typically must be performed in conjunction with another service that can be billed to Medicaid. Examples of possible interpreter services that can be billed to Medicaid, include:

- Interpreting or translating assessments and evaluations for qualified Medicaid service providers, medical or psychological tests, therapy and treatments, etc., for students who are deaf and hard of hearing and receiving School-Based ACCESS medical/mental health-related services.
- Interpreting for parent conferences and other medical/mental-health related activities.
- Participating in evaluation and IEP team meetings to provide input on a student's use of interpreter services and proficiency in communication in relation to medical/mental health-related services.
- Assisting the local educational agency in developing IEP requirements for interpreter services needed for medical/mental health-related services identified by the IEP team.
- Providing accurate instruction to students on proper procedures to follow for medical and other types of emergencies, e.g., personal illness or injury at school, fire drills, and other disaster procedures.

Assistive technology that is medically necessary can also be secured (or repaired) through the program when identified in a student's IEP. Medical necessity for the device must be determined by a physician or certified registered nurse practitioner. Ownership of such equipment when secured through the School-Based ACCESS Program must be transferred to the student.

Medicaid Billings: From June 1992 through June 2005, over $1.1 billion was billed to Medicaid for this program on behalf of Pennsylvania school districts, intermediate units, state-owned schools, approved private schools, private residential

rehabilitation institutions, etc.[6] In the 2004-05 school year, about $174 million in services were billed to Medicaid. In the 2004 school year, according to the Department of Public Welfare, local education agencies billed Medicaid approximately $4 million for services of teachers of the hearing impaired, $150,000 for audiology services, and $200,000 for assistive technology. Deaf and hard of hearing children received School-Based ACCESS interpreter and other services (e.g., social work, personal care assistant, etc.) services. Expenditures for such services, however, cannot be separated out for deaf and hard of hearing children.

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[6]Program participants include 400 school districts, all intermediate units, 2 state-owned schools (including the Scranton School for the Deaf), and 36 approved private schools (including the Pennsylvania School for the Deaf, the Western Pennsylvania School for the Deaf, and the DePaul School for Speech and Hearing).

P. Pennsylvania's Office of Vocational Rehabilitation Provides Vocational Services for the Deaf and Hard of Hearing Throughout the State.

The Department of Labor and Industry (L&I) Office of Vocational Rehabilitation (OVR) provides vocational rehabilitation services to help individuals with disabilities prepare for, start, and maintain employment. OVR operates its vocational rehabilitation program based on requirements of the federal Rehabilitation Act of 1973 as amended[1] and the Pennsylvania Vocational Rehabilitation Act.[2, 3]

Pennsylvania's vocational rehabilitation program is among the relatively few publicly funded health and human service programs in which the state itself directly provides client services. Finding S provides information about other health and human services with Commonwealth employees providing services directly to clients.

Vocational Rehabilitation Counselors for the Deaf and Hard of Hearing: Pennsylvania's Office of Vocational Rehabilitation offers vocational rehabilitation services at 15 district offices located throughout the state. Exhibit 13 shows the location of the 15 district offices and the geographic areas they serve. Consumers seeking vocational rehabilitation services are assisted by vocational rehabilitation counselors (VRC) within the district offices. Such counselors include vocational rehabilitation counselors for the deaf and hard of hearing. Each district office has at least one vocational rehabilitation counselor for the deaf and hard of hearing who can communicate in sign language and at least one TTY (text telephone). Table 6 provides a list of the filled and vacant positions[4] for each district office, including the number of filled and vacant vocational rehabilitation counselors for the deaf and hard of hearing for each district office as of March 31, 2006.

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[1]See 29 U.S.C. §701 et seq.

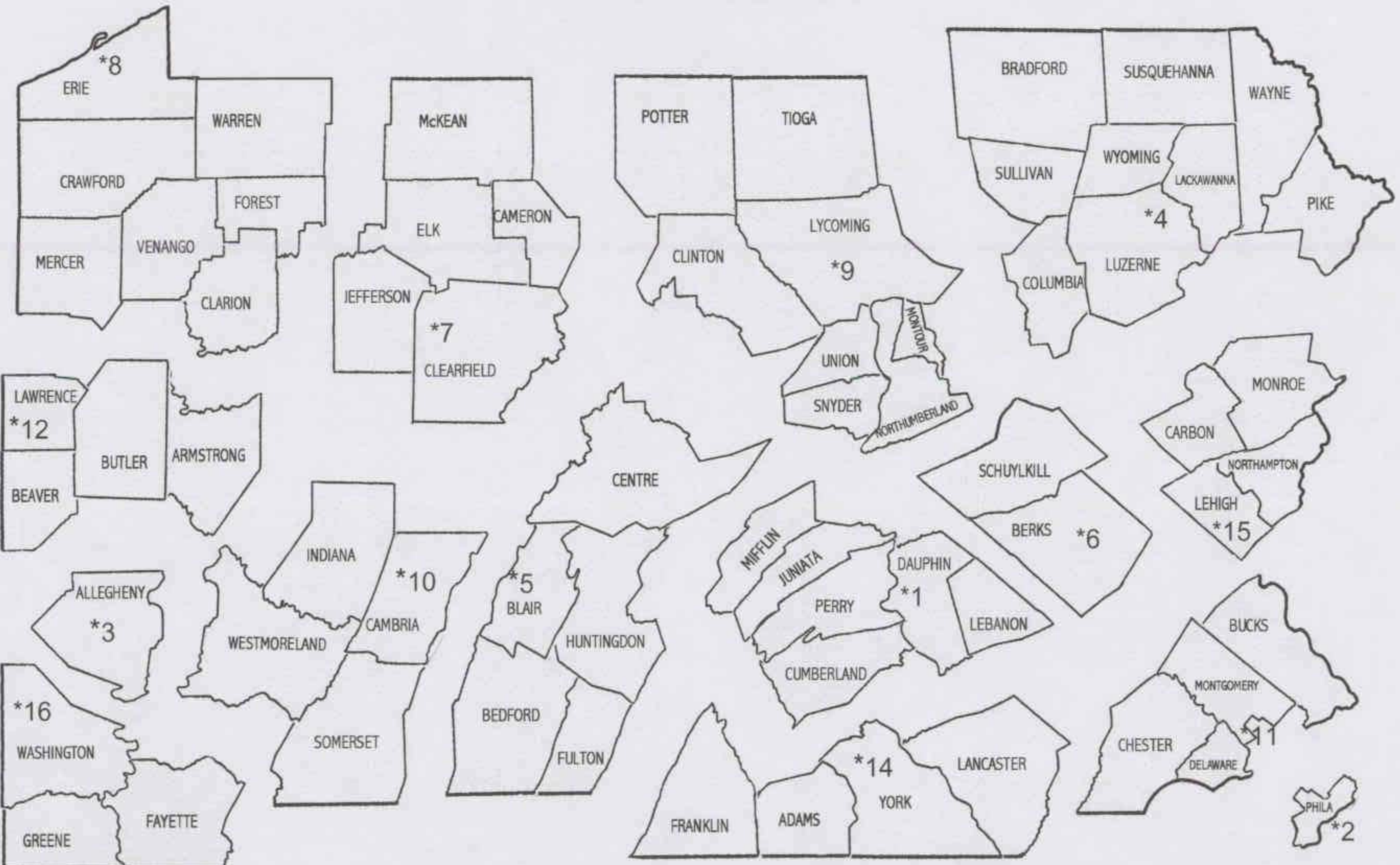
[2]43 P.S. §682.1 et seq.

[3]The June 2002 LB&FC report, *Funding and Service Delivery Levels in Pennsylvania's Vocational Rehabilitation Program* provides additional information on Pennsylvania vocational rehabilitation programs.

[4]In late January 2006, the State Civil Service Commission issued a test announcement for Vocational Rehabilitation Counselors (VRC) and Vocational Rehabilitation Counselors for the Deaf and Hard of Hearing (RCD).

Exhibit 13

Office of Vocational Rehabilitation Districts and District Office Locations



*1-Harrisburg, *2-Philadelphia, *3-Pittsburgh, *4-Wilkes-Barre, *5-Altoona, *6-Reading, *7-DuBois, *8-Erie, *9-Williamsport, *10-Johnstown, *11-Norristown, *12-New Castle, *14-York, *15-Allentown, *16-Washington

Source: Developed by LB&FC staff using information obtained from the Office of Vocational Rehabilitation.

Table 6

Filled and Vacant Vocational Rehabilitation Counselor Positions, by District Office

District Office	Vocational Rehab. Counselor: Filled	Vocational Rehab. Counselor: Vacant	Vocational Rehab. Counselor for the Deaf and Hard of Hearing: Filled	Vocational Rehab. Counselor for the Deaf and Hard of Hearing: Vacant
Allentown	15	0	0	1
Altoona	20	2	1	0
Dubois	11	1	0	1
Erie	23	1	1	0
Harrisburg	17.5	3	1	0
Johnstown	23	2	1	0
New Castle	25	1	1	0
Norristown	21	8	2	0
Philadelphia	34	11	2	0
Pittsburgh	53	1	2	0
Reading	14	2	1	0
Washington	17	1	1	0
Wilkes-Barre	23	1	2	0
Williamsport	19	1	1	0
York	27	0	1	0
HGAC-Johnstown	7	1	1	0
Total	349.5	36	18	2

Source: Office of Vocational Rehabilitation, March 31, 2006, salary complement report and the Hiram G. Andrews Center.

OVR's Rehabilitation Counselors for the Deaf and Hard of Hearing must meet the minimum state requirements for the Vocational Rehabilitation Counselor position. Candidates for the position must also have the ability to communicate in American Sign Language. The Department of Labor and Industry's Office of Vocational Rehabilitation assesses a candidate's sign language proficiency through the use of the Sign Communication Proficiency Interview (SCPI).

The SCPI is an evaluation tool[5] that assesses sign language communication skill based on the Oral Proficiency Interview. Skill areas assessed include sign language vocabulary, production and clarity of signs, fluency, grammar, and comprehension. The SCPI is a videotaped one-on-one interview/conversation between a trained SCPI interviewer and the person taking the SCPI. Each videotape is rated

[5]The SCPI was developed by professors at the National Technical Institute for the Deaf (NTID).

independently by raters using a SCPI rating scale. SCPI ratings range from "no functional skills"[6] to "superior plus."[7, 8]

OVR's counselors for the deaf and hard of hearing must achieve[9] a SCPI rating at the intermediate level. In other words, they are able to discuss with some confidence routine work and social topics within a conversational format with some elaboration (generally 3-5 sentences). OVR pays the Western Pennsylvania School for the Deaf in Pittsburgh and the Pennsylvania School for the Deaf in Philadelphia to administer the SCPI on its behalf.[10] The schools provide OVR with a formal written rating report within 15 days after the SCPI interview.

Service Categories: OVR provides a wide range of services to assist disabled individuals to obtain and maintain employment. Exhibit 14 lists the major groups or categories of services available through OVR.

Exhibit 14

OVR Service Categories

* Information and Referral Services	* Assistive Technology Services
* Vocational Evaluations	* Rehabilitation Technology
* Vocational Rehabilitation Counseling	* Personal Assistance Services
* Diagnostic Services	* Technical Assistance Services
* Individualized Plan for Employment	* Transportation Services
* Training Services	* Services to Employers
* Job-Related Services	* Monetary Support

Source: Office of Vocational Rehabilitation 2004 Annual Report.

Eligibility: Anyone can apply to OVR for services and receive a screening from a vocational rehabilitation counselor. To qualify to receive additional publicly funded vocational rehabilitation services, the applicant must:

- have a physical, mental, or sensory impairment that results in a substantial impediment to employment;

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[6]Able to provide short single sign and "primarily" fingerspelled responses to some basic questions signed at a slow rate with extensive repetition and rephrasing.

[7]Able to have a fully shared and natural conversation, with in-depth elaboration for both social and work topics. All aspects of signing are native-like.

[8]Other ratings include novice, novice plus, survival, survival plus, intermediate, intermediate plus, advanced, advanced plus, and superior.

[9]The SCPI is administered at the employment interview phase of the hiring process.

[10]OVR reimburses the Pennsylvania School for the Deaf $275 for testing of a candidate and $300 for the Western Pennsylvania School for the Deaf. Job candidate travel expenses are also reimbursed. In the past, OVR considered having its staff trained to perform the testing, but the cost for such training was considered too expensive.

- require vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment; and
- be able to benefit in terms of an employment outcome from services provided.[11]

Examples of the types of physical, mental, and sensory impairments that may impede employment include:

- Alcoholism
- Amputation
- Developmental Disabilities
- Diabetes
- Drug Addiction
- Epilepsy
- Head Trauma
- Hearing Impairments
- Heart Disease
- Learning Disabilities
- Mental Illness
- Mental Retardation
- Muscular Disease
- Neurological Disease
- Respiratory Disease
- Skeletal & Joint Disease
- Speech Impairments
- Spinal Cord Injury
- Visual Impairments

Order of Selection Criteria: All individuals with impairments who may apply and qualify for OVR services do not necessarily receive them. Despite significant public funding for vocational rehabilitation services,[12] public funds for such services are limited and there is no individual legal entitlement associated with such services. The federal Rehabilitation Act requires that in the event vocational rehabilitation services cannot be provided to all eligible individuals who apply

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[11]OVR counselors refer persons with disabilities who are not seeking employment assistance or who are found not to qualify for vocational rehabilitation services after initial assessment to the Office for the Deaf and Hard of Hearing (ODHH) or to other community agencies.

[12]In FFY 2004, over $70 million in federal funds were available to the program and approximately $5 million in state funds.

for services, the state establish and follow an order to be used in selecting individuals to receive services.[13]

Since March 1994, Pennsylvania's Office of Vocational Rehabilitation has been operating on an "Order of Selection" basis with the "most significantly disabled" having the highest priority for receipt of federally funded vocational rehabilitation services. Exhibit 15 lists the Order of Selection Priorities and characteristics of clients for each priority.

Exhibit 15

OVR Order of Selection in Deciding Who Will Have Priority in Receiving Services

First Priority	Description of Clients in Category
Most Significantly Disabled...........	The physical, mental, or sensory impairment(s) must seriously limit three or more of the individual's functional capacities[a] and the individual must be expected to require multiple vocational rehabilitation services over an extended period of time.
Second Priority	
Significantly Disabled....................	The physical, mental, or sensory impairment(s) must seriously limit one or more of the individual's functional capacities[a] and the individual must be expected to require multiple vocational rehabilitation services over an extended period of time.
Third Priority	
Non-Significantly Disabled............	The individual has a physical, mental, or sensory impairment that does not meet the definition for most significantly disabled or significantly disabled.

[a]Functional capacities for purposes of OVR order of selection criteria include physical mobility, dexterity and coordination, physical tolerance, personal behaviors, ability to benefit from traditional learning methods, repeat hospitalizations, environmental interaction, and life planning.

Source: Office of Vocational Rehabilitation.

[13]The Pennsylvania General Assembly appropriates some funding to serve those eligible for OVR services but whose order of priority precludes them from getting assistance. Vocational services are also available through the Federal Ticket to Work and Self-Sufficiency program, established under the Federal Ticket to Work and Work Incentives Improvement Act of 1999 to assist individuals with a disability to earn enough money so they will not need to rely on Social Security cash benefits. Such federal legislation was enacted to increase beneficiary choice in obtaining rehabilitation and vocational services, remove barriers that require the disabled to choose between health care coverage or work, and to ensure that the disabled population (ages 18 – 64) has the opportunity to participate in work and thereby lessen their dependence on public benefits. The federal Social Security Administration (SSA) started the program in early 2002 by mailing Tickets to eligible beneficiaries in 13 states. The SSA began mailing tickets to eligible Pennsylvania beneficiaries receiving Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI) in November 2003. According to OVR, approximately 389,600 SSA beneficiaries will receive Tickets in Pennsylvania. The Ticket can be used to access employment, vocational rehabilitation, and other related services from a private organization or government agency, such as OVR, approved by the Social Security Administration as part of the Employment Network (EN). Customers take their Tickets to an approved EN, who will help them develop a plan to go to work, and then provide the services needed to follow that plan. These programs are not supported with federal or state vocational rehabilitation funds and are not subject to the Order of Selection. In its 2004 Annual Report, OVR notes that 2,218 Tickets have been assigned to it.

As shown in Exhibit 15, the most significantly disabled who meet all other eligibility requirements have the highest priority for provision of OVR services. OVR counselors determine the level of significance of a client's disabilities based on the client's "functional capacities." [14] The type of client impairment does not enter into OVR counselor determinations of the level of significance of a client's disability.

Individualized Plan: A key step in the delivery of OVR services is the development of an Individualized Plan for Employment (IPE). OVR services provided to eligible clients must be identified in the IPE developed by the vocational rehabilitation counselor with the eligible applicant. [15] The IPE identifies the specific services required by the eligible applicant in order to obtain employment or help ensure retention of current employment that will be provided through OVR.

OVR Expenditures for Services for the Deaf and Hard of Hearing: In federal fiscal year 2005, OVR reported its district offices served 85,744 clients, including over 5,675 clients with hearing loss or deafness. When tracking services to the disabled, OVR utilizes the categories of disability, including the categories for hearing impairments developed by the federal Department of Education's Rehabilitation Services Administration. Exhibit 16 lists the types of hearing impairment identified by the federal Rehabilitation Services Administration.

[14] Those who are dissatisfied with their service priority determination (or with services being provided) may initiate the formal appeal process by filing a written appeal with the Director of the Bureau of Program Operations in OVR.

[15] According to federal vocational rehabilitation regulations (34 CFR Part 361), an IPE must "be designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice."

Exhibit 16

Federal Rehabilitation Services Administration Hearing Impairment Categories

Deafness, Primary Communication Visual

Receptive Communication – primarily uses some form of sign language
Expressive Communication – primarily uses some form of sign language
Most rely on sign language interpreters as their first choice for communication access with hearing people
Generally uses TTY and TTY Relay Services

Deafness, Primary Communication Auditory

Receptive Communication – primarily depends on speech reading and/or visual communication such as speech to text translation
Expressive Communication – primarily uses spoken language
Have been identified in the past as being oral deaf or late deafened adults and now would also include many deaf individuals who use cochlear implants and/or English based sign language
Generally uses TTY and TTY Relay Services, including Voice Carry-over (VCO) option

Hearing Loss, Primary Communication Visual

Receptive Communication – primarily depends on auditory input by hearing aids and/or assistive listening technology and often relies on visual cues such as speech reading, body language, text translation, or an English based sign language to supplement auditory input
Expressive Communication – primarily uses spoken language
Generally uses amplified telephone along with hearing aid T switch and may use TTY/VCO

Hearing Loss, Primary Communication Auditory

Receptive Communication – primarily uses remaining residual hearing which allows the individual to hear and understand speech with little or no visual input, generally with the use of hearing aids, and can benefit from assistive listening technology use in some situations
Expressive Communication – primarily uses spoken language. Generally uses telephone with ease using appropriate amplification

Other Hearing Impairments (Tinnitus, Meniere's Disease, Hyperacusis, etc.)

While hearing loss is a major form of hearing impairment, there are other conditions of the hearing mechanism that bring with them functional limitations leading to disability such as the constant head noise of Tinnitus, the dizziness of Meniere's Disease, or the extreme sensitivity to sound of hyperacusis. Such conditions require thorough evaluation by trained physicians and a variety of interventions are available requiring consultation with trained hearing health specialists.

Deaf-Blindness

Definition of Individual Who is Deaf-Blind – The term "individual who is deaf-blind" means any individual:
(A) (i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both of these conditions;
(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition, and
(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;
(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and vision disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

Source: Developed from Rehabilitation Services Administration categories for deafness and hearing impairments.

The federal Rehabilitation Services Administration requires state programs to report vocational rehabilitation service expenditures by categories of impairment such as those listed in Exhibit 16. Table 7 provides information on such expenditures for those with hearing impairments for recent federal fiscal years.

Table 7

OVR Expenditures by Federal Hearing Impairment Category FFY 2002 and FFY 2003

Category	Dollars Spent FFY 2003	Dollars Spent FFY 2004
Deafness, Primary Communication Visual	$2,755,626	$3,166,066
Deafness, Primary Communication Auditory	352,324	422,545
Hearing Loss, Primary Communication Visual	1,018,948	1,384,655
Hearing Loss, Primary Communication Auditory	2,924,003	3,364,634
Other Hearing Impairments	169,468	215,608
Deaf-Blindness	177,540	206,927
Total	$7,397,909	$8,760,435

Source: Office of Vocational Rehabilitation, Bureau of Rehabilitation Program Operations. OVR expenditures include federal vocational rehabilitation funding and state matching funds.

In FFY 2004, four services (tuition and fees, hearing aids and devices, interpreter services for the deaf, and job coaching) accounted for almost 90 percent of total expenditures for the deaf whose primary mode of communication is visual. Eight services (hearing aids and devices, tuition and fees, diagnostic hearing tests, job coaching, interpreter services for the deaf, durable medical equipment and supplies, professional consultation, and speech evaluation and therapy) accounted for almost 90 percent of total expenditures for the deaf whose primary mode of communication is auditory.

In that same federal fiscal year, seven services (tuition and fees, hearing aids and devices, job coaching, diagnostic hearing tests, interpreter services for the deaf, diagnostic medical, and wheelchairs) accounted for almost 90 percent of total expenditures for persons with hearing loss whose primary communication mode is visual. For such persons whose primary communication mode is auditory, six services (hearing aids and devices, tuition and fees, diagnostic hearing tests, job coaching, durable medical equipment and supplies, and speech evaluation and therapy) accounted for almost 90 percent of total expenditures.

Hiram G. Andrews Center: In addition to provision of vocational rehabilitation services through its 15 district offices, the Pennsylvania Office of Vocational

Rehabilitation provides post secondary education vocational programs at its Hiram G. Andrews Center (HGAC). The Center awards Associates Degrees in Specialized Technology and Specialized Business to those who complete academic program requirements. Based in Johnstown, the Center provides services to citizens from throughout the state.[16]

In addition to serving persons who are disabled and referred by the Office of Vocational Rehabilitation, the Center provides post-secondary education vocational services to veterans and retraining for displaced workers through the federal Workforce Investment Act of 1998.[17] Students referred by the Office of Vocational Rehabilitation make up the largest part of the Center's student population. Currently, the Center has about 320 participants with individualized training programs, including approximately 130 participants receiving vocational evaluation, physical restoration, and transitional living services.[18]

HGAC Deaf and Hard of Hearing Services Unit: For approximately 25 years, the Center has had a Deaf and Hard of Hearing Services Unit to provide supports for deaf and hard of hearing students and to better address their needs. The Unit, a branch of the Center's Student Services Section, is staffed by a supervisor, counselor, evaluator, instructor, interpreters, and a life skills tutor.

When a deaf or hard of hearing student enrolls at the Center, they are first evaluated by the Center for Assistive and Rehabilitative Technology (CART) to assess their individual needs for adaptive equipment. If such equipment is needed, CART loans the equipment to the student without charge. The types of adaptive equipment loaned to students include: TTYs, FM systems, flashing light doorbells, and alarm clocks with flashing lights.

Deaf and hard of hearing students enrolling at the Center are involved in a three- to six-week evaluation process. The process includes vocational testing, vocational exploration, and vocational counseling. Areas evaluated include interests, learning abilities, specific vocational aptitudes, achievements, dexterity-motor skills, and work personality. In addition, as part of the evaluation process, the students try different jobs in the vocational training areas offered at HGAC.

Prior to entry into their chosen vocational training program, many deaf and hard of hearing students participate in the Center's PREP program. This program

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[16]Some program participants commute to Center programs, others have housing at the Center.
[17]20 U.S.C. §9201 et seq.
[18]Center operations are self-sustaining with funding for program operations generated through fees for services provided by the Center. Such fees are not deposited in the State General Fund. Since 1959, Center fees have been deposited in the Rehabilitation Center Fund. The Fund receives all service fees and disburses income received by the Center. In FY 2003-04, Fund revenues included approximately $19.5 million in client fees, other income, and earned interest. It disbursed approximately $19.6 million (with a $5.4 million Fund balance). In FY 2004-05, Fund revenues increased to approximately $20.6 million and disbursements to approximately $20.9 million (with a $5.7 million Fund balance).

assists deaf and hard of hearing students to prepare for their area of specialization through remedial programs in reading, math, English, and life skills. Through the PREP program, deaf and hard of hearing students work with a Certified Educator for the Deaf to learn the technical vocabulary and signs for their major area of study.

When a deaf or hard of hearing student begins to participate in a vocation program, interpreters from the Deaf and Hard of Hearing Services Unit provide interpreter services within the classroom. Table 8 shows the number of students with hearing impairments served by the Deaf and Hard of Hearing Service Unit between 2002 and 2004.

Table 8

Students With Hearing Impairments Served by the Hiram G. Andrews Center's Deaf and Hard of Hearing Services Unit

	Unduplicated Count	Duplicated Count[a]
2002	44	49
2003	53	61
2004	44	47

[a]Students included in the duplicated counts had multiple admissions to the program during a single calendar year.

Source: The Hiram G. Andrews Center.

***Complaints and Appeals*:** All applicants and eligible individuals are notified in writing of the opportunity for review of decisions made by OVR counselors or other staff affecting the provision of services. Such appeals must be made within 30 days of the decision or action. The customer or applicant must describe the decision or action they are appealing, when the decision was made, who made the decision, and the proposed remedy. The customer has a right to a hearing within 60 calendar days after the complaint has been received by OVR.

Prior to such a hearing the customer will be offered the opportunity for an Informal Administrative Review. The review is an attempt to try to resolve the appeal short of a formal hearing. If no agreement is reached, the customer will be offered mediation by an impartial mediator.

If the Informal Administrative Review and mediation processes do not resolve the matter, a formal hearing is held on the appeal. After a final decision on the appeal is reached following the hearing, the customer, if dissatisfied with the decision, may bring a civil action for review of the hearing officer's opinion.

From October 1, 2004, through August 22, 2005, OVR reports 49 appeals were filed by those seeking OVR services. Forty-two were resolved through the

Informal Administrative Review process. Only seven appeals went to the hearing stage, with the hearing officer upholding OVR's decision in five of the seven appeals.

Client Assistance Program: The federal Rehabilitation Act of 1973, as amended,[19] provides for the Client Assistance Program to advise and inform clients and others with disabilities about available services under the act and to advocate for clients and client applicants. Each state is required to have such a program.

Pennsylvania's Client Assistance Program is administered by the Center for Disability Law & Policy, and it assists people who are seeking services from the Office of Vocational Rehabilitation, Blindness and Visual Services, Centers for Independent Living, and other federally funded rehabilitation programs. Pennsylvania's program works to help clients and client applicants to resolve problems that may arise. As part of such advocacy and assistance, the program can become involved in mediation and negotiation to address a client's concerns within the parameters of the act.

In FFY 2005, the Client Assistance Program reported it received eight complaints from deaf individuals and 12 complaints from hard of hearing individuals involving either OVR or the Bureau of Blindness and Visual Services. All complaints were resolved.

[19] 29 U.S.C. §701 et seq. at §732.

Q. Pennsylvania Independent Living Programs Are Charged to Serve the Disabled and Several Have Special Programs for the Deaf and Hard of Hearing.

The federal Rehabilitation Act of 1973, as amended, provides the federal legislative base for public programs and activities to assist individuals with disabilities in the pursuit of gainful employment, independence, self-sufficiency and full integration into community life.[1] Title VII of the Act as amended provides for state independent living services and for centers for independent living programs.[2] Such programs have been established to address the needs of persons too severely disabled to be eligible for vocational rehabilitation services. They serve all disabilities, are controlled by consumers, and offer community-based and non-residential services. At a minimum, such programs provide the following services:

- information and referral,
- independent living skill training,
- peer counseling, and
- individual and system advocacy.

Such programs may also provide other independent living services such as, for example:

- counseling,
- services related to securing housing or shelter,
- assistive technology services,
- interpreter and reader services,
- personal assistance services, including attendant care and the training of personnel providing personal assistance services, and
- services and technical assistance related to the implementation of the Americans with Disabilities Act.

To receive federal funds for independent living services and centers for independent living, states are required to establish a Statewide Independent Living Council (SILC). They must also develop a State Plan for Independent Living (SPIL) with public input, and the plan must be jointly signed by the chair of the State Independent Living Council and the designated state vocational unit. In Pennsylvania, the designated state vocational unit is the Department of Labor and

[1]29 U.S.C. §§701 et seq.
[2]Id. at §§796-796l.

Industry's Office of Vocational Rehabilitation. Each state's plan must be submitted to the federal Department of Education and receive its approval. The federally approved plan then serves as the basis for provision of independent living services in the state.[3] (Appendix G provides additional information on Pennsylvania's federal and state supported independent living services[4] and centers for independent living and their public sources of financial support.)

All of Pennsylvania independent living services and centers for independent living programs are cross-disability, [5] including disabled persons who are deaf or hard of hearing.[6] Nine Pennsylvania independent living programs report offering services specifically designed to assist deaf and hard of hearing persons. Such services are offered in 48 of Pennsylvania's 67 counties. In some instances, these regional programs extend beyond their typical service delivery areas to serve the deaf and hard of hearing.

As shown in Exhibit 17, independent living programs are not offering specialized services for the deaf and hard of hearing in parts of the southeast. Several community service programs specifically targeted to serving the deaf and hard of hearing currently operate in the southeast quadrant of the state (see Finding R), and independent living service providers are not to duplicate services available in the communities they serve.

Most of the specific independent living service programs for the deaf and hard of hearing are provided by staff who can communicate directly with persons who are deaf and hard of hearing.

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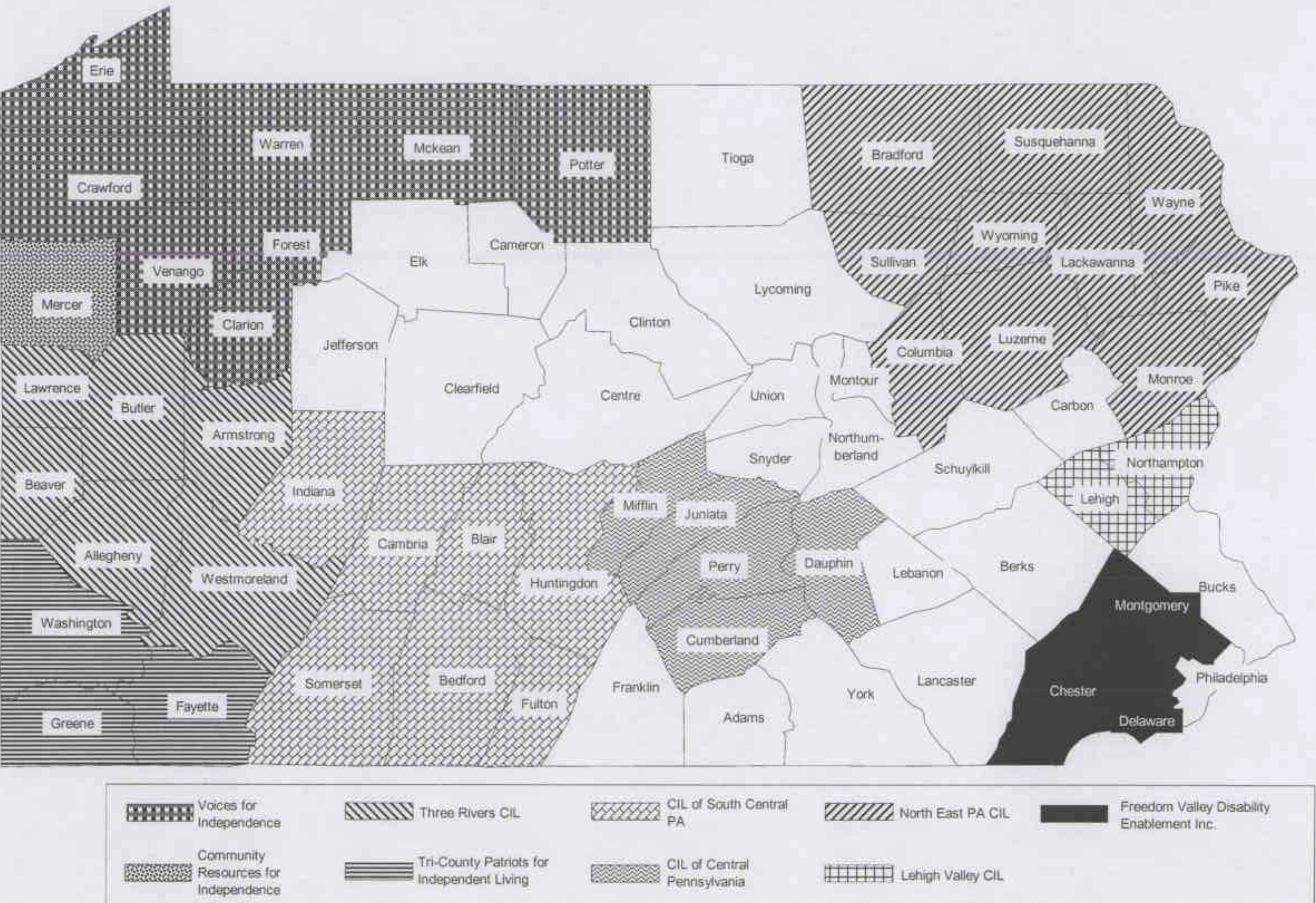
[3]Federal funds are available: (1) to federally designated Centers for Independent Living (under Title VII, Chapter I, part C), (2) to states for Independent Living Service Program services (Title VII, Chapter I, part B), and (3) for older individuals who are blind (Title VII, Chapter 2). According to *Pennsylvania's State Plan for Independent Living, Fiscal Years 2005-2007*, in Pennsylvania, the Department of Labor and Industry's Office of Vocational Rehabilitation's Bureau of Blindness and Visual Services utilizes federal Title VII, Chapter 2 funds to provide individuals, 55 years old or older and who are blind or have low vision impairment, with rehabilitation teaching that is directed toward activities of daily living, provision of adaptive rehabilitative equipment, instruction on accessing information systems, provision of communication aids, orientation and mobility instruction, provision of orientation and mobility equipment, provision of escort services and transportation, provision of evaluation and consultation with low vision specialists, medical intervention related to vision loss after other sources of payment have been exhausted, counseling/consultation directed to family and peers, deaf-blind interpreter services, and provision for secondary disabilities after other sources of payment have been exhausted.
[4]Act 1994-139 provided for the establishment of state supported independent living services and standards and assurances to qualify for state support.
[5]Program regulations at 34 CFR §361.5(b)(29) define an individual with a disability as an individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.
[6]34 CFR §364.23 requires providers to include personnel who are specialists in independent living services and, to the maximum extent feasible, to make available personnel able to communicate with individuals with significant disabilities who rely on alternative modes of communication, such as manual communication, and communicate in the native language of individuals with significant disabilities whose English proficiency is limited and who apply for or receive independent living services under the State Plan for Independent Living.

Exhibit 17

State Independent Living Services Counties With Specialized Services for Deaf and Hard of Hearing Consumers



Source: Developed by LB&FC staff.

- Three of the nine programs (Voices for Independence,[7] CIL of South Central PA,[8] and Northeast PA CIL[9]) are staffed by persons who are themselves deaf or hard of hearing.

- Four others (Three Rivers CIL,[10] Lehigh Valley CIL,[11] Tri-County Patriots for Independent Living,[12] and Freedom Valley Disability Enablement Inc.[13]) operate their programs through staff who can communicate in sign language.

The two remaining programs (Community Resources for Independence and CIL of Central PA) offer ASL classes and assistance in obtaining assistive technology, and are providing or have provided interpreter referral services. In addition to providing interpreter referral services and helping obtain assistive technology, some of these programs have assisted deaf and hard of hearing individuals who are financially and clinically eligible for nursing home care to receive in-home care through Department of Public Welfare Medicaid waivers (See Finding S).

Independent living services staff offering specific services for the deaf and hard of hearing consumers told us about the services they provide. Each program differs in the services it provides and the needs of the consumers it serves. Exhibit 18 provides a list of the types of services being provided to deaf and hard of hearing consumers by the nine independent living programs.

National Evaluation: In 2003, the U.S. Department of Education reported on the result of a two-year national evaluation of the Centers for Independent Living.[14] The study found Centers for Independent Living are providing a wide variety of beneficial services and systems advocacy in their communities. Consumers

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[7]This program currently serves deaf and hard of hearing individuals in Erie, Warren, Forest, Crawford, Venango, and Clarion Counties and is available to provide service in McKean and Potter Counties.
[8]This program serves Bedford, Blair, Cambria, Fulton, Huntingdon, Indiana, and Somerset Counties.
[9]This program serves Bradford, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming Counties.)
[10]This program serves Allegheny, Armstrong, Beaver, Butler, Lawrence, and Westmoreland Counties.
[11]This program serves Lehigh and Northampton Counties.
[12]This program serves Washington, Fayette, Greene, Lawrence, and Beaver Counties.
[13]This program currently serves Chester, Montgomery, and Delaware Counties. Previously it also served Bucks County. It provides its program through arrangements with the Center on Hearing and Deafness in West Chester.
[14]CESSI, *Evaluation of the Centers for Independent Living Program*, June 2003.

Exhibit 18

Types of Services Provided to Deaf and Hard of Hearing Consumers by Pennsylvania Independent Living Service Providers

- Information and referral (including referral to publicly funded programs and other specialized community services)
- Assistance with housing (including locating housing, assuring a home is accessible, helping to secure telecommunication equipment, initiating utility service, purchase of furniture and a car)
- Assistance in applying to foundations and service organizations for hearing aids, visual alarms, etc.
- Peer counseling for consumers who recently lost hearing or consumers having difficulty adjusting to a new hearing aid, deaf youth of overprotective parents, deaf consumers who refuse to keep mental health service appointments or to take prescribed medication, and deaf consumers who refuse to participate in available adult literacy programs
- Life skills education (including opening a checking account, balancing a checking account, managing money, grooming and dressing, maintaining a clean home, finding and using an interpreter, and using a credit card)
- Employment assistance (including assistance with job search, promotion of a positive attitude about employment, employment readiness skill training for individuals not seeking employment, individual skill training, resume development, assistance with calls to potential employers)
- Individual advocacy (including securing interpreters, accompanying the consumer to local Department of Public Welfare and federal Social Security Administration offices at the request of the consumer, suggesting questions for consumers to ask staff from such offices, attempting to secure health insurance for persons ineligible for Medical Assistance, helping to secure a physician or an attorney)
- Assistance with reading and writing personal communications
- Reading and explaining routine written communications from the local Department of Public Welfare, federal Social Security Administration, Internal Revenue Service, public utilities, etc.
- Teaching sign language to deaf youth and hearing parents
- Community education about hearing loss and the needs of deaf and hard of hearing consumers
- Monthly meetings with the deaf community to identify their needs
- Education about the Americans with Disabilities Act
- Educating deaf consumers about available local adult literacy programs specifically designed for persons who are deaf
- Assistance in obtaining low interest loans for assistive technology
- Loaning assistive technology devices to consumers while their personal devices are being repaired

Source: Developed by LB&FC staff from information reported by nine Independent Living Service Programs.

report a high level of satisfaction with the services they receive and achieve significant life changes as a result of their services. The study also reported that nationally 35 percent of the consumers who needed alternative formats, such as Braille or audiotape and use sign language interpreters, report not receiving them. Of those who need a sign interpreter or cart reporter to communicate, nationally only 43 percent said that their center always provided one. Several Centers for Independent

Living staff advised us that interpreters are in short supply, and the Pennsylvania's Department of Labor and Industry's registry of interpreters does not include many interpreters from their service areas.

The national study recommended Centers for Independent Living provide greater outreach to consumers with sensory disabilities. It also recommended federal reporting forms be revised to gather information on access measures, including communications access for those with sensory disabilities.

Client Assistance Program: The Pennsylvania Client Assistance Program advised us that it has not received any complaints about independent living services from persons who are deaf or hard of hearing.

R. Several Community Agencies Provide Services for the Deaf and Hard of Hearing.

In addition to the services for the deaf and hard of hearing provided through independent living service programs and the Department of Labor and Industry's Office of Vocational Rehabilitation and the Office for the Deaf and Hard of Hearing (discussed in Findings B, P, and Q), several communities have established programs for the deaf and hard of hearing. Such programs include:

- Center for Community and Professional Services at the Pennsylvania School for the Deaf based in Philadelphia County
- Deaf-Hearing Communication Centre, Inc., based in Delaware County
- Deaf Services at Elwyn based in Delaware and Philadelphia Counties
- Creative Access based in Philadelphia County
- Center on Hearing and Deafness (CHAD) based in Chester County
- Berks Deaf and Hard of Hearing Services in Berks County
- Deaf and Hard of Hearing Services of Lancaster County
- Deaf Center Services of Lutheran Social Services of South Central Pennsylvania based in York County
- Center for Hearing and Deaf Services based in Allegheny County
- Center for Hearing and Deaf Services based in Westmoreland County, an affiliate of the Allegheny County program
- West Central Center for the Deaf based in Mercer County

These programs receive funds from a variety of sources. In addition to the local (e.g., United Way) and private (i.e., foundation grants and individual and business donations and fees) funding available to these programs, many receive reimbursements from public funding for specific services they provide to deaf and hard of hearing individuals.

The 11 community programs have developed based on locally identified needs. In some instances, they offer excellent best practice examples of how local communities may be able to enhance local services for the deaf and hard of hearing.

Regional Service Provision: In general, all of the community programs are regional service providers. For example,

- Center for Community and Professional Services, Deaf Services at Elwyn, and the Deaf-Hearing Communication Centre provide services for the five-county region in southeastern Pennsylvania.
- CHAD, based in Chester County, provides some services to Bucks, Delaware, Montgomery, and Philadelphia Counties as well as Delaware State.
- Berks Deaf and Hard of Hearing Services serves Berks, Lehigh, Montgomery, and Schuylkill Counties.
- Lutheran Social Services of South Central Pennsylvania serves a five-county area in south central Pennsylvania, with its Deaf Service Center primarily serving York, Adams, Cumberland, and Franklin Counties.
- The Center for Hearing and Deaf Services based in Allegheny County serves all of western Pennsylvania.
- The West Central Center for the Deaf based in Mercer County has been designated by the Department of Public Welfare to provide services in 23 counties, including Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren, Washington, and Westmoreland Counties.

Services Available Through the Community Agencies

There are both similarities and differences in the services provided through the community programs.

Information and Referral: All but one (Creative Access) of the eleven programs provide information and referral services. Typically, such services involve providing information to persons who are deaf and hard of hearing and referring them to federal, state, and local government and community programs that can assist with a specific need.

One of the programs specializes in assisting seniors who are deaf. Elwyn's Deaf Senior Network provides community outreach to the elderly deaf in the Delaware Valley. The program's full-time outreach director communicates in ASL and:

- conducts in-home needs assessments and helps develop care plans for elderly deaf,
- links them with recreational, community, and spiritual activities,
- provides educational information, and
- advocates on behalf of elderly deaf with healthcare and social service organizations.

Elwyn is uniquely positioned to provide such services. It houses at one of its offices the Deaf and Hard of Hearing Senior Citizens of Delaware Valley, Inc.,[1] which provides weekly educational, social, and recreational programs to deaf and hard of hearing senior citizens. Elwyn also provides space for the Deaf and Hard of Hearing Council of Southeastern Pennsylvania. Elwyn, moreover, operates the Valley View Assisted Living Community in Delaware County through a Medicaid waiver which is discussed in Finding S.

American Sign Language Classes: Nine of the eleven community programs regularly offer classes in ASL to the public to help families and friends and the community-at-large communicate with the deaf who sign and become familiar with deaf culture. Typically such classes are offered over a 10-week period. They are all non-credit offerings and do not count as credit for either high school or college degree requirements (see Finding C for information on college ASL course offerings). Exhibit 18 provides information on the nine community programs and their ASL classes.

[1]This senior center is part of the network of centers in Philadelphia supported in part by the Philadelphia Corporation on Aging, the local Area Agency on Aging, which receives federal and state funding through the Pennsylvania Department of Aging.

Exhibit 18

Community Programs Providing American Sign Language Classes

- Deaf-Hearing Communication Centre provides ASL classes as part of a Delaware County School District's adult continuing education program, including beginner, intermediate, and conversational skill levels. Classes are also taught at workplace locations and individual tutoring can be provided.
- Center for Community and Professional Service provides classes for parents of deaf children, the community, and on request for area businesses, churches, and schools.
- Center on Hearing and Deafness provides classes for the community.
- Berks Deaf and Hard of Hearing provides classes for the community.
- Deaf and Hard of Hearing Services of Lancaster County provides basic, intermediate, and advanced classes for the public as well as classes for community first responders, including the Lancaster City Police.
- Deaf Center of Lutheran Social Services of South Central Pennsylvania provides nine-week classes three times a year. Classes can also be scheduled for businesses and other interested organizations on request.
- West Central Center for the Deaf provides classes in collaboration with a program in Youngstown, Ohio.
- Center for Hearing and Deaf Services in Westmoreland County provides ASL instructions to the public and classes are available on a contract basis for any organization, school, or agency that desires to educate its employees, students, professional staff, or members. Individual instruction is also available.
- Center for Hearing and Deaf Services in Pittsburgh offers ASL classes for families and friends of youth who are deaf or hard of hearing twice a year. In addition to improving communication, classes are designed to foster understanding of Deaf Culture.

Source: Developed by LB&FC staff.

Interpreting Referral and Services: Eight of the eleven programs offer interpreting referral and interpreting services. Such services are provided by:

- Deaf-Hearing Communication Centre, Inc.,[2]
- Creative Access,
- Berks Deaf and Hard of Hearing,[3]
- Deaf and Hard of Hearing Services of Lancaster County,[4]

[2]Provides over 1,800 hours of interpreting service per month.
[3]Served over 8,000 individuals in 2004.
[4]Provided over 8,500 hours of service in 2004-05.

- Deaf Center of Lutheran Social Services of South Central Pennsylvania,
- Center for Hearing and Deafness in Westmoreland County,
- Center for Hearing and Deafness in Pittsburgh, and
- West Central Center for the Deaf.

Five of the eight programs (Berks Deaf and Hard of Hearing, the Deaf-Hearing Communication Centre, and the Center for Hearing and Deaf Services in Pittsburgh, Deaf and Hard of Hearing Services of Lancaster County, and the Center for Hearing and Deaf Services in Westmoreland County) have contracts with the Commonwealth to provide interpreter services for Commonwealth agencies. (See Finding T for more information on Commonwealth contracts for interpreting services.) They also have contracts with local entities providing state-funded services. The Center for Hearing and Deafness, for example, has contracts to provide interpreter services for county children and youth programs in Allegheny,[5] Armstrong, Cambria, Indiana, and Westmoreland Counties. It also provides such services on a vendor basis for Fayette and Washington Counties.

Income generated from interpreter services accounts for a substantial portion of some community agency budgets. One community agency, for example, that received funding from its local United Way, Area Agency on Aging, grants through its local legislator and donations and fund raising, received almost three-quarters of its revenues from fees generated by interpreter services.

Audiology Services and Assistance: Four of the eleven programs offer audiology services and assistance in obtaining low cost hearing aids, and some have expressed interest in developing such services. For example,

- Deaf Services at Elwyn's audiology department provides affordable quality services to individuals of all ages.
- Berks Deaf and Hard of Hearing Services does not provide audiology services, but does offer hearing screening for pre-school children. In 2004, the program completed almost 1,400 screens. The program also assists deaf and hard of hearing and senior citizens to obtain hearing aids through the national HEAR NOW programs (see Finding J), and started its own Hearing Aid Financial Assistance Program for persons whose incomes are somewhat above the eligibility criteria for the HEAR NOW program.
- Deaf and Hard of Hearing Services of Lancaster County provides audiology testing and provides hearing aids. It serves low income people in need

[5]The contract covers not only county children and youth but also aging and behavioral health programs.

of hearing aids through an agreement with the Starkey Foundation (see Finding J).

- Center for Hearing and Deaf Services in Pittsburgh provides audiology services, including hearing screening, audiological evaluation, hearing aid evaluation, and hearing aid sales and services. It offers new, reconditioned and recycled hearing aids, and participates with the Office of Vocational Rehabilitation, the National Ear Care Plan, and HEAR NOW.

Assistive Technology: Five of the eleven programs provide help with assistive technology.

- Center on Hearing and Deafness in West Chester offers demonstrations of assistive technology, including alerting devices, telephones, and assistive listening devices. It helps provide equipment loans as a local lending library for Pennsylvania's Assistive Technology Lending Library program (see Finding H for a list of all such local libraries). The program also provides information on financial assistance available for equipment purchase and assistance from volunteers in setting up equipment and in-home training. With support from a state grant, CHAD has been able to purchase improved communication equipment. As part of its services, its clients are allowed to use such equipment, including the agency's "video phone" (i.e., video relay system).
- Deaf Center of Lutheran Social Services of South Central Pennsylvania loans communication equipment to its clients.
- Deaf and Hard of Hearing Services of Lancaster County helps deaf and hard of hearing individuals identify equipment for their needs and helps them acquire and install it upon request. The program loans assistive devices, such as text telephones. It also offers free use of its computers and Video Relay Systems to those who cannot afford them.
- Berks Deaf and Hard of Hearing Services provides an assistive device demonstration center. It also provides small subsidies for certain assistive devices (e.g., Baby Cry alert systems) for low income clients.
- Center for Deaf and Hard of Hearing in Pittsburgh operates an Assistive Device Center. The Center displays assistive devices, including signaling and alerting devices, assistive listening devices, text telephones, and telephone amplifiers, and has trained staff skilled in sign language to assist consumers to identify the types of devices best suited to their needs. Customers who purchase equipment from the Center are allowed a 10-day trial period, and can return the purchased product within 10 business days for a full refund. In addition to serving individuals who are deaf and hard of hearing, the Center provides services for hospitals, nursing homes,

theatres, places of worship, educational facilities, and places of employment.

Personal Assistance Services: Four of the programs, in addition to providing information and referral services, provide assistance on an ongoing basis to deaf and hard of hearing persons with limited literacy and life skills. (Some of these services are similar to those offered by several independent living service providers discussed in Finding Q.)

- The Center on Hearing and Deafness in West Chester provides mental health outreach. The service involves communication assessments of identified consumers, assistance with communication, help with various social service programs, providing information on mental health issues as they relate to education, employment, medical needs, housing, financial and benefit issues, understanding stigma related to mental health and hearing loss, consumer support in meetings, and assistance in completing paperwork and applying for related services. The service is funded through the county's mental health and mental retardation program and is available at no cost to residents of Chester County.
- Deaf and Hard of Hearing Services of Lancaster County provides one-on-one assistance to individuals with problems that they cannot solve themselves. The types of problems "virtually run the gamut of life experience," according to the agency. The case manager also advises federal and state agencies on changes they can make to their procedures to better facilitate their access by persons who are deaf and hard of hearing.
- Berks Deaf and Hard of Hearing Services in addition to providing information and referral, assists a small group of senior citizens with basic life skills such as reading mail and explaining its content. Such older individuals were never taught sign language and require significant communication assistance.
- Center for Hearing and Deaf Services in Westmoreland County provides personal assistance to persons who are deaf and hard of hearing who require assistance with daily living activity. Such services include: filling out forms, making telephone calls, budgeting money, opening bank accounts, using public transportation, purchasing a home, filing income tax, obtaining a driver's license, obtaining insurance, and borrowing money.

Literacy and Life Skills Development Programs: Three of the programs offer structured group programs to help deaf and hard of hearing persons attain the ability to accomplish daily living activities independently. Some of these services are similar to those offered by state independent living service providers discussed in Finding Q.

- The Center for Community and Professional Services in Philadelphia offers literacy classes for deaf adults to improve their basic reading and writing skills. Such services are supported through public funding available through the Pennsylvania Department of Education.[6] Teachers are fluent in ASL and classes are offered at a variety of times to promote attendance. Driver education programs are also offered. Specialized sessions help prepare deaf adults to take the computer portion of the state driver's exam.
- The Center on Hearing and Deafness in West Chester provides adult literacy classes in coordination with the Center for Community and Professional Services. In addition, it provides Life Skills/Habilitation services to assist mentally retarded and developmentally disabled individuals who need help to acquire the skills required to live and work in the community. Life Skills/Habilitation sessions address health and wellness, personal hygiene, and other areas that promote growth and independence. These services are purchased on a fee-for-service basis by several southeastern county mental health and mental retardation programs for developmentally disabled individuals who are deaf and hard of hearing.
- The Center on Hearing and Deaf Services in Allegheny County operates a life skills development program for individuals who are deaf and mentally retarded and/or mentally ill. The program offers instruction and experiences to improve daily living skills and foster independence. All clients in the program have individualized plans designed to address their specific needs, and they are served by staff who communicate in sign language. Key skill areas covered in individualized client plans include: acquisition of reading, writing, and math skills; computer training; physical education including personal hygiene, nutrition, and health awareness; social skill development, including workplace conventions; money management; job interviewing, placement, and work attitudes; and Deaf Culture, including learning about American Sign Language and conversation etiquette in the deaf community. This program serves developmentally disabled individuals on behalf of the county mental health and mental retardation program and individuals transitioning from state mental hospitals. (See Finding S.)

Job Training and Placement: Three of the programs assist deaf and hard of hearing persons to be self-sufficient through job training and placement. The Center for Community and Professional Services provides job training and placement through its Deaf and Hard of Hearing Job Center that opened in 2000 with support from the Office of Vocational Rehabilitation. The Center provides job readiness, job placement, and job coaching. It also provides career awareness programs for deaf

[6]In Allegheny County, an adult literacy program specially designed to serve deaf adults is offered by Goodwill Industries.

and hard of hearing youth. In 2005, the Center on Hearing and Deafness in Chester County and the Deaf and Hard of Hearing Services in Lancaster County submitted proposals to the Office of Vocational Rehabilitation to provide job coaching.

Mental Health Services: Four of the eleven programs are involved in the provision of mental health services for deaf and hard of hearing persons. The four programs are similar in that they all provide mental health services delivered by ASL proficient staff. They vary, however, in the scope of services they provide.

The Center for Deaf and Hearing Services in Allegheny County in collaboration with Mercy Behavioral Health provides behavioral health services, including mental health services and drug and alcohol services, for deaf and hard of hearing persons in southwestern Pennsylvania. The program includes a psychiatrist and four behavioral health therapists who communicate in ASL and are trained to recognize the unique behavioral health needs of individuals who are deaf or hard of hearing. Services provided include psychiatric evaluations; medication management; individual, family, and couples' therapy; group therapy; personal assistance; and casework support. The annual report for 2002 indicates approximately 100 individuals were served in this program.

The program, while based in Allegheny County, serves many clients from outside of the county. According to staff from Mercy Behavioral Health at least one-third of those served are from outside Allegheny County.

Professional staff members from the Center's behavioral health program have worked closely with the Allegheny County Mental Health and Mental Retardation program to inventory all mental health and mental retardation services for deaf and hard of hearing individuals available in the immediate area, including private therapists who communicate in ASL. The inventory not only identifies available programs, their services, and capacities, but also the number of staff able to communicate in ASL and how they became proficient.

The Center also provides a Training and Social Rehabilitation program for deaf and mentally retarded/and or mentally ill adults, many of whom have multiple disabilities. In 2001, about 30 persons were served in this program. Recently, this program in cooperation with the Allegheny County Mental Health and Mental Retardation Program has expanded to serve deaf and hard of hearing persons who have been hospitalized at state mental hospitals and have been returned to the community through the Department of Public Welfare's Office of Mental Health and Substance Abuse Services Community Hospital Integration Program (CHIPP) (see Finding S).

The West Central Center for Deaf provides community based mental health services to deaf and hard of hearing families that include outpatient counseling, and

psychological/psychiatric services in Mercer County. Behavioral Health Rehabilitation Services are provided in Butler, Lawrence, Mercer and Venango Counties. The program also assists families to obtain such mental health services in other counties where it offers deaf support services. The program has two staff members who communicate using ASL, including a masters level trained clinician.

As noted earlier, the Center on Hearing and Deafness in Chester County offers mental health outreach. Such services and other assistance are provided by ASL fluent staff through a contractual arrangement with a county mental health and mental retardation program Base Service Unit.

The Center for Community and Professional Services makes available space for Milestones Community Healthcare, Inc., to provide outpatient mental health services one day a week. Such services are delivered by trained clinicians who are fluent in ASL. (See Finding S for additional information on the Milestones program.)

Youth and Recreation Programs: Recognizing the need for deaf and hard of hearing youth to interact socially with members of the deaf community, the Allegheny County's United Way funded the Center for Hearing and Deaf Services to provide deaf youth an opportunity to participate in a variety of weekend recreational and cultural activities. This program also attempts to break down communication barriers by offering ASL classes to families and friends of deaf youth. Recreational activities offered through the program include bowling, ice skating, roller skating, swimming, miniature golf, baseball games, and seasonal activities. Cultural activities include attendance at open captioned movies, touring local museums and historical centers, ASL interpreted story telling, and attending ASL interpreted theatre performances.

Berks County Deaf and Hard of Hearing Services provides social activities for all ages and some social events targeted to school age youth. In the past, the program offered a two week summer day camp for deaf youth for which it provided interpreter services. In cooperation with the Police Athletic League it also offered after school recreation center programs for 25 deaf and hard of hearing youth. The program was discontinued when volunteer interpreters were no longer available. The Berks County program would like to see additional opportunities for recreational programming for deaf and hard of hearing youth.

Creative Access in Philadelphia recognized the importance of culture and the arts in improving the quality of life of the deaf and hard of hearing and reducing their social isolation when it formed in 1992. The program advocates for cultural events to be accessible to the deaf and hard of hearing and provides opportunities for performers who are deaf to showcase their talent at performances in American Sign Language.

Professional Consultation and Services: Some of the community programs have considerable expertise in health and social services and deaf awareness and have staff who can communicate directly with deaf children and adults. The Center for Community and Professional Services, for example, provides independent evaluation services for the Office of Vocational Rehabilitation, school districts, parents, and lawyers. Such evaluations are conducted by professional staff fluent in ASL and knowledgeable about deafness and Deaf Culture.

The Center also contracts with the Philadelphia Department of Human Services to provide social work services to families with a deaf member when a member is at risk for abuse or neglect. It also provides an AIDS Prevention Education Program.

Volunteer Programs: Many of the community programs receive support from volunteers. One, however, is especially noteworthy. The Center on Hearing and Deafness (CHAD) has recruited a large number of volunteers from a five-county region to serve the deaf community. Some volunteers use American Sign Language and others do not. All of its volunteers, however, must complete an application and a criminal history report. If they are working with consumers under 18 years of age, they must also have a current child abuse clearance. All volunteers are trained, and special training is provided to those working with the deaf in prisons.

CHAD volunteers serve in its Senior Friends, Hospice Support, Prison Visitors, and Service Friends Programs. The Senior Friends Program provides opportunities for volunteers to visit with seniors in nursing facilities, assist seniors with mail, teach them how to use their computer, or drive them to doctors' appointments. The Hospice Support Program provides volunteers to spend time talking with deaf patients or helping families receiving end of life care. The Prison Visitor's Program provides opportunity for volunteers to advocate for the needs of deaf persons in prison, assist with tutoring, and address other needs of deaf prisoners. The Service Friends Program provides CHAD with office support staff and help with fundraising. It also provides volunteers opportunity for tutoring and installing assistive devices in homes.

CHAD recruits volunteers in a variety of ways, including through working with local churches. The Robert Wood Johnson Foundation provided a grant to CHAD to work with several churches in Chester County and the Deaf Apostolate of Philadelphia to bring together people of different faiths to serve the deaf and hard of hearing.

S. Pennsylvania Provides an Expansive Array of Publicly Funded Health and Human Services for Those Meeting Program Eligibility Requirements, Including the Deaf and Hard of Hearing.

Pennsylvania has an expansive array of publicly funded health and human services. Such services provide income and medical assistance, and human services targeted to children who are abused and neglected, the elderly and the disabled, and those with serious mental and substance abuse problems. Most such programs are targeted to those with low incomes and those with substantial levels of disability or service needs, and have eligibility requirements associated with income and level of functional and clinical impairment.

Such programs serve deaf and hard of hearing persons if they meet program eligibility requirements. The major state programs also provide special supports to assist deaf and hard of hearing persons in accessing services.

The Departments of Aging, Health, and Public Welfare are the key state agencies involved in the administration of most publicly funded health and human services programs (other than the education and vocational services discussed in other sections of this report). Typically, these state agencies do not directly provide services to the public. Rather their program services are available through county and locally administered programs that in turn may rely on private agencies and service providers.

State Agency Delivery of Health and Human Services

The Pennsylvania Department of Public Welfare is responsible for several publicly funded health and human service programs, and is one of a limited number of executive branch agencies that have staff involved in the direct delivery of health and human services to clients. Such direct client services[1] are provided through DPW's:

- Office of Income Maintenance County Assistance Offices,
- Office of Mental Retardation Public Intermediate Care Facilities, and
- Office of Mental Health and Substance Abuse Services State Mental Health Centers.[2]

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[1]The Department of Public Welfare (DPW) indirectly serves clients in several ways including through service licensure and approval processes for services requiring an approval or license in order to operate in the Commonwealth. The processes used by DPW to assure compliance with relevant federal requirements as part of such processes are described later in this section for children and youth service providers. Such processes, however, apply to mental health, mental retardation, and other services requiring state approval or licensure.
[2]The Department of Public Welfare's Office of Children, Youth and Families also operates certain residential detention programs for youth adjudicated by the juvenile courts. The Department of Public Welfare advised us deaf and hard of hearing youth are not in such programs.

County Assistance Offices: County assistance offices (CAOs) are located in each of the state's 67 counties, with larger counties having multiple service sites. In Pennsylvania, they are responsible for determining financial eligibility for:

- Cash Assistance,
- Food Stamps, and
- Medical Assistance.

Cash Assistance: The Cash Assistance Programs provide direct money payments, child care, and supportive services to eligible individuals to help meet basic living expenses. Such programs include the Temporary Assistance for Needy Families (TANF), General Assistance (GA), State SSI Supplemental Payment,[3] and State Blind Pension (SBP) programs.[4] These programs are financed with both federal and state funds, with the exception of the SSI Supplemental Payment and State Blind Pension Programs which are financed entirely with state dollars.

TANF and GA recipients are required to have an Agreement of Mutual Responsibility detailing how the recipient will achieve self sufficiency. All adult recipients are required to perform an intensive job search, and subsequently are required to participate in one or more work-related activities, unless they qualify for a good cause or work exemption, or qualify for an extension based on hardship. Such work-related activities include job readiness/preparation activities, subsidized employment, work experience, on-the-job training, workfare or community service, job skills training, general education, vocational education, and English as a second language.[5] Federal law established a 60 month lifetime limit for adults receiving TANF cash benefits, and certain state GA benefits are also limited.

Through the Disability Advocacy Program (DAP), the county assistance offices are involved in assisting mentally and physically disabled individuals to establish eligibility for federal disability benefits, including SSI. DAP helps persons unable to work because of disability to complete the federal Social Security disability benefits process, including collecting the necessary information to complete the application and providing documentation to support the disability claim.

Since 1990, the Office of Income Maintenance has had operational policies in place concerning access to county assistance offices programs by deaf and hard of

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[3]This program provides a state cash assistance supplement to monthly federal Social Security Income (SSI) benefits. For the most part, financial eligibility for the state supplement is determined by the federal Social Security Administration and not state county assistance offices.
[4]In FY 2005-06, over $650 million in federal and state funds were available for the cash assistance component of these programs. Such funding assists on average each month an estimated 236,000 TANF, 48,000 GA, and 500 State Blind Pension recipients.
[5]The Pennsylvania Department of Public Welfare administers certain of these employment and training programs in conjunction with programs of the Department of Labor and Industry and the Pennsylvania Department of Education.

hearing individuals. The 1990 policy provided guidance for CAOs on how to effectively communicate with persons who are deaf and hard of hearing and stated:

> The key to communication is to find out which combination of techniques works best with each deaf person. We cannot assume that every deaf/hearing impaired individual can read and write at a high enough level for effective written communication. We cannot assume that each one can speechread (lipread). We cannot assume that because someone knows some sign language, they can communicate effectively with a hearing impaired individual, since there are different levels of this skill and many modes that may serve as the primary means of communication (American Sign Language, signed exact English, oral, cued, and gestures).
>
> We cannot assume that a deaf or hearing impaired individual has access to interpreter services, nor should we expect friends or family members of the client to serve as interpreters. We must respect their rights of confidentiality and choice. If the client requires interpreter services, it is the responsibility of the Department to provide it. [6]

The policy noted that staff with sign communication skill and interpreters from outside of the CAO can be used to provide communication assistance to a deaf client. The policy further emphasized that a CAO staff person providing such communication assistance cannot be involved in any adverse actions involving the assisted client. The policy directed each CAO to develop a plan to ensure access to its services and discuss the policy's requirements with staff.

Consistent with the 1990 policy, local CAOs developed a variety of approaches to provide access to CAOs for the deaf and hard of hearing. In 2000, 52 of the 67 CAOs responded to a survey of their procedures. Most (including CAOs from the state's most populous counties) reported having limited contacts with deaf and hard of hearing clients.[7] They also reported relying on the Department of Labor and Industry's registry of interpreters or utilizing contracts with local community interpreter referral agencies to secure interpreter services when required for effective communication. Several, especially those in rural areas, indicated certified interpreters were not available in their areas when needed. In addition,

- Eight CAOs identified staff able to communicate directly with the deaf and hard of hearing if needed.

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[6] Income Maintenance Bulletin, # 99-90-17, *Access to Public Assistance by Deaf and Hearing Impaired Individuals.*

[7] The federal Social Security Administration, not the state Department of Public Welfare, administers the Supplemental Security Income and other financial assistance programs for the deaf and hard of hearing who are disabled.

- Eight CAOs identified other human service agencies with staff able to communicate directly with the deaf and hard of hearing if needed.
- Five CAOs had text telephones (TTY/TDD).[8]
- Five CAOs allowed clients who choose to use family and friends to communicate on their behalf with CAO staff.
- One CAO used writing and lipreading to communicate with hard of hearing clients who do not communicate using sign language.

In 2002, the U.S. Department of Health and Human Services Office for Civil Rights (OCR) completed a routine compliance review of county assistance offices with respect to their access by persons with limited English proficiency and persons with disabilities, including the deaf and hard of hearing. The OCR based its findings and recommendations on reviews conducted at four CAOs (Lancaster, Lehigh, Northampton, and Philadelphia).

The OCR review found not all county assistance office caseworkers are aware of DPW policies and how to effectively communicate with deaf and hard of hearing clients. OCR noted advocates for the disabled had reported CAO caseworkers are not sufficiently knowledgeable about the use of the PA Relay Service or the use of available text telephones (TTY/TDD). As a result, deaf and hard of hearing clients could not communicate with their caseworkers by telephone and were forced to appear personally at the county assistance office. The OCR recommended that DPW train all CAO caseworkers on effective methods of communicating with deaf and hard of hearing individuals during face-to-face encounters and those conduced via telephone.

Advocates also reported to OCR that CAO caseworkers are not sufficiently aware of how to secure sign language services. The OCR review found additional operational procedures were required, beyond those in the Office of Administration's Management Directive on procurement of interpreting services (see Finding E), to guide caseworkers on steps to follow to secure necessary interpreter services.

In response to OCR's recommendations, the Department of Public Welfare's Office of Income Maintenance training unit consulted with the Office for the Deaf and Hard of Hearing and developed an Income Maintenance Standard Training Program (IMSTP) e-learning module and training facilitator's guide on services for deaf and hard of hearing clients. The module is required training for income maintenance staff, and can be used for stand-alone sessions or for training delivered under the supervision of a CAO trainer. Each module has a registration form at the end to document completion of the training. To assure ready staff access to information, the DPW also posted on its website information on auxiliary aids/assistive

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[8]Note: The PA Relay Services allows deaf and hard of hearing persons with TTY/TDD phones to communicate with hearing persons without such phones. (See Finding F.)

listening devices; facts on hearing loss; and how to use an interpreter, a TTY/TDD, and the PA Relay Service.

CAO worker handbooks and operations memoranda also include more detailed information on service access. For example, cash assistance benefits are typically provided through direct deposit or electronic benefit payments processed through the State Treasury. DPW has provided its workers with information on the State Treasury's voice telephone number for clients to call for information on the status of their electronic benefit payment and the TTY number for deaf clients.

In 2003 and 2004, the Office of Income Maintenance revised its existing policy on assisting deaf and hard of hearing clients to communicate with the CAO. The most recent policy states "deaf or hearing impaired clients must be asked which method of communication is preferred, and their response noted in the case record."[9] If the deaf and hearing impaired person does not use sign language, the CAO is to communicate in writing with the client as to what form of communication is feasible and preferred.

When the client uses sign language, the policy requires the CAO to follow Management Directive 205.32 (see Finding E). The policy also provides information on the Department of General Services contract for sign language interpreter/transliterator services (see Finding T).

The 2004 policy states CAOs should encourage the use of certified interpreters, but notes clients who prefer to use family members or other individuals of their choice must be allowed to do so, unless the CAO has reason to believe that the chosen individual is not adequate to assure effective communication or is otherwise inappropriate.[10] The policy issued in 2003 had prohibited the use of other than certified sign interpreters. Such a requirement, however, conflicted with the requirements of relevant federal statutes and regulations, including Title VI of the Civil Rights Act and the Americans with Disabilities Act (see Finding D).

The 2004 policy requires CAOs to develop and disseminate to all employees local procedures that address:

- Designating a coordinator (individual name and classification) responsible for policy implementation.
- Identifying clients in need of hearing-impaired services.
- Obtaining and paying for a certified interpreter.
- Obtaining communication assistance other than certified interpreters.

[9]Operations Memorandum-Administrative, OPS040103, April 14, 2004.

[10]In such cases, CAOs are required to document the offering of a certified interpreter, and note that the client preferred to use his/her own interpreter.

- Training for clerical and caseworker staff who may be in communication (either face-to-face or via telephone) with deaf and hard of hearing clients.

Food Stamps: In addition to determining financial eligibility for cash assistance programs, county assistance offices are responsible for determining eligibility for the United States Food Stamp Program—the nation's largest federal nutrition program for low-income persons.[11] The above noted policies that apply to CAOs assisting deaf and hearing impaired clients to establish eligibility for cash assistance programs also apply to the Food Stamp and Medical Assistance programs.

Medical Assistance: Pennsylvania's Medical Assistance program is the most significant source of public financial support for health and human services in the Commonwealth. In FY 2006-07, it will account for about 64 percent of the Department of Public Welfare's $22.2 billion operating budget. In Pennsylvania, the Medical Assistance program provides physical and behavioral health care for low income persons and others without adequate health insurance through its federally approved State Plan. Medical Assistance provides public financing for:

- physical health, behavioral (mental health and drug and alcohol) health, and rehabilitation services provided by hospitals, clinics, doctors, home health, and other licensed practitioners and programs,
- state mental health centers,
- state mental retardation centers,
- private intermediate care facilities for the mentally retarded,
- private and county nursing and rehabilitation facilities,
- home and community based care for certain elderly, mentally retarded, and physically disabled individuals (through waivers operated by Area Agencies on Aging; county Mental Health and Mental Retardation programs; and the Department of Public Welfare, Office of Social Programs, Bureau of Home and Community-Based Services involving certain centers for independent living),
- assisted living for the deaf and deaf-blind in need of nursing facility level care (through the Elwyn Waiver discussed below),
- community care for those who require technology to sustain life or replace a vital function (through the Michael Dallas Waiver),

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[11]The Food Stamp program provides benefits (with electronic debit cards) that allow eligible participants to purchase food from eligible retailers. Program benefits are entirely federally funded and as such are not included in the Commonwealth's budget. The United States Department of Agriculture (USDA) reports "the program served about 21.3 million low-income Americans on average each month in fiscal 2003, with a USDA outlay of about $23.9 billion."

- community care for people with Acquired Immune Deficiency Syndrome (AIDS) (through the AIDS Waiver),
- services for children and youth in out-of-home placements,
- early intervention services for children under three with a physician diagnosis of a developmental disability and need of facility level care (see Finding K), and
- services for pre-school and school age children in special education programs (discussed in Finding O).

Most Department of Public Welfare (DPW) program offices rely on Medical Assistance to help provide services. Almost all DPW program offices, therefore, advised us that procedures in place in the Medical Assistance program to assure service access for those with special needs are also important ways in which their programs assure access to services for deaf and hard of hearing clients. During the course of this study, however, we found many individuals assisting deaf and hearing impaired individuals had limited understanding of Pennsylvania's Medical Assistance program, its services, and how they are accessed. To understand how those with special needs are assisted in accessing Medical Assistance services, it helps to know the "basics" about this major federal and state financed program.

The federal Social Security Act [12] established the Medicaid program as a federal and state partnership in which states that choose to participate can receive federal matching funds for medical and rehabilitation services provided to eligible individuals by qualified providers. States electing to participate in the federal Medicaid program must develop a State Plan identifying services available through their programs, their scope of benefits (i.e., amount, frequency, and duration of service), and those eligible to receive each State Plan service. In their State Plans, participating states must include coverage for all "federally mandated" services for "categorically eligible" individuals. Such individuals include persons with very low income and few resources, and all those receiving federal SSI payments (see Appendix F). Exhibit 19 lists the federally mandated Medicaid services.

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[12] 42 U.S.C. §3301 et seq.

Exhibit 19

Mandatory Medicaid State Plan Services for Categorically Needy Eligibility Groups*

- Inpatient hospital (excluding inpatient services in institutions for mental disease).
- Outpatient hospital including Federally Qualified Health Centers (FQHCs) and if permitted under state law, rural health clinic and other ambulatory services provided by a rural health clinic which are otherwise included under states' plans.
- Other laboratory and x-ray.
- Certified pediatric and family nurse practitioners (when licensed to practice under state law).
- Nursing facility services for beneficiaries age 21 and older.
- Early and periodic screening, diagnosis, and treatment (EPSDT) for children under age 21.[a]
- Family planning services and supplies.
- Physicians' services.
- Medical and surgical services of a dentist.
- Home health services for beneficiaries who are entitled to nursing facility services under the state's Medicaid plan.
  - Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when there is no home health agency in the area.
  - Home health aides.
  - Medical supplies and appliances for use in the home.
- Nurse mid-wife services.
- Pregnancy related services and service for other conditions that might complicate pregnancy.
- 60 days postpartum pregnancy related services.

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*Medicaid eligibility groups classified as categorically needy are entitled to the following services unless waived under section 1115 of the Social Security Act.

[a]Under the EPSDT program, states are required to provide all medically necessary services eligible for federal Medicaid reimbursement even if the state has not included the service in its State Medicaid Plan. Such optional federal Medicaid services are found in Exhibit 20.

Source: Center for Medicaid Services, *Medicaid-At-A-Glance 2005.*

The federal Medicaid program also provides federal financial participation for "optional" Medicaid services. States decide if they will provide such services through their Medicaid programs. Exhibit 20 lists the optional federal Medicaid services. As noted in Finding O and Exhibit 19, when EPSDT screening identifies a needed federal Medicaid optional service, the state must make the benefit available

Exhibit 20

Federal Medicaid Optional Services

- Other Licensed Practitioners
  - Chiropractors
  - Podiatrists
  - Optometrists
  - Psychologists
  - Nurse Anesthetist
- Private Duty Nursing
- Physician Directed Clinic Services
- Home Health Therapies
  - Physical
  - Speech and Language
  - Occupational
  - Audiology Services
- Dental
- Physical Therapy
- Occupational Therapy
- Therapies for Speech, Hearing, and Language Disorders
- Prescribed Drugs
- Dentures
- Prosthetic Devices
- Eyeglasses
- Diagnostic Services
- Screening Services
- Preventive Services
- Rehabilitative Services
  - Mental Health Rehabilitation/Stabilization
  - Other
- Inpatient Hospital/Nursing Facility/ICF Services 65 and Older in IMD
- Intermediate Care Facility Services for MR
- Inpatient Psychiatric Services Under Age 21
- Personal Care Services
- Case Management
  - Targeted Case Management
  - Primary Care Case Management
- Hospice Care
- Respiratory Care for Ventilator Dependent
- PACE (All Inclusive Care for the Elderly)
- Other Medical or Remedial Care Services
  - Religious (Non-Medical) Health Care Institution
  - Transportation Services (Not Administrative)
  - Nursing Facility Services Under Age 21
  - Emergency Hospital Services in Non-Medicare Participating
  - Critical Access Hospital

Source: Center for Medicaid Services, *Medicaid-At-A-Glance*, 2005.

to the eligible child even if the service is not included in the state's approved Medicaid plan. [13] Pennsylvania's program also provides services through federal Medicaid waivers. Such waivers permit provision of federal Medicaid services beyond the scope of benefits included in the approved State Plan and services not included in the list of Federal mandatory and optional services (Exhibits 19 and 20).

In order for service providers to receive Medical Assistance payments for their services, they must be enrolled in the Medical Assistance program and meet standards for such enrollment. Over 65,000 providers are enrolled in the Pennsylvania Medical Assistance program, and are reimbursed in accordance with program schedules and rates of reimbursement.

Access to Medical Assistance Services: Those eligible to receive Medical Assistance State Plan services access such services in several different ways. Each access pathway has supports available to assist those with special needs, including those with limited English proficiency and those who communicate through sign language, to obtain the benefits for which they qualify.

In the past, the "fee-for-service" system has served as the primary pathway for accessing Medical Assistance services. Under Medical Assistance "fee-for-service," a Medical Assistance enrollee can go to any enrolled provider to receive service, and the provider bills the Medical Assistance Program for the service provided based on established fee schedules. When the medically necessary service requires prior authorizations, the provider must obtain such authorization from the Department of Public Welfare's Office of Medical Assistance.

Increasingly, Medical Assistance services are provided through Medicaid managed care organizations (MCOs) rather than through the "fee-for-service" system. When services are provided through an MCO, clients access care through the MCO and the network of providers it has "credentialed" to serve its Medicaid plan enrollees. When a Medical Assistance client requires a service that must be prior authorized, the provider must obtain such authorization from the enrollee's Medicaid managed care organization.

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[13] In addition to providing mandatory and optional Medicaid medical and rehabilitation services, State Medicaid programs pay Medicare premiums, deductibles, and coinsurance for qualified Medicare beneficiaries and other Medicare beneficiaries with income greater than 100 percent of the federal poverty level but less than 135 percent of the federal poverty level. They pay Medicare Part A premiums for certain disabled individuals who lose Medicare coverage because of work when their income is below 200 percent of the federal poverty level and their resources are no more than twice the standard allowed under SSI. Further, state Medicaid programs, like Pennsylvania's, provide medical coverage for working disabled persons between the ages of 16 and 65 whose income and resources are greater than allowed under the SSI program. Qualified Medicare beneficiaries are individuals whose income is at or below 100 percent of the federal poverty level and whose resources are at or below the standard allowed under SSI. In addition to older persons enrolled in the federal Medicare health insurance program, qualified Medicare beneficiaries may also include certain disabled individuals who qualify for Social Security Disability Insurance (SSDI) and receive health care under the federal Medicare Program.

Currently, Pennsylvania's Medical Assistance program typically[14] provides physical health care through managed care arrangements. Such arrangements include mandatory and voluntary managed care plans and a primary care case management program.

HealthChoices is the name of the Pennsylvania Medical Assistance program's mandatory managed care program. For the most part, those eligible for Medical Assistance in designated geographic areas must enroll in one of several available Medicaid managed care plans to receive physical health services.[15] *HealthChoices* plans provide such individuals with a Primary Care Provider (PCP) or "medical home," to promote service continuity, ensure access to a practitioner, improve access to specialists, and encourage early detection and preventive medicine. Exhibit 20 shows areas in the state where *HealthChoices* has been implemented, and the Medicaid managed care plans available to Medical Assistance recipients in each area. Exhibit 21 lists the physical health services available through such plans.

Medical Assistance clients living in areas that do not have *HealthChoices* can choose to voluntarily enroll in managed care plans that contract with DPW to serve their areas. Since 2005, if such clients do not choose to enroll in an available voluntary managed care plan, or a voluntary plan is not available, they are enrolled in *AccessPLUS*.

AccessPLUS is an enhanced Primary Care Case Management Program. It provides MA recipients the opportunity to select a primary care practitioner who is then responsible for their routine health care and referrals to specialists when necessary. The program includes a disease management component that identifies those with chronic disease (asthma, diabetes, chronic obstructive pulmonary disease, coronary artery disease, and congestive heart failure) and assists with self management of the condition to improve health status.

<u>*Special Services for Communication Access:*</u> The Department of Public Welfare requires all *HealthChoices* physical health managed care plans to have TTY/TDD numbers. It also requires such plans to operate a Special Needs Unit to assist members with special needs in obtaining and coordinating covered plan services.[16]

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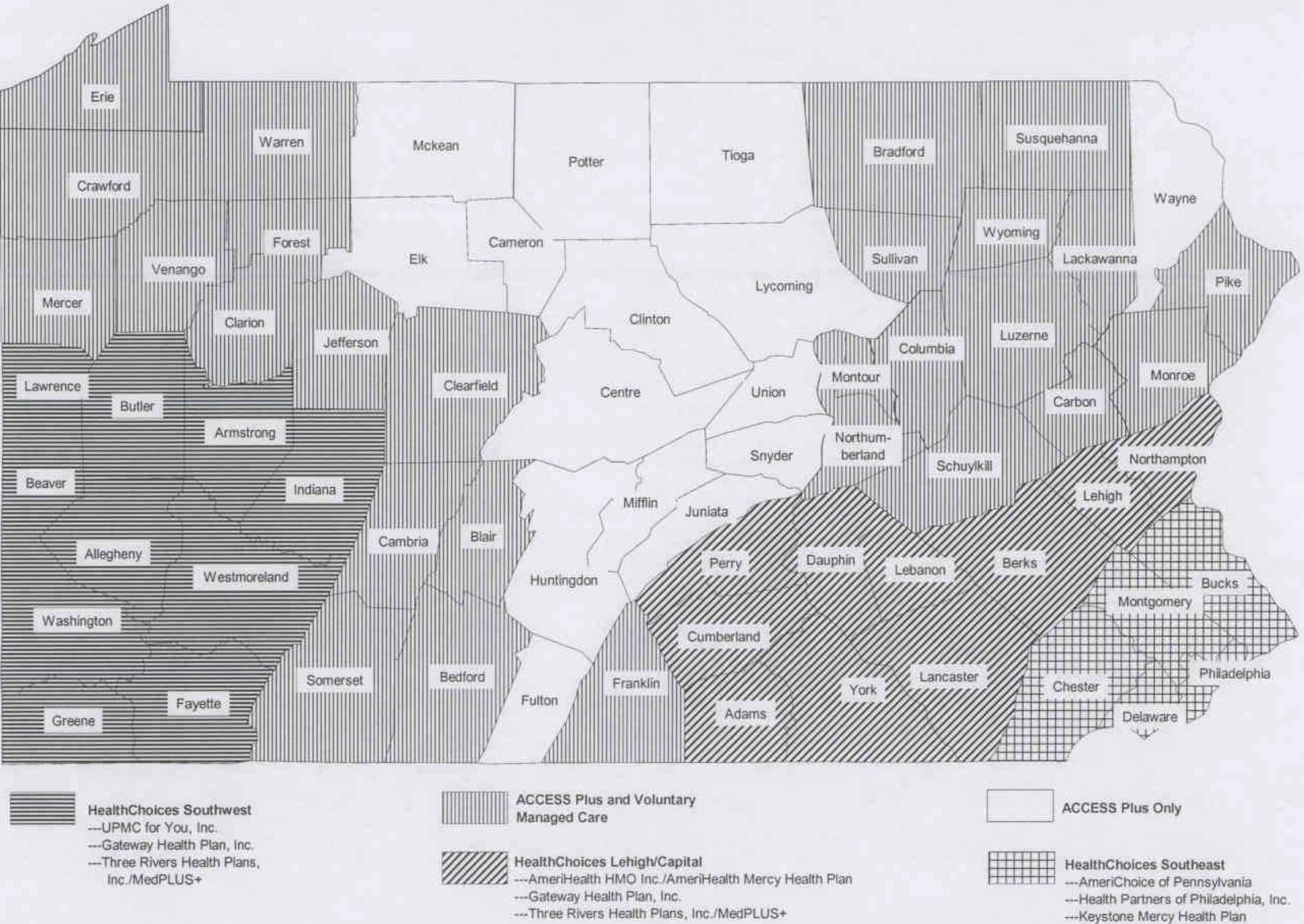
[14]Medical Assistance residents in nursing facilities for extended stays, participants in certain Medicaid waivers and certain individuals eligible for Medicare and Medicaid continue to receive Medical Assistance services through the Medical Assistance fee-for-service system.

[15]The *HealthChoices* program utilizes an Enrollment Assistance Program contractor to provide outreach to recipients, educate them regarding the benefits of participating managed care plans, and assist with the selection of a Primary Care Provider (PCP). Enrollment specialists are trained to address special needs of Medical Assistance recipients with special needs.

[16]DPW's website includes *Pennsylvania Medicaid Managed Care Organization (MCO) Directory*, April 2006, which lists TTY numbers for all Physical *HealthChoices* Plans and Special Need Units.

Exhibit 20

Physical Health Managed Care Plans and the Counties They Serve as of November 2005



Source: Developed by LB&FC staff from information provided by Department of Public Welfare, Office of Medical Assistance Programs.

Exhibit 21

Physical Health *HealthChoices* Services

- Ambulance Transportation
- Ambulatory Surgical Center Services
- Birth Center Services
- Breast Cancer Screening
- Certified Registered Nurse practitioner Services
- Children's Tertiary Care Hospitals
- Chiropractors Services
- Clinic and Emergency Room Services
- Complaint and Grievance Process
- Comprehensive Package of Services for Pregnant Women
- Coordination of Care for In-Plan Services
- Coordination of Care for Out-of-Plan Services
- Dental Services
- Early and Periodic Screening, Diagnosis and Treatment Services for individuals 21 years old or younger. This includes physical exams, hearing screenings and immunizations.
- Emergency Services
- Enhanced Prenatal and Postpartum Services for Qualified MA Recipients
- Facilities for High-Risk Deliveries and Neonates
- Family Planning Clinic Services
- Funeral Directors Services
- Health Education and Counseling Services
- HIV/AIDS Services
- Home Health Agency Services
- Hospice Services
- Inpatient Hospital Services – Includes emergency room psychiatric services except for evaluations for voluntary or involuntary commitment (see Exhibit 23)
- Long-Term Care Facilities
- Medical Supplies
- Midwives Services
- Nursing Facility Services for up to 30 days if a member is admitted to a nursing facility
- Nursing Services
- Obstetrical and gynecological Services
- Optometrists Services
- Organ Transplants
- Outpatient Laboratory Services
- Pharmaceutical Services[a]
- Physical Therapy
- Physicians Services
- Podiatrists Services
- Portable X-Ray Services
- Post Stabilization Services
- Rehabilitation Facilities
- Renal Dialysis Services
- Rural Health Clinic Services
- Special Needs Unit to deal with issues relating to members with special needs
- Specialists
- Specialty Clinics
- Targeted Case Management Services
- Trauma Centers
- Twenty-Four Hour, Seven Days-A-Week Dedicated Hotline to Answer Questions

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[a]Includes drugs prescribed by behavior *HealthChoices* providers except for those listed in Exhibit 23.

Source: Department of Public Welfare's Standard Physical *HealthChoices* Agreement, effective January 1, 2005.

Physical Health *HealthChoices* special needs units are required to assist enrollees with special needs. Such assistance includes helping enrollees who are deaf and hearing impaired and those with limited English proficiency to obtain communications assistance, including interpreter services when necessary. The Department's contract with the physical health *HealthChoices* plans further requires that such plans have "procedures in place that ensure the proactive identification and outreach to members with special needs who may not self-identify as having a special need."[17, 18]

AccessPLUS enrollees and those receiving service through fee-for-service also have access to special needs services. Information on how to access special needs units and special services is included in the consumer handbooks provided to each Medical Assistance client.

In addition to physical health services, Medical Assistance provides certain mental health and drug and alcohol services. Such services are provided through Behavioral Health *HealthChoices* managed care organizations in parts of the state and on a fee-for-service basis in the rest of the state.

Medicaid Behavioral Health *HealthChoices* differs from physical health *HealthChoices* in that there is only one designated behavioral health managed care organization (MCO) for each county, and Medical Assistance recipients are automatically enrolled in such MCOs. Currently, about 30 counties have Medicaid Behavioral Health *HealthChoices* programs, and the Department of Public Welfare anticipates providing behavioral health services statewide through managed care starting January 1, 2007. Exhibit 22 identifies the counties and the Medicaid behavioral health managed care organization that serves each county. Exhibit 23 lists the behavioral health services provided through the plans.

Because of Pennsylvania counties' statutory role in administering mental health and mental retardation programs and mental health commitment proceedings (see the discussion below), counties meeting certain criteria are allowed the right to manage the Medicaid behavioral health managed care organization contract.[19] Thus far, one county (Greene) has elected not to manage the Medicaid behavioral health plan contract.

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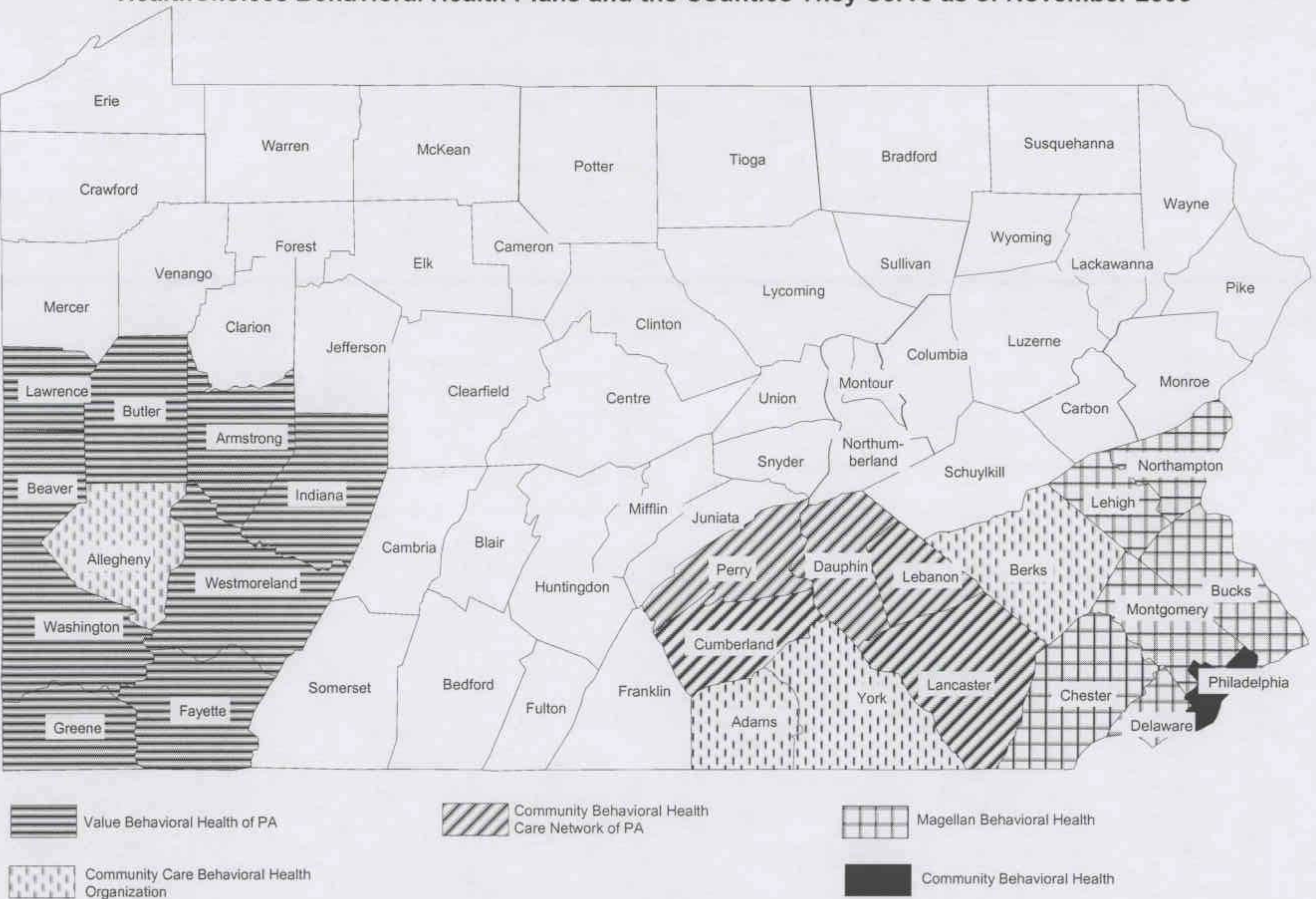
[17]Contract provisions 1/01/05 Exhibit NN.

[18]The Department of Public Welfare requires *HealthChoices* physical health plans to track and report certain information. In 2004, such Medical Assistance managed care organizations reported they identified 111 consumers under 21 with hearing impairments and 98 who were over 21. The MCOs also reported to 20 consumers under 21 years of age and 21 over 21 years of age made contacts with their MCO using TTY.

[19]When a county elects not to manage the Medicaid Behavioral Health *HealthChoices* contract, the Department of Public Welfare competitively bids the contract and selects the behavioral health managed care organization that serves the county.

Exhibit 22

HealthChoices Behavioral Health Plans and the Counties They Serve as of November 2005



Source: Developed by LB&FC staff from information provided by Department of Public Welfare, Office of Medical Assistance Programs.

Exhibit 23

Medicaid Behavioral Health Services

Mental Health

- Emergency room service evaluations for voluntary or involuntary commitment pursuant to the 1976 Mental Health Procedures Act
- Inpatient psychiatric hospital services, except when provided in a state mental hospital
- Psychiatric partial hospitalization services
- Psychiatric outpatient clinic, licensed psychologist, and psychiatrist services
- Clozapine support services as well as laboratory and diagnostic studies and procedures ordered by behavioral health physicians
- Crisis intervention services (telephone and in-home capability)
- Targeted mental health case management (intensive case management and resource coordination)
- Subject to contract amendment, psychiatric rehabilitation services (site-based and mobile programs) for adults will become an in-plan service during the contract period.

Drug and Alcohol

- Inpatient drug and alcohol detoxification
- Inpatient drug and alcohol rehabilitation
- Non-hospital residential detoxification, rehabilitation and half-way house services for drug/alcohol abuse or dependence
- Outpatient drug and alcohol services, including Methadone Maintenance Clinic
- Methadone and LAAM (Levo-Alpha-Acetyl-Methadol) when used to treat narcotic/opioid dependency and dispensed by an in-plan drug and alcohol services provider

Children and Youth Only

- Family-based mental health services for children and adolescents
- Behavioral health rehabilitation services identified through EPSDT for children and adolescents with psychiatric, substance abuse or mental retardation disorders
- MH residential treatment services for children and adolescents in facilities that are Joint Commission for the Accreditation for Healthcare Organizations (JCAHO) accredited and non-JCAHO accredited

Supplemental mental health and drug and alcohol services may be made available to members pursuant to agreements between the BH-MCO and the county mental health, mental retardation, and drug and alcohol authorities. Supplemental services are not part of the capitated, in-plan benefit package, and are not required to be provided. The supplemental benefits may include:

- supported living services;
- adult mental health residential treatment (including long term structured residences and residential treatment facilities for adults);
- community residential rehabilitation (CRR) services;
- family education and support services; e.g., respite care;
- assistance in obtaining and retaining housing, employment, and income support services to meet basic needs;
- continuous community based treatment teams;
- psychiatric rehabilitation services with in-home capability and clubhouses;
- consumer operated/directed self-help programs; e.g., drop-in centers, 12-step programs, double trouble groups;
- therapeutic recreation and companion programs; e.g., Compeer;
- targeted Drug and Alcohol case management;
- drug and Alcohol prevention/intervention services, including student assistance programs;
- child/adolescent support groups; e.g., ALATEEN, peer groups;
- drug and alcohol transitional housing;
- drug and alcohol drop-in centers;
- drug and alcohol intensive outpatient services; and
- partial hospitalization for drug and alcohol abuse or dependence.

Source: Department of Public Welfare Request for Proposal for *HealthChoices* Behavioral Health Services for Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, Perry and York Counties, August 15, 2000.

Behavioral Health *HealthChoices* managed care organizations receive monthly Medical Assistance payments based on the number of Medical Assistance clients enrolled in the plan. A Behavioral Health *HealthChoices* contractor with unspent Medicaid capitation revenue is required to return such funds to the Department of Public Welfare or implement a "Reinvestment Plan." Such plans must be developed with public input and approved by the Department of Public Welfare. To be approved by DPW, they must "target the unmet or under-met mental health and drug and alcohol treatment needs of MA eligibles with the goal of improved behavioral health status."[20]

Available Medicaid reinvestment dollars can be used for purchase of cost-effective alternative services, additional in-plan services, or supplemental services, and as seed money to develop increased program capacity.[21] As discussed below, the Department of Public Welfare has allowed certain counties in southeastern Pennsylvania with available reinvestment dollars to use such funds to develop specialized mental health and mental retardation services for deaf adults and children (see Finding N).

All Medicaid Behavioral Health *HealthChoices* managed care organizations are required to provide special needs services.[22] Such special needs include communication assistance and obtaining an interpreter when necessary.

During the course of our study, we learned of situations in which Physical Health Special Needs Unit staff provided assistance and assured interpreters were available when necessary. One agency operating a specialized mental health and mental retardation program for deaf adults described a situation in which the Special Needs Unit staff assisted in developing a unique service plan to assist a deaf client with complex medical needs.

When we contacted telephone numbers listed in Medical Assistance fee-for-service and *AccessPlus* enrollee handbooks to obtain special needs assistance and asked about securing interpreter services for a deaf Medical Assistance client, the persons answering the telephone did not know to whom to refer us. In one case, we were advised that interpreter service was not provided even though we noted that the member handbook said it was. We were told only telephone assistance was available and were advised to contact a local association for the deaf for an interpreter.

We brought these matters to the attention of the Department of Public Welfare. The Department appreciated receiving the information and initiated

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[20]Behavioral Health *HealthChoices* RFP, *DPW Parameters for Submission of Reinvestment Plans—Health Choices Behavioral Health Program*—November, 1998 (second edition).
[21]Reinvestment funds cannot be used for incentive payments for the BH-MCO contractor or its subcontractors and must meet certain other conditions established by the federal Department of Health and Human Services.
[22]Medicaid clients not enrolled in Behavioral Health *HealthChoices* have access to special services through the fee-for-service system special services discussed above.

investigations. In response, DPW's contractors immediately took steps to revise their procedures to assure proper responses by contract staff. DPW, moreover, immediately revised its ongoing monitoring procedures to specifically monitor its contractors' responses to similar requests.

We also reviewed several Behavioral Health *HealthChoices* provider handbooks. Such handbooks are available to enrollees to assist in selecting service providers. We reviewed such handbooks to determine if they assisted deaf clients whose primary method of communication is through sign language to locate providers. Philadelphia's behavioral health MCO provider directory lists providers with staff who have skills in languages other than English, including ASL.[23] It also clearly identifies in the enrollee's member handbook where to call for interpreter services if such services are required.

Other Behavioral Health *HealthChoices* provider directories we reviewed, however, did not include such information. Such information was not included in the provider directory for the state's second largest county, even though the directory included a clinician who is a certified interpreter and two major mental health providers with licensed clinicians who can communicate in sign language.

In reviewing behavioral health plan materials, we noted some plans only allow enrolled members to contact the member service line for special needs assistance. Plan members who are deaf with limited life skills, or recently discharged from state mental health centers, however, at times require assistance from mental health and social agencies to access providers.

In response to DPW, the Behavioral *HealthChoices* plan noted that it had been working with the county's local Deaf and Hard of Hearing Task Force to develop a local service directory. The plan noted that it has policies to assist with access to interpreters and reimburses for approved interpreter services. It noted that it had not listed in its provider directory providers with expertise in serving the deaf and hard of hearing so as "to support all providers that have the interest and expertise . . . rather than developing just a few specialty providers."

Medical Assistance Interpreters: In addition to making available special needs services, the Department of Public Welfare's Medical Assistance program enrolls certified sign language interpreters as Medicaid providers.[24] The Department of Public Welfare anticipates Medical Assistance providers will meet their obligations to provide effective communications for Medical Assistance recipients seeking to access service. Medical Assistance, however, will reimburse for interpreter services when necessary for clients enrolled in the fee-for-service system when the service is necessary and not provided by a physician. Such interpreter services are

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[23]Such information is provided to address federal language assistance requirements (discussed in Finding D).
[24]As noted in Finding T, 12 such interpreters are enrolled as MA providers.

available for sign interpreters as well as language interpreters for those with limited English proficiency.[25] Medical assistance interpreter service is only available through enrolled interpreters[26] to a Medical Assistance recipient for delivery of a Medical Assistance service by a physician enrolled in the Medical Assistance program. Such services, moreover, must be scheduled in advance of service provision.

Before agreeing to provide interpreter services for physician visits for a fee-for-service client, the Department identifies reasons the service is needed and reminds physicians of their obligations under relevant federal statutes (see Finding D). The Department of Public Welfare, moreover, has in place regulations to implement Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973[27] and ensure nondiscrimination of participating agencies, institutions, organizations, and vendors participating in programs receiving federal financial participation.

The Department of Public Welfare data indicate that from 2001 to July 2005, the Medical Assistance program provided sign language interpreters for physician services to 10 unduplicated fee-for-service clients. The Department reimbursed MA interpreters on average about $1,720 per client, or about $820 per unit of service. The unit cost for Medical Assistance interpreter services ($820) is substantially higher than Medical Assistance payments for some major medical procedures. Based on federal guidelines, the physician, therefore, might not have been required to pay for interpreter service.

COMPASS & On-line Service Application: In addition to providing communication assistance and interpreter service when necessary, the Department of Public Welfare makes county assistance office services more accessible to the public and those with disabilities through COMPASS (Commonwealth of Pennsylvania Access to Social Services). As discussed in Appendix H, COMPASS allows the public to apply on line for cash assistance, food stamps, medical assistance, and other public services and reduces the need for clients to come in person to a county assistance office. The COMPASS website provides detailed information on financial and other eligibility requirements for programs available through county assistance offices, and allows community services to partner with DPW to facilitate on-line

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[25]The service is accessed by telephone (866-872-8969), TTY (866-872-8970), Fax (717-772-6179—Attention MA-Interpreter), and e-mail (MA-Interpreter@state.pa.us). A Medical Assistance client or someone helping the client must provide the following information when requesting service: the person's name; the persons ten digit Medical Assistance ID number; the doctor's name, address, and telephone number; the date and time of the appointment; the specific language needed (including type of sign communication); and the reason the doctor did not provide the interpreter if known.

[26]To enroll as a Medical Assistance interpreter, the interpreter must agree to various MA provider requirements including compliance with all federal and state legal requirements. Such legal requirements must be met even when they are not consistent with the Registry of Interpreters for the Deaf's Code of Ethics.

[27]55 Pa. Code Ch. 107. Such regulations provide for complaint and investigation processes and due process procedures to assure providers receiving federal financial participation comply with Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973.

enrollment of their clients. None of the community programs serving the deaf and hard of hearing discussed in this report have thus far chosen to join in such a partnership, and the ODHH website does not provide information on this service.

State Centers for the Mentally Retarded: The Department of Public Welfare's Office of Mental Retardation operates six state centers[28] for the mentally retarded. With the closure of the Altoona Center by the end of FY 2005-06, there will be five operating centers. The state centers provide 24 hour residential and habilitative services to adults with mental retardation. They meet all federal health, program, environment, and safety standards for Intermediate Care Facilities for the Mentally Retarded (ICF/MR), and are, therefore, financed primarily through Medicaid and Medicare funding.[29]

Historically, state centers were the primary providers of services for persons with mental retardation. With the development of community programs, the census at state centers has declined dramatically.[30] In FY 2005-06, there were approximately 1,400 adults in the six state centers. As of October 2005, 183 center residents had established diagnoses of some form of hearing impairment, including 49 persons who were deaf or had profound hearing loss, 1 person who was deaf and blind, and 133 with hearing impairments.[31]

State center residents vary in abilities. Some can independently complete daily living activities. Others require continuous total care. Those residing in state mental retardation centers that have a diagnosed hearing impairment have annual Individual Support Plans that address communication needs. Such plans include a communication profile for the individual that provides a guide as to what vocalization, gestures, body movements, facial expressions, etc., the resident may be using to communicate. All staff working with the center resident have access to such information and are trained on how to communicate with the individual. Speech and language and hearing specialists employed at most centers are involved in developing such plans and training center staff.

Each resident's Individual Support Plan also addresses training or other activities to support the development of communication skills, including the development of sign language skills where appropriate. The nature of the training and activities in the Individual Support Plans varies based on the severity of hearing impairment and the abilities of the individual resident.

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[28]The six centers are located in Altoona, Ebensburg, Hamburg, Polk, Selinsgrove, and White Haven.
[29]$270.5 million in federal and state funds supported state center operations in FY 2004-05.
[30]The state center census declined 57 percent from July 1, 1995, to June 30, 2005.
[31]Individual diagnostic information provided by the Office of Mental Retardation shows that of the 183 center residents with hearing loss, 10 were at Altoona, 25 at Ebensburg, 14 at Hamburg, 45 at Polk, 69 at Selinsgrove, and 20 at White Haven.

Individual Support Plans designed to assist individuals to acquire basic sign skill typically do not involve American Sign Language (ASL). The Office of Mental Retardation advised us:

> Due to the cognitive level of the majority of people [residing in the state centers and] that need or are being assisted with sign language system, the American Sign Language System is not used generally because it is too abstract. The system used generally is a series of gestures and hand signals used throughout the day that are more . . . easily recognized by persons with various levels of retardation.

Center staff development programs train staff in sign language. Books listing basic manual signs are also available in living areas where residents are being taught to communicate using sign language.

Some residents of state centers with severe cognitive deficits are unable to understand manual sign systems. Others have severe motor impairments of hands, fingers, arms, or no motor imitation/coordination skills to learn sign languages, reach to touch pictures, buttons, point, or gesture to signal. To assist such individuals, many program living areas have Picture Communication Boards or other types of signaling speech output devices the individual can attempt to use and all staff are trained to use.

In addition to the intermediate care for the mentally retarded provided by the state centers, the Office of Mental Retardation has approved 205 non-state programs to provide residential and habilitation services.[32] Such non-state programs serve over 2,500 persons. Most such facilities serve four to eight individuals.[33]

State Mental Health Centers: The Department of Public Welfare's Office of Mental Health and Substance Abuse Services operates eight state mental hospitals and a ninth facility know as the South Mountain Restoration Center, which provides skilled and intermediate nursing care for individuals who were formerly residents of mental hospitals and now require nursing facility care. About 3,500 persons are served in such facilities. In 2004, of those hospitalized, eight were deaf, one was deaf-blind, and 164 had some hearing loss. Over two-thirds of those with some hearing loss are served at two facilities, including the South Mountain Restoration Center.[34]

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[32]Private ICF/MRs are largely supported by federal and state Medicaid funds. Approximately $305 million was expended for such services in FY 2004-05.

[33]Medical Assistance certified providers are not required to report on the number of deaf and hard of hearing clients served in non-state ICF/MRs to the Department of Public Welfare.

[34]In FY 2003-04, over $380 million in state and federal (Medicaid and Medicare) funds were expended to serve those in state mental and restoration centers.

The Office of Mental Health and Substance Abuse Services has in place policies and detailed procedures to identify deaf and hard of hearing and deaf-blind patients at its state-operated facilities and to provide them with effective communication. Such policies and procedures were developed in cooperation with the Department of Labor and Industry's Office for the Deaf and Hard of Hearing and issued in a 2001 Office of Mental Health and Substance Abuse Services Bulletin.[35]

The 2001 Bulletin reminds state mental health facilities of relevant federal requirements and outlines procedures for assuring compliance with such requirements. The Bulletin requires each facility to designate a department or employee to serve as the facility's coordinator for deaf and hard of hearing and deaf-blind patient services. Each designated facility coordinator must:

- monitor and assure compliance with facility policies;
- establish and maintain a system of available resources (e.g., assistive listening devices, personal FM amplifiers, open/closed captioned televisions, telephone amplifiers, telecommunication devices for the deaf (TTDs), Text Telephones (TTY), computer assisted real-time captioning (CART), qualified and certified sign language and oral interpreters);
- contract with providers for specialized services, for interpreters, and auxiliary aids; and
- assist with assessment of a patient's communication needs.

The Bulletin requires facilities as part of preliminary screening during the patient admission process to:

- determine the patient's communication needs by asking if special accommodations are required and the patient's preferred method of communication,[36]
- assess the level of reading skills and comprehension during the psychiatric/psychological assessment process, and
- notifying the facility coordinator of the admission.

The facility service coordinator is then responsible for:

- consulting with the individual to be admitted, family members or advocates about the individual's preferred method(s) of communication, including the specific type of sign language used by the individual;

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[35]Mental Health and Substance Abuse Services Bulletin # SMH-01-01, issued June 18, 2001.

[36]Certified sign language interpreter, oral interpreter, lip reading, handwritten notes, assistive listening devices, or some combination of communication methods.

- assuring that the individual's views are given due consideration in service planning;
- asking the person to identify his/her level of hearing loss and how he/she wants to be addressed;
- informing the individual (in the preferred mode of communication) of patient rights related to accessibility, and the facility's Patient's Bill of Rights;[37] and
- informing the individual of the right to a qualified certified interpreter when necessary without charge, and that if the provided interpreter or the patient is unable to communicate effectively with the other, a different interpreter will be provided.

The Bulletin advises the facility that special communication accommodations may be required during hospitalization in situations such as:

- commitment hearings,
- medical and psychiatric examinations and diagnosis,
- obtaining medical and psychiatric history,
- explaining medications and treatment options,
- obtaining informed consent for treatment when necessary,
- treatment team meetings,
- individual and group therapy sessions,
- discharge planning,
- social and rehabilitative services, and
- community meetings and activities.

The Bulletin requires that the treatment plan for a patient requiring an interpreter address crisis intervention techniques to be used with or without an interpreter present. It requires documentation in the medical record and patient treatment plan of all efforts to assure equal access to services. When problems arise (such as interpreter availability delay, limited patient communication skills), the problem and resolution are to be documented in the medical record.

The Bulletin provides for a patient using TTY/TDD to have additional time for phone conversation. It also provides for hearing aid compatible telephone amplifiers for persons who are hard of hearing, unless their choice of communication is a

[37]Such information is also provided in writing at the reading level of the patient and a copy is also given to the family member, legal guardian, or other involved person.

TTY, and requires facilities to have alternative methods to auditory paging and alarm systems.

The 2001 Bulletin directs each state mental health facility to develop written policies and procedures to provide for accessible services, ensure staff are aware of the policies and procedures, develop relevant contracts, procure necessary resources, and train appropriate staff. The Bulletin also directs each state facility to encourage and support staff interest in learning to communicate with patients who are deaf, hard of hearing, or deaf-blind, including various modes of manual and oral/aural communication. It notes that state mental hospitals must ensure clinical staff using sign language skills meet certain proficiency standards based on the Sign Communication Proficiency Interview (SCPI) (see Finding P).

We reviewed state mental hospital plans to provide for effective communication for deaf and hard of hearing persons and those with limited English proficiency. The plans are highly detailed and consistent with federal requirements and those set forth in the Bulletin. The plans demonstrate state mental hospitals with deaf patients have contracts for interpreter services, and some also contract with individual interpreters and community agencies serving the deaf and hard of hearing to assist patients to learn sign language. At least one facility plan also provides for sign language classes for its staff through purchased service from a local community agency serving the deaf and hard of hearing.

The Bulletin does not provide guidance on the type of supervision facilities must provide interpreters, including those involved in patient treatment activities. Some hospital plans, however, indicate they have developed plans for such supervision of interpreters, their interactions with hospital patients, and interpreter accountability.

From FY 2002-03 through FY 2004-05, the Office of Mental Health and Substance Abuse Services expended just over $15,000 for costs associated with hearing aids and their repairs for patients in state mental hospitals. During the same period, it expended approximately $370,000 for interpreter services, with a $17,069 per patient unit cost in FY 2004-05. This average cost per patient, however, is skewed by one patient with complex psychiatric needs being prepared for discharge to the community. The Department paid $90,000 in FY 2003-04 and $40,000 for part of FY 2004-05 for interpreter services for one patient, who was discharged and remained in the community as of spring 2006.

Community Hospital Integration Projects Program: Office of Mental Health and Substance Abuse Services provides financial assistance to local communities to develop their capacity to serve patients with complex needs that are in state hospitals but able to be discharged to the community. Since 1991, the Department has provided such assistance through a program known in much of the state as the

Community Hospital Integration Projects Program (CHIPP), and the Southeast Integration Project Program in southeast counties.

CHIPP provides for discharge to community programs of those individuals in state mental hospitals with complex needs, including deafness and hearing impairments, who no longer require inpatient psychiatric treatment. The county program agreeing to develop community resources and services for such individuals receives CHIPP funds from the Department of Public Welfare to develop new alternative community-based treatment services and supports. Services developed with such funds are not only available to persons discharged from the state mental hospital but to other similar individuals. The Department of Public Welfare estimates four or five additional individuals will use the services developed for the discharged individual.

CHIPP funding has provided financial support for the development of several MH/MR programs designed to serve the deaf and hard of hearing in western and southeastern Pennsylvania. Such programs include, for example, programs provided by Allegheny East MH/MR, Mercy Behavioral Health, and Milestones Community Healthcare.

Allegheny East MH/MR responded to an Allegheny County MH/MR program request for proposals inviting interested providers to participate in a CHIPP to serve deaf and hard of hearing persons planned for discharge from Mayview State Hospital. Allegheny East MH/MR is a licensed mental health outpatient service provider, enrolled in the Medicaid fee-for-service program, credentialed by multiple Medicaid Behavioral Health *HealthChoices* Plans, and a county MH/MR service provider. As such, it provides outpatient therapy, partial hospitalization, case management, life skills development, and supported MH/MR residential services for persons who are deaf and hard of hearing.

Allegheny East's Wilkinsburg office specializes in outpatient and partial hospitalization services for persons who are deaf and hard of hearing. Its therapists are trained and experienced in American Sign Language and Deaf Culture, and the service site is equipped with strobe emergency lighting and TTYs. Mental health services available for deaf and hard of hearing consumers at the program site include: intake/assessment; individual treatment plan development; psychiatric evaluation; psychiatric monitoring and medications; and individual, family, and group therapy.

Allegheny East also provides training and social rehabilitation services for persons who are deaf at the Wilkinsburg site. Parts of the training and social rehabilitation program are operated in conjunction with the Hearing and Deaf Services Center (see Finding R).

Allegheny East also operates the Threshold Community Residential Rehabilitation (CRR) program for deaf and hard of hearing adults. Threshold is a 9-unit apartment complex providing residential programming for 12 mentally ill deaf persons, including 7 full-care and 5 moderate care adults. The full care component of the program has staff available 24 hours a day, 7 days a week and is available to individuals re-entering the community after hospitalization and those who need alternative residential placements. The moderate care component of the program is available to individuals who require regular assistance but do not require full time availability of staff. Staff visit with such residents in their apartments or at the staff office, and they are also available by phone when needed. The housing component of the Threshold program is financed by individual resident funds and the Allegheny County MH/MR program (it is not a Medicaid reimbursable service). Eligible individuals from other counties can gain admission to the program through purchase of service arrangements between county MH/MR programs.

Allegheny East MH/MR works cooperatively with the Pressley Ridge program based at Western Pennsylvania School for the Deaf (see Finding N). Graduates from the Pressley Ridge program with continued service needs at times have transitioned into the Allegheny East programs, including the CRR program.

Allegheny East provides interpreters when requested by clients and for significant patient contacts (e.g., mental health commitments). It also has an interpreter available when clients meet with the program's psychiatrist who communicates in ASL. Many of its clients have multiple disabilities and have not learned ASL, and the program encourages clients to learn sign language and if able ASL. It also provides opportunity for program staff to learn sign language to communicate directly with clients.

In May 2006, Allegheny East served approximately 18 individuals in its partial hospitalization program, about 20 individuals in its training and social rehabilitation program, and 12 deaf individuals in its residential program. In addition, the program served two deaf individuals who lived independently in their own apartments.

Mercy Behavioral Health, one of Allegheny County's largest provider of community-based behavioral health services, provides outpatient psychiatric and drug and alcohol services for deaf clients in cooperation with the Center for Hearing and Deaf Services (see Finding R). Recently, Mercy Behavioral Health expanded its behavioral health services to provide a supported housing program for the mentally ill persons, similar to the Threshold program, with staff members working in the supported housing program proficient in sign language. The Allegheny MH/MR program can support the development of such a program because of the CHIPP funds and planned discharge of deaf patients from state mental hospitals.

Prior to the discharge of such patients, Allegheny County MH/MR, community providers, state hospital staff, the patients, and interested family members developed individual treatment and service plans. These plans may include the supportive housing component discussed above, physical and behavioral health services, and supportive social programming (including the program available through the Center for Hearing and Deaf Services).

Erie county MH/MR also received CHIPP funding from the Department of Public Welfare. As part of its programming for individuals leaving state hospitals, Erie MH/MR hired a mental health intensive case manager who signs and has been assigned to work with a small number of deaf and hard of hearing clients receiving mental health services through the county program.

Mental health intensive case management provides services to assist children, adolescents and adults with serious mental illness or emotional disturbance to obtain treatment and supports necessary to maintain a healthy and stable life in the community.[38] Consumers eligible to receive intensive mental health case management services must meet two or more of the following eligibility criteria:

- Serious and persistent mental illness as evidenced by a diagnosis of schizophrenia or chronic major mood disorder.
- Treatment history such as admission to a state mental hospital for a period of 60 days within the past two years, two admissions to a community inpatient psychiatric unit for 20 days or more within the past two years, five or more face-to-face encounters with emergency psychiatric personnel within the past two years, three or more years of continuous participation in a community mental health service, or a history of sporadic course of treatment as evidenced by inability to or unwillingness to maintain a medication regime or involuntary commitment to outpatient treatment.
- Global Assessment of Functioning Scale rating[39] of 40 and below or a rating of 60 and below if the person is 35 years of age or younger or has a history of aggressive or violent behavior.[40]

Another mental health program that has developed in part with CHIPP funding is the Deaf Services Center in Montgomery County.[41] In FY 2001-02, Milestones received CHIPP funding through the local MH/MR program to develop assisted and supported housing services for deaf clients being integrated back into the

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[38]County MH/MR programs must approve public and private agencies seeking to provide intensive case management and such services must be included in the county MH/MR program plan.
[39]This is a procedure for measuring the overall severity of psychiatric disturbance contained in *Diagnostic and Statistical Manual of Mental Disorders* published by the American Psychiatric Association.
[40]55 Pa. Code Ch. 5221.
[41]The Deaf Services Center is a division of Milestones Community Healthcare Inc., Salisbury Behavioral Health Inc., which provides community mental health and mental retardation for county MH/MR programs in many areas of the state.

community from Norristown State Hospital. Over time, Milestones hired professional staff members who communicate in sign language, obtained a license as an outpatient and partial hospitalization provider, and was designated by Montgomery MH/MR as an intensive case management provider.

The Office of Mental Health and Substance Abuse Services provided additional funds to Montgomery County MH/MR in FY 2004-05 to expand Milestones' supported housing services to serve additional MH/MR clients from out-of-county, and Philadelphia has also entered into similar arrangements to serve several adults with Medicaid Behavioral Health reinvestment dollars. The public cost to provide supportive housing through the Milestone program is over $100,000 per person annually, based on data from the Montgomery County MH/MR program. Such costs do not include the costs to Physical and Behavioral *HealthChoices* for outpatient, partial hospitalization, and other services provided to such clients.

Milestones provides outpatient, partial hospitalization, and intensive case management services for individuals enrolled in Medicaid Behavioral *HealthChoices* in Montgomery, Bucks, Chester, Lehigh, and Philadelphia Counties. Currently, Milestones operates a satellite office adjacent to the Philadelphia School for the Deaf and is involved with the Philadelphia Behavioral *HealthChoices* program using "Medicaid reinvestment funds" to develop a regional residential treatment program for deaf and hearing impaired emotionally disturbed children. (See Findings R and N.)

In early 2006, Milestones reported plans to serve 17 mentally ill and mentally ill and retarded adults in its supported housing programs. It also served about 30 in its partial hospitalization program, 25 in intensive case management, and 75 in the outpatient program.[42] Those served in the outpatient program include both publicly supported and private clients.

The Office of Mental Health and Substance Abuse Services over the years has been involved in other activities to support community mental health service provision for persons who are deaf and hard of hearing. Such activities include those listed in Exhibit 24.

Publicly Funded County and Community-Based Health and Human Programs

The Departments of Aging, Health, and Public Welfare provide significant public financial support for health and human service programs administered by county governments and other locally designated entities. Such programs include:

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[42]Such counts are not necessarily unduplicated. An individual served in supported housing may also receive outpatient and/or partial hospitalization and/or intensive case management services.

Exhibit 24

Office of Mental Health and Substance Abuse Services Activities Undertaken to Identify and Meet the Needs of the Deaf and Hard of Hearing

- Established a workgroup in 2003 on Mental Health and the Deaf, Hard of Hearing, and Deaf-Blind to identify the needs of such individuals. Members of the workgroup included representatives from OMHSAS; the Office of Vocational Rehabilitation; Widener Law School; Scranton School for the Deaf; PA Self Help for Hard of Hearing People, Inc.; the Deaf Services Center at Milestones; Office for the Deaf and Hard of Hearing; Office of Medical Assistance; the West Central Center for the Deaf; PA Society for the Advancement of the Deaf; interpreters; and other advocates for the deaf and hard of hearing. The workgroup planned and developed methods to meet the accessibility needs of persons with hearing loss. It developed and implemented a training plan on mental health issues, presented workshops at state and national conferences, and developed a monitoring plan to incorporate evaluation of accessibility to services for the deaf, hard of hearing and deaf-blind. The workgroup met through November 2004 when it was incorporated into the OMHSAS advisory committee structure.

- Consumer assessments were conducted by OMHSAS clinical consultants during FY 2004-05 for six individuals receiving treatment in state mental hospitals. Consultation was provided to the hospital/county teams to develop community supports for these individuals.

- In February 2005 a report was prepared for OMHSAS by an out-of-state consultant to identify additional services to meet the needs of the deaf, hard of hearing, and deaf-blind population with mental illness and substance abuse problems. The report identified the need for additional alcohol and other drug treatment programs similar to those available to mentally ill deaf and hard of hearing consumers.[a] The report recognized the importance of video conferencing to meet the needs of mentally ill individuals who are deaf or hard of hearing when there are no local professionals available with the requisite skills to communicate with them. The report recognized the need to pool resources from various counties to support needed services for the deaf and hard of hearing.

- In partnership with the Department of Labor and Industry and the Department of Health, OMHSAS sponsored Disaster Preparedness Training for persons who are deaf, hard of hearing, late deafened or deaf-blind in 2005 and 2006.

- Added DPW website link on "Services for Pennsylvanians With Disabilities; Deaf and Hard of Hearing Information."

- Interpreter Training: For the past several years, OMHSAS through its contract with Drexel University, College of Medicine sponsored training for intermediate and advanced interpreters. Such training, which is not limited to interpreters working in the mental health system, is offered through the PA Registry of Deaf Interpreters (PARID) and provides RID continuing education credits. The June 2006, training provides an overview of the structure of the mental health system in Pennsylvania, the mental health system's expectations of interpreters, and a foundation of Pennsylvania law as it applies to interpreters in the mental health setting. Training also focused on providing interpreters with techniques specific to the mental health and substance abuse settings. In the past, OMHSAS also provided for week-long mental health training for several Pennsylvania interpreters in a special mental health interpreter program offered in Alabama.

Exhibit 24 (Continued)

- OMHSAS 2007-2008 County Mental Health Plan Guidelines instruct counties to plan for the treatment, services, and supports for seriously mentally ill persons who are deaf or hard of hearing. Counties must describe existing mental health services and supports for people who have special disability accommodation needs, including the deaf or hard of hearing. Counties are directed to identify any culturally defined populations they serve, including persons who are deaf or hard of hearing, and devise appropriate methods to meet their needs in ways that are culturally accommodating.

- County plans are to include actions taken or planned to ensure accessibility for persons with physical disabilities, including communication accommodation for persons who are deaf or hard of hearing.

- OMHSAS helps finance the Deaf Service Center (DSC), a division of Milestones Community Healthcare, Inc.

- OMHSAS helps finance the West Central Center for the Deaf to assist the deaf and hard of hearing to access mental health services in 23 counties in western Pennsylvania.

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[a]OMHSAS does not administer drug and alcohol programs and state law does not provide for the same services in community mental health, mental retardation, and drug and alcohol programs.

Source: Department of Public Welfare, Office of Mental Health and Substance Abuse Services.

- County Mental Health and Mental Retardation Programs,
- County Drug and Alcohol programs,
- Area Agency on Aging programs, and
- County Children and Youth Programs.

County Mental Health and Mental Retardation Programs: The Mental Health and Mental Retardation Act of 1966 [43] assigned responsibility to the Department of Public Welfare to supervise a comprehensive system of mental health and mental retardation services including treatment and habilitation services in both institutional and group settings. Its purpose was to transfer treatment and habilitation of patients to the largest extent possible from state mental hospital and mental retardation centers into community programs. The 1966 act is understood in conjunction with the Mental Health Procedures Act[44] that governs voluntary and involuntary admissions to mental health treatment facilities.

The Mental Health and Mental Retardation Act of 1966 requires counties individually or through joint programs involving more than one county to establish a mental health and mental retardation board, appoint a county mental health and mental retardation administrator, and establish programs to provide "diagnosis, care, treatment, rehabilitation and detention of mentally disabled"[45] through nine services mandated in the 1966 statute. Exhibit 25 lists the services the 1966 act mandates that counties provide.

Exhibit 25

County MH/MR Services Mandated by the
Mental Health and Mental Retardation Act of 1966

- Unified procedures for intake for all county mental health and mental retardation services and a central place providing referral services and information.
- Emergency services twenty-four hours per day.
- Short term inpatient services other than those provided by the state.
- Partial hospitalization services.
- Outpatient services.
- Consultation and education services to professional personnel and community agencies.
- Aftercare services for persons released from state and county facilities.
- Specialized rehabilitative and training services including sheltered workshops.
- Interim care of mentally retarded persons who have been removed from their homes and who having been accepted, are awaiting admission to a state operated facility.

Source: Mental Health and Mental Retardation Act of 1966.

[43] 50 P.S. §4101 et seq.
[44] 50 P.S. §7101 et seq.
[45] 50 P.S. §4301(a).

The county MH/MR mandated services are defined in Department of Public Welfare regulations. As the definitions make clear, they are targeted to persons with serious mental illness and those with substantial habilitation needs. Exhibit 26 provides definitions of the MH/MR services counties are mandated to provide.

Funding for community mental health and mental retardation services is provided through a variety of sources including private insurance and client fees,[46] and federal, state, and county funds. Under the Mental Health and Mental Retardation Act of 1966, the state and county are not required to spend public funds for mandated services until a mentally disabled consumer has exhausted benefits under all existing private and public programs.[47] In part as a result, the Medicaid program is a key source of financial support for mentally disabled persons who qualify for county mental health and mental retardation program services.

All of the services mandated under the Mental Health and Mental Retardation Act of 1966 are currently reimbursed by the Medicaid program for those who are income eligible, with the exception of consultation and education services to professional development. As shown in prior Exhibit 23, Medicaid does not reimburse for other mental health and mental retardation services that county mental health and mental retardation (and county drug and alcohol) programs may elect to provide.

Counties receive state MH/MR allocations to provide services under the 1966 act. The act requires counties to provide 10 percent local matching funds for public mental health and mental retardation program services with the exception of Medicaid reimbursed services; diagnosis, evaluation, and care in a state-operated facility; inpatient care and partial hospitalization for persons not eligible for Medical Assistance; and licensed community mental retardation services.[48] In addition to state allocations, local programs receive some federal Drug Abuse, Alcoholism and Mental Health Block Grant and Social Service Block Grants funds to support their services. Each county sets forth the services (both mandated and optional) it will provide in the county MH/MR plans it develops with public input.

Community Mental Health Services: In FY 2003-04, approximately $314 million were expended for Medicaid Behavioral Health *HealthChoices* services for just over 130,000 persons. An additional $137 million was expended for Medicaid behavioral health services paid for through fee-for-service arrangements for about 54,000 persons. In addition, county MH/MR programs received $454 million (including the CHIPP program funds discussed above) to provide mandatory and optional mental health services.

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[46]The Department of Public Welfare has regulations defining client liability for mental health and mental retardation services and billing and collections.
[47]The 1966 act also does not require the state or counties to expend state and local funds for mandated mental health and mental retardation services beyond the amounts appropriated for such services.
[48]55 Pa. Code, Ch. 4300.

Exhibit 26

Mandatory MH/MR Service Definitions

- *Unified procedures for intake for all county mental health and mental retardation services*: All intake into the county mental health/mental retardation programs shall be through an established base service unit. When recommending treatment, a base service unit develops a service plan best suited to the needs of the patient and the available service resources.

- *Emergency services*: Observation, treatment, and close supervision that is available any hour of the day or night to persons with mental disability who are in need of immediate care, and must not be denied a person requiring such care. Such care may be required to prevent aggressive behavior by the patient toward himself or others. . . . Inpatient emergency care must be available to the emergency service.

- *Short term inpatient services*: Care in a licensed inpatient facility for a continuous period up to 60 days so that diagnostic study and evaluation; intensive treatment at the onset of illness or during periods of unusual stress; and close supervision as well as intensive treatment for those unable to manage themselves because of deep depression, severely disturbed behavior or extreme confusion can be undertaken.

- *Partial hospitalization services*: Inpatient services that are distinguished from short term inpatient services in that this inpatient care is provided on a planned and regularly scheduled basis for parts of days or nights or parts of a week.

- *Outpatient services*: Services consist of diagnosis, evaluation, and treatment of persons with a mental disability who live outside of a mental health or mental retardation institution while receiving services.

- *Aftercare services for persons released from facilities*: Services furnished to persons who have been inpatients and may entail appropriate community placement for those who have no homes or for whom immediate return home is inadvisable.

- *Specialized rehabilitative and training services*: Consist of vocational evaluation, work adjustment training, job placement, and group living experiences to assist an individual handicapped by mental disability, who may or may not have a physical disability, to reach his best level of social and vocational adaptation.

- *Interim care of mentally retarded persons*: Inpatient care is the responsibility of state operated institutions. When the department determines that a person is eligible for care in a state operated facility, but that there is no room at the time of the determination, the person is to be placed on a waiting list. The department will approve interim care placement in an appropriate licensed mental health/mental retardation establishment.

Source: Developed by LB&FC staff from 55 Pa. Code Ch. 4210.

In 2001, the Office of Mental Health and Substance Abuse Services developed and issued policy guidance related to services for the deaf and hard of hearing and deaf-blind individuals similar to that issued for state mental hospitals (and discussed above).[49] Such guidance was provided to:

- County Mental Health/Mental Retardation Administrators,
- Base Service Unit Providers,[50]
- Community Mental Health Service Providers,
- Single County Authority (SCA) Administrators,
- Licensed Drug and Alcohol (D&A) Treatment Programs.

In late 2004 and 2005, the Office of Mental Health and Substance Abuse Services surveyed county programs for information on how such programs provide access to mentally disabled individuals who are deaf and hard of hearing. Thirty-one of the 46 county MH/MR programs responded to the survey. Of the 31 responding, 24 reported serving deaf clients in county programs. Several of the non-responding counties, moreover, have received special funding from the Office of Mental Retardation and Substance Abuse Services to serve deaf and hard of hearing persons.

Typically, the 31 county programs reported they had access to TTY/TDD telephones and would secure interpreters for deaf client services. Philadelphia, for example, reported that its Medicaid Behavioral *HealthChoices* program planned to expend almost $300,000 for sign language interpreter services in FY 2004-05, or approximately $5,500 on average annually for each identified deaf client. Some, however, reported problems in accessing interpreters. Of the 31 county MH/MR programs responding to the survey:

- 16 reported at least one provider agency had staff able to communicate in sign language, and one additional program had such staff in the county MH/MR administrator's office.
- 8 programs, accounting for 48 percent of Pennsylvania's total population, reported having outpatient, intensive case management, partial hospitalization, and supportive housing providers with staff able to communicate in sign language.

The county MH/MR programs with outpatient, partial hospitalization, intensive care management, and supportive residential housing typically report such

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[49]Department of Public Welfare, Office of Mental Health and Substance Abuse Services, OMHSAS-01-06, issued 10/1/01.

[50]A "base service unit" is an organizational unit consisting of multidisciplinary professional and nonprofessional staff capable of planning, directing, and coordinating appropriate services for persons who are mentally retarded and in need of service from the county program. 55 Pa. Code §6201.12.

services are for the most part offered through the Medicaid Behavioral *Health-Choices* plans.[51] One county providing such services noted it did not have funding to provide such services for "non-public" clients. The county MH/MR programs also stressed that the specialized providers credentialed by Medicaid Behavioral *HealthChoices* plans to provide services were not necessarily based within the county.[52] Philadelphia County, for example, contracts with a provider based in Bucks County to provide specialized mental health services for deaf children in Philadelphia.

Counties involved in developing a specialized service continuum for deaf persons with serious mental illness have reported such services must operate on a regional basis. No single county, including the largest, has a sufficient population of seriously mentally ill deaf persons to financially support a full continuum of services, and a substantial general population base is required to support even one specialized program.

Community Mental Retardation Services: County mental health and mental retardation programs provide community services for about 70,000 mentally retarded children and adults.[53] Such services are largely made available through several federal Medicaid home and community based waivers that enable states to use federal and matching state Medicaid funds to pay for home and community-based services (that are not covered Medicaid State Plan services) to avoid the need for institutionalization. Such waivers are administered by the Department of Public Welfare's Office of Mental Retardation, and the number of persons that can be served under such waivers is limited. Such Medicaid waivers include:

- Consolidated Waiver provides residential habilitation services, often in group homes with three or fewer people, and a range of other community services, including supported employment; prevocational services; day habilitation; homemaker/chore services; transportation; respite service; adaptive appliances and equipment; environment accessibility; extended Medicaid state plan services for physical, occupational, speech, hearing, and language therapy; and other specialized therapies and visiting nurse services not covered in the Medicaid state plan. To be enrolled in this waiver, a participant must be over the age of 3. In FY 2004-05, about 14,000 unduplicated persons were served through this waiver at a total

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[51]Supported residential housing is not a Medicaid funded service except for certain community residential services through the Office of Mental Retardation Consolidated Waiver for persons who are mentally retarded.
[52]This also occurs with specialized mental health services for hearing clients.
[53]In FY 2004-05, $1.351 billion in federal and state dollars were available to the Department of Public Welfare to fund community mental retardation services. Of the total, about $631 million were federal Medicaid dollars and about $14 million were federal Social Service Block Grant funds.

cost of about $920 million and an average annual cost per person of about $66,600.[54]

- *Person/Family Directed Support Waiver* is similar to the Consolidated Waiver but does not include a residential service component and has an individual expenditure limit or individual "cap" of approximately $21,000. The waiver serves only those with mental retardation living in their own or their family's home. Participants in this waiver can choose to direct their own services or rely on a provider agency to manage their services. In FY 2004-05, just under 7,500 unduplicated persons were served through this waiver at a total cost of over $76 million, and an average annual cost per person of about $10,300.
- *Infant, Toddler, & Families Waiver* provides home-based services for children under age three with a physician's diagnosis of a developmental disability and a need for ICF/MR level of care. This waiver funds some of the Early Intervention services mandated under the federal IDEA (see Finding K). This waiver emphasizes family training so that families can teach children based on developmental specialist recommendations. Only one other state in the nation has obtained such a waiver to support early intervention services.[55] In FY 2004-05, over 2,800 unduplicated children received such services at a total cost of over $12 million, and an average annual cost per client of about $4,300.

The above waivers are all accessed through county MH/MR programs. In addition to meeting relevant income eligibility requirements (as determined by the county assistance offices), waiver participants are required to meet functional eligibility criteria based on certification of qualified Medical Assistance practitioners. All services provided must be included in the client's Individual Service Plan. The Office of Mental Retardation and the county MH/MR programs have established a system for prioritizing access to waiver services for those who qualify financially and functionally since the number of federally approved "waiver slots" is limited.

At times, mentally retarded persons also participate in a fourth federal Medicaid home and community based service waiver administered by the Department of Public Welfare known as the "OBRA waiver." This federal waiver is designed to assure that individuals with physical and developmental disabilities transition from (or forestall admission to) licensed nursing facilities when such a level of care can be safely provided outside of a facility. The most common service available through this waiver is personal assistance with daily living activities and intensive case management. Access for those who financially and functionally qualify for this

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[54]Thomson Medstat, *Home and Community Based Services Reform and Rebalancing Feasibility Analysis Final Report*, March 2006.

[55]In 2005, responsibility for managing this waiver within the Department of Public Welfare (DPW) was transferred to the Office of Child Development.

waiver occurs through three regional enrollment agencies that have been designated by the Department of Public Welfare's Office of Social Programs. In FY 2004-05, a total of just under $30 million was expended to serve about 750 persons at an average annual cost per client of just over $39,000.[56]

The Office of Mental Retardation allows county MH/MR programs to use state MH/MR allocations to pay for sign language interpreter services and requires such interpreters be nationally certified. Funding for Intermediate Care Facilities for Individuals with Mental Retardation can also factor in sign language interpreter service as a direct cost. Similarly, such costs can be covered as an administrative cost for the OBRA waiver administered by the Office of Social Programs. Programs, however, are not allowed to use Medicaid waiver funds for the Consolidated and Person/Family Directed Support waivers to pay for interpreter services.[57, 58]

The Office of Mental Retardation does not track the number of persons who are mentally retarded and deaf and hearing impaired that are served in community mental retardation programs. We have identified several small community residential programs, however, serving mentally retarded adults who are deaf. One such program in north central Pennsylvania is jointly operated by several county MH/MR programs. In late 2005, this service provider advised us that it was seeking to fill a vacancy with an eligible Medicaid waiver client.

In southeastern Pennsylvania, Elwyn provides a wide range of community mental health and mental retardation services. Such services include a group home for deaf mentally retarded adults. Some individuals who are both mentally ill and retarded, moreover, are served in the specialized mental health programs supported in part with CHIPP funding discussed above.

County Drug and Alcohol Programs: As noted in Exhibit 23 above, Medicaid Behavioral *HealthChoices* programs are responsible for providing certain drug and alcohol services that can be reimbursed by the federal Medicaid Program or by the Medical Assistance program using state only funds. Such services include: inpatient and non-hospital detoxification and rehabilitation, drug and alcohol outpatient, and Methadone and Levo-Alpha-Acetyl-Methadol (LAAM).[59]

Unlike mental health and mental retardation programs, county governments may, but are not required under state law, to provide local drug and alcohol programs. When counties elect not to administer such programs, the Department of Health can designate local entities to provide such services. The services available

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[56]As noted in Finding Q and Appendix G, several independent living service programs provide services through this waiver.

[57]Department of Public Welfare, Office of Mental Retardation, Bulletin # 00-06-10, May 10, 2006.

[58]County MH/MR administrative funds would be needed to cover the cost of interpreter services for waiver covered services for persons enrolled in such waivers.

[59]Medication used to achieve stabilization or prevent withdrawal symptoms.

through the public drug and alcohol services system are not the same as those available through the public mentally ill and mentally retarded system.

Some of the providers discussed above with specialized mental health programs for the deaf and hard of hearing are also licensed drug and alcohol providers. The Philadelphia Behavioral *HealthChoioces* plan, moreover, has also funded an Alcoholics Anonymous program for the deaf. Appendix I provides additional information on state drug and alcohol services.

Area Agency on Aging: Pennsylvania's Department of Aging oversees many services and benefits for older Pennsylvanians. Such services and benefits are funded with federal and state dollars, with most state funding provided by the Pennsylvania Lottery Fund. With the exception of the PACE/PACENET program, which provides pharmaceutical assistance and can be accessed through on-line application (see Appendix H), such benefits and services are provided through the 52 Area Agencies on Aging (AAAs). The AAAs were created under the federal Older Americans Act and Pennsylvania's Act 70[60] to provide services in all of Pennsylvania's 67 counties.

Area Agencies on Aging provide a range of services for older Pennsylvanians. Basic services include information and referral services and sponsoring senior centers that provide a full range of socialization, recreation, and education activities and offer congregate meals. The Philadelphia Corporation on Aging, for example, has provided public financial support for the Deaf and Hard of Hearing Senior Citizens of Delaware Valley, Inc. (housed at the Elwyn-Nevil Center in Philadelphia).[61] This senior center is targeted to serving the deaf and those with knowledge of sign language.

The AAAs provide transportation services for doctor visits. They also provide job placement services for older adults and offer job training and subsidized part-time community service employment.

In late 2004, the Pennsylvania Department of Aging surveyed Area Agencies on Aging concerning their programs for the deaf and hard of hearing. Thirty-six of the 52 AAA responded to the survey. Of the Area Agencies on Aging responding to the survey:

- 34 reported maintaining and distributing hearing related information and fliers, including one that conducted a hearing education program and another that distributed the newsletter of the local service organization for hard of hearing persons;

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[60] 71 P.S. §581-1 et seq.

[61] The center also hosts the Deaf and Hard of Hearing Council of Southeastern Pennsylvania.

- 19 reported providing hearing aids or other auditory devices for client use, including 13 that reported providing direct financial assistance (typically through the Family Caregiver Support Program and PDA Medicaid Waiver program) to help purchase such devices; and
- 16 Area Agencies on Aging reported having staff or special programming for the deaf and hard of hearing, including two AAAs in western Pennsylvania with senior center staff that communicate using sign language.

In addition to the basic services, the AAAs provide a range of social and health services for those with more intense service needs. Protective services are among the most important services the AAAs make available to older adults. The AAAs provide protective services for older adults who are at imminent risk of abuse, neglect, exploitation, or abandonment. They also offer services for the frail elderly who require extensive services to remain in the community outside of a nursing facility or personal care home. Examples of such services include home delivered meals and personal care to assist with key daily living activities such as bathing.

The AAAs are also involved with the Departments of Aging and Public Welfare in conducting Pre-Admission Assessments of individuals applying for nursing facility care. Such assessments are performed to determine functional eligibility for Medicaid payment for nursing facility care for those under and over age 60 and for several Department of Public Welfare Medicaid Home and Community Based Waiver programs, including the PDA waiver and the Elwyn Waiver.

In FY 2004-05, the PDA Medicaid waiver provided health and personal care services in the home to over 20,000 older adults who required nursing facility level care. Such waiver participants receive personal assistance services, home delivered meals, extended home care coverage beyond that available through the State Medicaid Plan, specialized medical equipment, and other services. The average annual cost to serve such waiver participants is just over $16,000.[62]

Elwyn (Valley View) Medicaid Waiver: Elwyn Inc., operates the assisted living program for the deaf and deaf-blind known as Valley View.[63] The Pennsylvania Department of Public Welfare obtained a Medicaid Home and Community Based

[62]Thomson Medstat report, March 24, 2006.

[63]The Pennsylvania Society for the Advancement of the Deaf (PSAD) began the operation of an assisted living community for elderly who are deaf or deaf-blind in 1902. In 1972, PSAD transferred its operation to Elwyn Institute, which constructed a modern residential facility (i.e., the George W. Nevil Home). In 1996, the residents of the Nevil Home were transferred to a new building called Valley View.

Waiver to permit Medicaid funds to be used to provide assisted living [64]adult residential care at Valley View.

The Elwyn Medicaid Waiver serves individuals who are deaf and deaf-blind and use American Sign Language as their primary mode of communication. Such waiver participants are over age 40, and include many with Usher's Syndrome. Usher's Syndrome is characterized by congenital deafness or hearing loss and retinitis pigmatosa. It is a devastating disease for a deaf person as such persons suffer from a gradual loss of vision and total blindness usually by mid-life. The Delaware County Area Agency on Aging is responsible for completion of the pre-admission assessment for individuals seeking to qualify for this Medicaid waiver.

In FY 2003-04, 41 clients were served at Valley View through this Medicaid Home and Community Based Waiver. The average annual cost per client served through the waiver was just under $30,000. During the course of this review, there was no waiting list for service under this waiver.

The role of the Commonwealth in administering this waiver is apparently not well understood. During the course of this study, we learned of Office for Deaf and Hard of Hearing staff recommending placement of a gentleman from northeast Pennsylvania with onset of Usher's Syndrome to an Ohio program with financial support from Pennsylvania Medicaid. Within two days of the Department of Public Welfare becoming aware of the individual and his needs, he was admitted to Valley View.

County Children and Youth Programs: In Pennsylvania, counties administer services for children and youth as required under the County Code and the Public Welfare Code.[65] Services provided by the county children and youth agency and juvenile probation office are provided without regard to income, but Children and Youth Agencies may establish fee scales based on a family's ability to pay to offset program costs.

Service provided by county children and youth programs include: placement, prevention, family reunification, adoption assistance, emergency and planned temporary placement, child protective services, and other services ordered by the juvenile court for dependent and delinquent children and youth. Providers of such services typically must be licensed or approved by the Department of Public Welfare's Office of Children, Youth and Families.

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[64]Such services include personal care services and other services provided in a home-like environment in a licensed community care facility, in conjunction with residing in the facility. The service includes 24 hour on-site response staff to meet scheduled or unpredictable needs. Assisted living services in the Elwyn waiver also may include home health care, transportation specified in the plan of care, counseling, specialized medical equipment and supplies, personal care services, and therapeutic social and recreational programming.
[65]62 P.S. §101 et seq.

The Department of Public Welfare, through its Office of Children, Youth and Families, provides federal and state funds to counties for county children and youth services. Federal funds for such services are available for specific purposes through several funding sources. Title IV-E of the Social Security Act provides federal funds for children in placement, the adoption of eligible children, and certain administration and training, while Title IV-B provides funds to strengthen in-home services for children and families.[66] Social Security Act Title XX funds are also available for foster and other community residential care. In FY 2005-06, about $1.4 billion in federal and state funds[67] were available for county child welfare services to serve about 286,000 children, including about 38,000 dependent and delinquent children and youth in out-of-home placement.

Counties also use local tax dollars to fund part of the cost for child welfare services. Federal and state funds pay 100 percent of the cost of adoption services, 80 to 90 percent of the cost of in-home services, and 80 percent of the cost of foster family care and community-based placement service. Counties are required to make up the difference, which is as high as 40 percent for institutional placements and 50 percent for cost of detention centers.

During the course of this study, the Department of Public Welfare's Office of Children, Youth and Families (OCYF) surveyed county children and youth agencies to identify the number of active cases with deaf and hard of hearing children and/or adults. OCYF received responses from 50 of the 67 counties, with most large counties reporting except for Allegheny, Beaver, Chester, and Westmoreland counties. Twelve of the reporting counties had no active cases with deaf and/or hard of hearing children and adults. Thirty-eight reported active cases with 166 deaf and/or hard of hearing children and adults. Philadelphia County accounted for about one-quarter of the reported cases.

County governments are responsible in state law for administering county children and youth programs, and are directly responsible under federal law for compliance with relevant federal requirements concerning services for the deaf and hard of hearing. In addition, children and youth service providers as part of the Department of Public Welfare's program licensure and approval processes must agree to comply with relevant federal requirements concerning non-discrimination (see Finding D). As part of the licensure and approval processes, they provide information concerning civil rights compliance.[68] Such information addresses:

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[66]Children in out-of-home placement can receive Medical Assistance, and counties receive federal and state Medical Assistance funding for administrative expenses incurred related to Medical Assistance eligibility.
[67]State funding, including state funds required to match available federal funds, accounted for about 60 percent of the total federal and state funding.
[68]Such requirements apply to all DPW program licensure and approval including programs licensed and approved by the Office of Children, Youth and Families for public and private child welfare services, the Office of Mental Health and Substance Abuse Services, and the Office of Mental Retardation, Child Day Care, and Personal Care Homes.

- availability of nondiscrimination service policies,
- methods of distributing such policies,
- methods of communication with non-English speaking clients,
- provision of information on how to file a complaint with relevant federal and state civil rights compliance organizations,
- methods of integrating persons with disabilities or with limited English proficiency into programs and activities,
- methods of making services accessible to those with mobility or sensory impairments,
- reasonable accommodation policies and the number of such accommodations granted or denied in the past 12 months, and
- number of complaints of discrimination filed in the past 12 months.

Providers found by DPW (after investigation and due process) to be out of compliance with its licensure requirements would be required to develop a plan of correction and come into compliance.

All children in custody of a county children and youth program, moreover, are enrolled in Medical Assistance and access some of their services either through fee-for-service, *AccessPlus*, or *HealthChoices*. The special services for access to Medical Assistance by those with special needs, described above, apply to children and youth in the custody of the county.

Child Protective Services: County children and youth agencies are responsible for investigating reports of suspected child abuse. Pennsylvania requires reporting of suspected child abuse. Those required to report suspected child abuse, according to Department of Public Welfare regulations, include:

> Persons who, in the course of their employment, occupation or practice of their profession come into contact with children and have reasonable cause to suspect, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is a victim of child abuse.[69]

The regulations further clarify:

> Except with respect to confidential communications made to an ordained member of the clergy that are protected under 42 Pa.C.S. §5943 (relating to confidential communications to clergymen), the privileged communication between any professional person required to report and the patient or client of that person does not apply to

[69] 55 Pa. Code §3490.4.

situations involving child abuse and does not constitute grounds for failure to report as required by this subchapter.[70]

Reports of suspected child abuse can be made directly to county children and youth agencies. They can also be made to the Department of Public Welfare's *ChildLine*, a toll-free, anonymous hotline that anyone can call to report suspected abuse.[71] Calls to *ChildLine* are accepted 24 hours a day, seven days a week.

In Pennsylvania, county children and youth agencies are the only civil entity authorized in statute to investigate reports of suspected child abuse. When reports of suspected abuse involve an employee or agent of the county, however, the Department of Public Welfare assumes the role of the county in completing the investigation.[72]

While counties are required to begin an investigation within 24 hours of receiving a report of a suspected child abuse, they must "begin the investigation immediately upon receipt of the report" and "see the child immediately" if:

- emergency protective custody has been taken or is needed, or
- it cannot be determined from the report whether or not emergency protective custody is needed.[73]

During the course of this review, the Department of Labor and Industry Office for the Deaf and Hard of Hearing registered its concern with the Department of Public Welfare based on information provided by an interpreter referral agency about a deaf woman who relied on sign language as her primary mode of communication and had contact with county children and youth agency staff when an interpreter was not available and had her children removed from her custody. Other advocates for the deaf with whom we have spoken have also voiced concerns about county children and youth agency staff having any contacts with a deaf person without an interpreter and deaf parents having their children removed from custody.

County children and youth agencies turn to interpreter referral agencies and the Department of Labor and Industry's Interpreter Registry to secure interpreter services.[74] Due to the shortage of interpreters and the absence of interpreters in certain areas, however, interpreter services are not always available when required by county children and youth agencies to immediately initiate an investigation of a report of suspected child abuse as required. Even the most populous counties in the

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[70]Id.
[71]*ChildLine* can be reached at 1-800-932-0313 and 1-866-872-1677 (TDD).
[72]23 Pa. C.S.A. §6362(a) & (b).
[73]55 Pa. Code §3490.55.
[74]The Department of Labor and Industry's Interpreter Registry does not currently require registrants working with children to obtain necessary child abuse clearances or require that registrants comply with all relevant federal and state laws even when such laws are not consistent with the RID Code of Conduct.

state with contracts for interpreter services are not always able to obtain the services during the timeframes they are required to meet under the state's child protective services statutes and regulations.

The Department of Public Welfare's Office of Children, Youth and Families advised us that:

> When there is a report of suspected child abuse or neglect on a case that has a deaf and/or hard of hearing caregiver of the children, the county agency will request an interpreter accompany them to the family's home or wherever the family member can be located. If the child is deaf or hard of hearing, an interpreter would also be requested to accompany the caseworker to wherever the child is currently located in order to assist the caseworker in communicating with the child via sign language. However, if an interpreter is not available to accompany a caseworker, the caseworker must still see the child immediately in most cases to assess and assure the child's safety and whether or not there is a need for immediate medical care (depending on the allegations or injury to the child). Caseworkers will only wait for an interpreter to be available to accompany them during their contact with a deaf or hard of hearing client when the case is not related to the immediate concerns of threats of harm to a child.

The Department of Public Welfare further advised us that in the case of the deaf woman noted above, interpreter services were provided during all court proceedings, visits, and case planning sessions. The courts removed the deaf woman's children from the home not because of the parent's hearing but because the investigation found child abuse was "indicated."

"Indicated" reports of child abuse are "substantiated" reports in which the "county agency finds abuse has occurred based on medical evidence, the child protective service investigation or an admission by the perpetrator."[75] In 2005, Pennsylvania had 22,854 reports of suspected child abuse of which 4,390 (or almost 20 percent) were substantiated. Tragically, 40 Pennsylvania children died from abuse in 2005.

In another concern identified by the Office for the Deaf and Hard of Hearing, a foster mother reported a child in her care should be placed at the Western Pennsylvania School for the Deaf. The Office for the Deaf and Hard of Hearing and the foster mother are apparently unaware that the Western Pennsylvania School for the Deaf is an approved private school for the deaf and not a licensed children and youth residential facility. (See Finding N for information on the requirements for attendance at the state's approved private schools or magnet schools for the deaf.)

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[75]Department of Public Welfare, *2005 Child Abuse Report*, issued April 2006.

Such concerns highlight the need for greater mutual understanding on the part of the deaf and hard of hearing community, interpreter referral agencies, and those involved child welfare service provision. Advocates for the deaf and hard of hearing must also appreciate the need for all to comply with child protective service statutory and legal requirements. Those involved in child welfare service provision should be culturally sensitive when providing services. They should, therefore, be familiar with Deaf Culture and sensitive to the needs of children and adults who are deaf. To provide for such cultural sensitivity and assure that deaf children receive the protections afforded all children in statute, the Philadelphia Children and Youth Agency has trained and works with the Pennsylvania School for the Deaf professional staff to assist in multi-disciplinary teams investigating reported child abuse (see Finding R). The Philadelphia Department of Human Services in cooperation with the Pew Charitable Trust, moreover, has also sponsored Parent Empowerment Advocacy through Knowledge (PEAK) training workshops. Conducted by the Mental Health Association of Southeastern Pennsylvania such workshops are designed to better acquaint deaf parents about the public human service system.

The Department of Public Welfare sponsors training for children and youth agencies and providers, including training for cultural competency. The Office of Children, Youth and Families has not, however, planned and conducted training to address issues related to cultural competency in serving the deaf and hard of hearing similar to past training offerings of the Office of Mental Health and Substance Abuse Services. Such training, moreover, has not been developed statewide to assist those providing such care for children in out-of-home placement.

T. The Commonwealth Has Contracts for Sign but Not Oral and Cued Speech Interpreter Services.

In response to Management Directive 205.32 (discussed in Finding E), the Department of General Services (DGS) established the Sign Language and Interpreting & Transliterating Services contract[1, 2, 3] DGS required contractors interested in providing services to submit bids indicating the preferred communication modes they could provide. Those submitting contract bids were also required to provide pricing information to DGS and identify the counties in which they are willing to provide service. Interpreter referral agencies submitting bids were also required to provide proof of certification for their independent interpreters when requested by a state agency.

In order to be eligible to participate in the contract, DGS also required all persons performing the interpreter service to be certified by the National Association of the Deaf (NAD) or the Registry of Interpreters for the Deaf, Inc. (RID).[4] Such organizations certify sign interpreters. They do not certify oral and cued speech interpreters for the deaf and hard of hearing who are also required for effective communication with certain deaf and hard of hearing persons. As a consequence, the Commonwealth does not have in place contracts for all interpreters required to comply with relevant federal requirements, and agencies must independently identify oral and cued speech interpreters when needed.

Exhibit 27 lists DGS interpreter service agreements as of January 2006 and the geographic locations covered in each agreement. Eighteen agreements are with independent interpreters and 10 with interpreter referral agencies. As noted in Finding R, several of the interpreter referral agencies are also community service providers.

We reviewed the bids submitted by those approved to participate in the DGS contract. The bid responses are not standard. They differ in pricing, the length of

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[1]According to an official with DGS, the contract may be used by independent agencies such as the Attorney General's Office but they are not required to use it. It can also be used by county and municipal governments or any agency, commission, or board not under the Governor's jurisdiction. Act 1998-57 permits local public procurement units to participate in DGS contracts made available to local agencies.

[2]The Department of General Services (DGS), recognizing that Commonwealth agencies are increasingly having to help more people for whom English is a secondary language, solicited bids and developed a contract for state agencies to procure LEP interpreting services. The "Non-English Interpretation and Translation Service" contract (#9985-30) commenced on July 1, 2005, and expires on June 30, 2007, unless it is renewed at the option of DGS.

[3]Computer Assisted Realtime Translation is provided for in DGS contract # 9985-07, Court Reporting and Transcribing Services Contract. Of the 16 suppliers included in this contact, six offer CART services to agencies of the Commonwealth.

[4]The acceptable certifications for NAD are Level 4 or 5. The acceptable certifications for RID include individuals with a current Certificate of Interpretation (CI), Certificate of Transliteration (CT), a Comprehensive Skills Certificate (CSC), or a Certified Deaf Interpreter (CDI).

Exhibit 27

Current Department of General Service Contractor List of Interpreters That State Agencies May Contract With to Provide Services for the Deaf*

Independent Interpreters	Physical Location	Areas of State Served
Austin, Phyllis[a]	Woodward	Not addressed in contract.
Bassett, Shirley	Johnstown	Bedford, Blair, Cambria, Centre, Clinton, Clearfield, Huntingdon, Indiana, Somerset and Westmoreland Counties
Behun, Sharon	Harrisburg	Statewide
Brown, Cindi L.[a]	Bloomsburg	Statewide
Cumsky-Weiss, Arnine[a]	Scranton	Statewide
Coppelli, Rachel	Guys Mill	Statewide, but prefers Clarion, Crawford, Erie, Forest, Lawrence, Mercer, Venango, and Warren Counties.
Cosper, Pamela R.[a]	Catawissa	Statewide
Curtis, David Y.[a]	Acme	Statewide
Czubek, Janey Greenwald	Waverly	Statewide
Czubek, Todd	Waverly	Statewide
Lee, Linda A.	Johnstown	Bedford, Blair, Cambria, Fulton, Huntingdon, Indiana and Somerset Counties
Litzinger, David A.	Patton	Blair, Cambria, Clearfield, and Indiana Counties. If outside these counties there is an additional charge.
Monaco, Karen	New Castle	Western part of PA is preferred including Armstrong, Beaver, Butler, Lawrence, Mercer and Venango Counties.
Richards, Lisa A	Dalton	Statewide, but Columbia, Lackawanna, Luzerne, Monroe, Pike, Wayne and Wyoming Counties preferred.
Rupert, May J.	Harrisburg	Prefers the cities of Harrisburg, Greensburg and Johnstown, but will consider all areas.
Schornstein, Ruth Ann	Bloomsburg	Statewide
Snyder, Charles M.	York	Statewide
Waters, William B.	Lancaster	Statewide
Interpreting Services Organizations		
Allen Sign Language Services	Clarks Summit	Statewide, but Carbon, Lackawanna, Luzerne, Monroe, Pike, Susquehanna, and Wyoming Counties preferred.
ASL Services of PA	York	Statewide
Berks Deaf and Hard of Hearing Services	West Lawn	Not addressed in contract.
Center for Hearing and Deaf Services, Inc.	Pittsburgh	All counties in the northwest and southwest.
Deaf-Hearing Communication Center., Inc.[a]	Swarthmore	Serving the five southeast counties.
Deaf and Hard of Hearing Service of Lancaster Co.	Lancaster	Available for assignments within 115 mile radius of the agency.
DeafLink/Easter Seals Interpreter Referral Agency.	York	Statewide
Language Services Associates	Willow Grove	Statewide
Sign Language Specialists of Western PA, Inc.[a]	Johnstown	Blair, Cambria, Indiana, and Somerset Counties. Additional charge outside these counties.
The Communication Connection, Inc.	Norristown	Southcentral Pennsylvania
360 Translators International, Inc.	Hawley	Statewide

*The Sign Language and Interpreting & Transliterating Services Contract expires on June 10, 2007.

[a]Also enrolled as a Medical Assistance provider for interpreting services.

Source: Department of General Services (DGS) Sign Language and Interpreting & Transliterating Services Contract provider list and DPW Medical Assistant provider list.

assignments, and responsibility for payment if a client fails to show for a meeting or event for which an interpreter has been scheduled. Common themes reflected in the DGS approved bids are found in Exhibit 28.

We were not able to identify total expenditures by Commonwealth agencies for interpreter services for several reasons:

- State agencies may directly contract with an interpreter who is not on the contract if the amount does not exceed $3,001 annually.[5]
- State agencies cannot use DGS's contract when purchasing interpreter services for greater than $30,000 per year.
- State agencies may develop separate contracts for interpreter services greater than $30,000 (as discussed in Finding S).
- Some state agencies enroll interpreters as service providers (e.g., Medical Assistance) and expenditures for such services are not always reported as expenditures for "interpreters" (see Finding S).
- State agencies to comply with federal requirements at times must purchase interpreter services not provided by sign language interpreters and not covered by DGS's sign interpreter contract.

DGS, however, was able to provide information on the expenditures for sign interpreter services under its agreements. Expenditures for interpreter services under the DGS agreements are shown in Table 9 for three recent years.

The Department of General Services advised us it has not received any complaints from deaf or hard of hearing clients regarding services provided by an interpreter or the Commonwealth agency that hired the interpreter and is not designated to receive complaints. Concerns about service are to be directed to the Office of the Deaf and Hard of Hearing. The designated staff person to receive such concerns, however, is no longer with the agency. The DGS agreement does not include performance standards, and there is no standard process for assessing satisfaction with service provided as occurs in major federal agencies. Federal institutes of health, for example, have contracts for interpreter services that include performance standards (e.g., 90 percent of requests received outside of normal business hours will have an interpreter respond onsite within 40 minutes; at least 95 percent of all confirmed interpreters respond to properly scheduled events at least 15 minutes prior to the start of the event) and have standard procedures to assess satisfaction with the quality of service.

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[5]The conditions listed in MD 205.32 apply to such purchasing.

Exhibit 28

Common Themes in Department of General Services Agreements for Sign Interpreter Services

- Rates for similar interpreting services during normal business hours ranged from $30 per hour to $56 per hour.
- Interpreters' rates differ based on the time of the assignment (i.e., normal business hours and outside such normal business hours) and amount of advanced notice (i.e., 24 hours or more).
- Interpreters' rates for specialized assignments (such as legal interpretation in courts and interpreting for individuals who are living or being seen in a medical or psychiatric facility or home for the mentally retarded) are higher than rates for other assignments. For example, one interpreter set rates at $37.50 per hour for regular business hour assignments; $40 per hour for medical assignments; $47.50 per hour for mental health assignments; $52.50 per hour for crisis intervention service assignments; and $60 per hour for legal assignments.
- Interpreter service requires a minimum two hour payment.
- If an assignment is longer than two hours, a second interpreter must be contracted.
- The agency hiring the interpreter is expected to pay travel time and mileage costs from the interpreter's home or office to the facility where interpreting service is needed. The hiring agency must pay all tolls, parking costs, and any costs associated with public transportation. If there are costs for meals or for overnight lodging, such costs must be paid by the agency.
- Assignment cancellation notice must be provided 24 hours in advance of the scheduled assignment or the agency will be billed for one or two hours of service. Many interpreters require that cancellation notices be given at least 48 hours in advance of the scheduled assignment.
- If a client or customer who needs the services of an interpreter fails to show, the agency must pay the interpreter for travel time and a minimum of two hours interpreting time.

Source: Developed by LB&FC staff based on review of work conditions and rates submitted by interpreters participating in the Sign Language and Interpreting & Transliterating Services Contract established by the Department of General Services.

Table 9

DGS Contract Expenditures for Interpreter Services

Year	Amount
2003.......	$ 188,336
2004.......	1,225,748
2005.......	918,451

Source: Department of General Services.

In view of the wide variation in pricing for sign interpreter services, we reviewed how such services are purchased in Washington State, one of the few states with major experience in purchasing such service, according to the Federal Office of Management and Budget. The Washington State Legislature passed Senate Bill 6832 in 2002 out of concern about escalating expenditures for interpretation services. The Bill directed the Department of Social and Health Services (DSHS) to procure interpreter services in a more cost effective manner. In January 2003, DSHS established a system for purchasing interpretation services through nine regional brokers. The regional brokers are paid a flat administrative fee per appointment. Interpreters assigned to the appointments are paid a capped hourly rate ($28 an hour).

DSHS further requires requests for interpreter services to come from DSHS contract service providers (i.e., medical providers) or DSHS staff. Clients and interpreters cannot request or arrange for DSHS interpreter services and have such services reimbursed. Interpreter services must also be arranged in advance to qualify for reimbursement.

In Pennsylvania, individual interpreters decide how much reimbursement they should receive if a client does not show for an appointment.[6] Washington's program does not fully reimburse an interpreter if a client fails to show up for an appointment. For such "no-shows" reimbursement is at the rate of one-half hour per no-show.

Washington's program also prohibits interpreters from:

- Arranging appointments for clients on behalf of the contract service provider or DSHS staff.
- Contacting the client other than at the request of the contract service provider or DSHS staff.
- Providing transportation for clients to, or from, social service or medical appointments.
- Requesting payment from DSHS for interpreter services provided to the interpreter's family members.
- Accepting compensation from clients or others on behalf of clients.

DSHS also has a Code of Conduct for interpreters from whom it purchases services. The Code of Conduct notes interpreters are not to counsel, give advice, or express personal opinions to individuals for whom they are interpreting or engage in any other activities other than interpreting. In addition, they may also not market their

[6]A review of the bids submitted by interpreters to DGS shows the typical minimum reimbursement if a client fails to show for an appointment is two hours interpreting.

services to clients. DSHS further required interpreters which it lists on its state registry to obtain necessary background checks and comply with all federal and state laws. Such specific requirements are necessary as not until 2005 did the Registry of Interpreters for the Deaf (RID) modify its code of ethics to clarify that its code does not exempt nationally certified interpreters from reporting suspected child abuse when required by law. As of June 2006, the ODHH Interpreter Registry was not utilizing the revised code of ethics as part of its interpreter registry process.

U. The Department of Labor and Industry's Decision to Only Allow Interpreters Holding a National Certification to Be Placed on the State Registry of Interpreters Is Unnecessarily Restrictive and May Result in Interpreter Shortages.

In early 2006, the national Registry of Interpreters for the Deaf (RID) reported that it had 319 members in Pennsylvania.[1] Prior to the passage of Act 2004-57 which created an interpreter registry[2] in the Office of the Deaf and Hard of Hearing, the Department of Labor and Industry advised the Pennsylvania General Assembly that 300 applicants would register each year. The Department further advised the General Assembly that $125,000 would be required each year to effectively administer the proposed program and such costs would need to be covered by registrant fees.[3]

As of February 2006, fewer than 200 interpreters have been listed on Pennsylvania's interpreter registry. We reviewed the registry and found approximately 75 of the registrants indicate they are routinely available to interpret during a typical work week.[4] Based on the 75 interpreters' reported telephone area codes:

- 16 are from Philadelphia area,
- 13 are from Harrisburg and south central Pennsylvania,
- 11 are from Scranton-Wilkes-Barre and northeastern Pennsylvania,
- 9 are from Pittsburgh area,
- 9 are from Reading, Allentown, and southeastern Pennsylvania area,
- 7 are from New Castle and southwestern Pennsylvania,
- 2 are from Erie and northwestern Pennsylvania, and
- 9 are from out-of-state.

The lower than anticipated number of registrants for Pennsylvania's registry does not appear to be due to delay in certified interpreters applying to the registry. We reviewed the National Registry of Interpreters for the Deaf's (RID's) 319 Pennsylvania members list and found only 149 members are certified and engaged in

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[1]RID website accessed 2/7/06.
[2]63 P.S. §§1725.1-1725.12
[3]September 22, 2003, Fiscal Note.
[4]Remaining registrants are employed full time by service agencies (including schools) as interpreters or employed full time in various professions. Others are available on a limited part-time basis. Act 57 for the first time required educational interpreters with national certification to register with the Department of Labor and Industry. About 40 educational interpreters with national certification were added to the Department's registry as a result of Act 57.

freelance interpreting or transliterating on either a full- or part-time basis. An additional 82 associate members are not certified but report engaging in some interpreting or transliterating on either a full- or part-time basis.[5]

Several associate members who report engaging in interpreting are employed full-time, for example, as teachers in college interpreter programs. Some work with community interpreter referral programs that provide community interpreting and other services for the deaf and hard of hearing.

Community agencies that have provided interpreter services in Pennsylvania include:

- Berks Deaf & Hard of Hearing Services,
- Deaf-Hearing Communication Centre (serving southeastern Pennsylvania),
- Deaf & Hard of Hearing Services of Lancaster County,
- Center for Hearing and Deaf Services of Pittsburgh (serving western Pennsylvania),
- Easter Seals of South Central Pennsylvania,
- Community Resources for Independence (serving Northwestern Pennsylvania),
- Northeast PA Center for Independent Living,
- Lehigh Valley Center for Independent Living,
- Center for Independent Living of South Central Pennsylvania, and
- Three Rivers Center for Independent Living.

Such agencies utilize community interpreters who are certified by national organizations such as the Registry of Interpreters for the Deaf and the National Association of the Deaf. They also employ qualified interpreters who are fluent in sign as a result of learning sign language from parents and family members or formal training in college programs. Several agencies that are major providers of interpreter services in their communities advised us as many as half of their interpreters are qualified but not certified by the Registry of Interpreters for the Deaf and the National Association of the Deaf. Act 57 permits interpreters who are not on the state registry to engage in paid interpreting provided the interpreter informs the client that he or she is not registered under the act.

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[5]The remaining RID PA members consist of certified and associate members who are not engaged in interpreting and supporting and student members who by definition do not engage in interpreting or participate in RID continuing education programs.

To assist qualified interpreters in the Pittsburgh area to obtain national certification, Allegheny County Community College, with the support of the Greater Pittsburgh Registry of Interpreters for the Deaf and the Office for the Deaf and Hard of Hearing, instituted a 175 hour program focusing on skill development through classes and workshops. Program participants do not receive credits that can be counted toward requirements for a college degree. They, however, qualify to receive continuing education credits required by the Registry of Interpreters for the Deaf for national certification. This program[6] to help prepare to take the national certification tests takes about two calendar years to complete.

Qualified interpreters with whom we spoke, including a community program administrator whose parents are deaf and whose first language is ASL and a college faculty member who teaches ASL, indicated interest in obtaining national certification. In addition to costs associated with national certification, they point to several substantial testing and procedural problems with the Registry of Interpreters for the Deaf (RID) and the National Association of the Deaf (NAD) certification program.

RID and NAD Certification Processes: The RID and NAD are private organizations that have developed educational and written and performance testing requirements for national certification, including their own testing procedures and schedules. In 2006, individuals who have prepared and taken the written portion of the national certification test could expect to wait nine months before learning their written test results. If an applicant fails the written portion of the test,[7] an applicant must wait at least 6 months before retaking the written test.

After passing the written test, an applicant for national certification can apply to take the performance portion of the national test. The national certifying organization, however, does not guarantee all current applicants will be given opportunity to take the performance part of the test within a defined period of time. As of February 2006, moreover, the national certifying organization was not releasing performance test results until substantial matters related to such testing are resolved by its technical consultant and relevant RID members. We spoke with RID staff to learn when the organization planned to have such delays resolved. RID staff reported the organization has been working to improve its testing processes, but could give no date when the national certification testing problems will be resolved.

Act 57 Certification Requirements: Act 2004-57 does not require the Department of Labor and Industry's Office of Deaf and Hard of Hearing to restrict

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[6]The program sequence includes Guided Practice Voice to Sign Written Exam, Community Service Populations Performance Exam, Team Interpreting, ASL-3 Interpreting Basic, Fingerspelling, ASL-4 Educational Settings Sign to Voice, and Deaf Culture.

[7]For the test administered in 2004, 65 percent passed the general written test, according to RID data as of 9/22/05. Of the deaf certification applicants, only 33 percent passed the RID written test.

registrants to persons with national certification from the National Registry of Interpreters for the Deaf and the National Association of the Deaf. Such national certifications were referenced in earlier bills and deleted from the bill that was finally enacted.

Act 2004-57 indicates that registrants are to provide proof they have "passed an examination approved by the office which test knowledge and proficiency in interpreting and transliterating."[8] The Department of Labor and Industry elected to restrict interpreter registration to those holding national certification. In May 2005, the Office for the Deaf and Hard of Hearing indicated that certain[9] national certification by the Registry of Interpreters and/or the National Association of the Deaf would be required to have the individual's name placed on the state registry.

In addition to the RID and NAD, other organizations and states have developed examinations to test knowledge and proficiency in interpreting and transliterating. They include, for example:

- American Consortium of Certified Interpreters,
- Illinois Interpreter Skills Assessment Screening,
- Kansas Quality Assurance Screening,
- Michigan Quality Assurance Interpreter Screening Program,
- Missouri Interpreter Certification System,
- Nebraska Quality Assurance Assessment Screening Test,
- Texas Board for Evaluation of Interpreters,
- Virginia Quality Assurance Screening, and
- Wisconsin Interpreting and Transliterating Assessment.

In addition to state and national testing programs, many colleges offer degrees in interpreting. Pennsylvania, for example, has several college level interpreter training programs. They include:

- Mount Aloysius College's associate and bachelor degree Sign Language/Interpreter Education programs,[10]
- Bloomsburg University's bachelor degree in American Sign Language/English Interpreting,[11] and

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[8]63 P.S. §1725.5(a)(iii).

[9]The Department of Labor and Industry's registry includes some but not all of the national certification levels. For example, those holding NAD III certifications are not eligible for the registry.

[10]The college is considering changing its two-year interpreter associate degree program to an ASL associate degree program.

[11]As of February 2006, Bloomsburg was not admitting new candidates to its interpreter training degree program.

- Community College of Philadelphia's associate degree in ASL/English Interpreting.

The University of Pittsburgh, moreover, offers an ASL studies language program as part of its degree program offerings.[12] The registry criteria selected by the Department of Labor and Industry, however, would not allow individuals who have successfully completed such interpreting and college degree programs from being listed on Pennsylvania's registry without first obtaining national certification.

In 2000, the National Association of the Deaf took the position that states should provide a "provisional" status when registering or certifying interpreters that would allow interpreters to obtain the experience necessary to meet the requirements for national certification. Requiring national certification for placement on the state registry without allowing interpreters to obtain experience creates a disincentive for Pennsylvania colleges to continue interpreter training programs and for their graduates to remain in Pennsylvania. The Allegheny County Community College in recent years discontinued its interpreter training program, and the Bloomsburg University bachelor degree program in interpreting is not admitting new students.

For a variety of reasons, most states with interpreter registries do not limit them to individuals certified by RID and NAD. Additional registry options provide opportunity for trained interpreters who are not nationally certified to practice their interpreting skills before seeking certification, which is essential according to interpreter educators with whom we spoke. They also provide states with greater flexibility in addressing interpreter shortages, which are a problem nationwide. Michigan, for example, has 678 registered interpreters. Based on its 2004 Interpreter Survey, less than half are nationally certified.

States that rely on national certification for their registries have provisions for exceptions. The State of Washington, for example, requires sign language interpreters to be registered with the Office of the Deaf and Hard of Hearing in order to work for state-funded programs. Registration requires provision of personal information including education and training, experience, self-disclosure (e.g., have you been convicted of a crime under any law, have any criminal charges pending against you, found to have sexually assaulted, physically abused, or exploited a child or adult, found to have violated a protection order, restraining order, etc.), a copy of the state police self-background check,[13] and information on the applicant's certification. The state's registry recognizes RID and/or NAD certification, but permits

[12]Entry to this program requires successful performance on skills and knowledge evaluations of ASL, and successful completion of 18 college credits in ASL 3 and 4, ASL linguistics and literature, and Deaf Culture.
[13]A copy of the state police self-background check must also be submitted to the interpreter referral agency employing or sub-contracting with the interpreter.

registration of non-certified interpreters who indicate they will attain national certification within five years, and provide a letter of reference from a deaf customer, a nationally certified interpreter and an agency other than the Office of Deaf and Hard of Hearing.

While the Department of Labor and Industry understands that interpreters on the Pennsylvania registry must comply with all relevant federal and state laws, Pennsylvania's registry currently does not include requirements for background checks such as those required for persons working with children in Pennsylvania. The registry also does not include the most recent RID Code of Ethics which makes clear interpreters are not exempt from compliance with relevant federal and state requirements. The Department of Labor and Industry's interpreter registry, moreover, currently does not disclose to users that the Department has not screened registrants for compliance with various federal and state laws, including relevant education statutes,[14] before listing registrants on the state interpreter registry.

The substantially lower number of interpreters on Pennsylvania's Office of Deaf and Hard of Hearing Registry may present problems for those seeking to access registry interpreter service. Access to effective communication for deaf consumers may be further complicated should publicly funded programs decide to only reimburse interpreters on the Department of Labor and Industry's registry. The Department of Public Welfare's Office of Mental Retardation in May 2006 advised county mental health and mental retardation programs and other key service providers for the disabled that it would allow the use of its federal and state funding to pay for interpreter services for consumers. Such payments, however, would not be allowed unless the interpreter was on the Department of Labor and Industry Registry. OMR has adopted this policy despite OMR's position that ASL is not always the appropriate sign language (because of the cognitive skills it requires) for some persons with mental retardation.

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[14]Educational interpreters with EIPA (Educational Interpreter Performance Assessment) certification are to comply with the EIPA Guidelines for Professional Conduct because the RID Code of Conduct is not in compliance with educational laws and practices in public school settings. The EIPA Guidelines require interpreters to convey to the teacher communication regarding content knowledge, share educationally relevant information freely with the educational team, and share student information of a personal nature with the district administration (e.g., discussion of abuse, suicide, drug use, weapons, threats, etc.).

V. The Department of Education Has Taken Significant Steps to Assure All Education Interpreters Comply With the Requirements Established in Act 2004-57

Act 2004-57 requires that persons providing interpreting services be registered with the state through the Office of the Deaf and Hard of Hearing (ODHH). An exception in the act (§4(b)(7)), exempted interpreters or transliterators employed by a public or private elementary or secondary school or institution chartered by the Commonwealth if, "the individual received a rating equal to or exceeding 70% on the EIPA."[1, 2] Act 57 allows nationally certified interpreters registered with ODHH to work in educational settings without taking the EIPA (Educational Interpreter Performance Assessment), although school districts may impose such a requirement.[3, 4]

To improve the skills of all educational interpreters, the Pennsylvania Department of Education for many years has relied on ERCHL and PaTTAN. PaTTAN has provided professional development training for educational interpreters. A summary of some, though not all, of the many professional development training events sponsored by PaTTAN for educational interpreters between July 2004 and June 2006 includes:

- Using Feedback from the EIPA to Formulate a Professional Development Plan
- Processing the Message for Meaning for Educational Interpreters
- Fingerspelling in Educational Settings: Discourse Analysis and Techniques
- Techniques for Interpreting Tests and Assessments for Deaf and Hard of Hearing Students
- Educational Interpreter Performance Assessments
- Fundamental Skill Building and Interpreter Coaching
- Advanced Skill Building

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[1]Many states require a certificate of competency for educational interpreters, and several recognize the EIPA as part of the criteria to obtain such certifications. The fee for taking the EIPA assessment is $225. PDE pays $125 of the fee.

[2]Act 57's requirement is equivalent to an overall EIPA score of 3.5. According to a national study of about 2,100 educational interpreters from across the United States (with 7.9 years of interpreting experience on average and 6.5 years educational interpreting), 38 percent of the interpreters taking the test had a score of 3.5 or greater.

[3]Since the mid-1990s, PDE had utilized the EIPA whenever questions were raised about the skills of individual interpreters.

[4]The Pennsylvania Department of Education in a Letter of Understanding with the Pennsylvania Department of Labor and Industry defines educational interpreters "as individuals employed in public or private elementary or secondary schools, who engage in interpreting or transliterating for school-related activities."

- Spoken Language Development
- Eye/Head Engagement While Interpreting
- Use of Mouthing for Adverbs and Adjectives
- Using Cadence in Sign Language

In addition to such training sessions, PaTTAN sponsored 10 mini-modules from the fall of 2005 through spring 2006. These modules are broadcast via video-conference to PaTTAN sites across Pennsylvania. The co-author of the EIPA and the Director of the EIPA Diagnostic Center at Boys Town Research Hospital conducted the module training.

As of May 2006, reportedly 109 individuals had taken the EIPA and obtained the score specified in Act 57, and 39 additional individuals held national certification and were on the ODHH registry. Reportedly, 312 school employees used sign to communicate with elementary and secondary students in Pennsylvania schools.

Act 57 was enacted without legislative debate and without formal input from the Department of Education (PDE), those with expertise in special education, and educators of the deaf and hard of hearing. As a result, Act 57 did not define "educational interpreter," and did not address how its requirements are to be understood in the context of federal IDEIA requirements for students with approved IEPs. It also did not take into account the differing communication skills required of school personnel working with students with cognitive impairments where students are being taught sign language for single words or short phrases (i.e., toilet) rather than the normal general education curriculum. Such students typically have multiple disabilities and are not receiving interpreter support services to access the general education content curriculum.

While all students, including those with severe cognitive impairments, require quality communication support services, the EIPA Assessment specified in Act 57 was not developed to assess the skills of support staff working with multiply disabled and cognitively impaired students. A primary EIPA developer advised us:

> The EIPA was created to evaluate the general interpreting skills of translators working with educators in typical mainstream classroom settings with typical D/deaf students. The assessment uses videotaped regular education (general/standard curriculum) classroom settings for its stimuli material . . . and typically presenting (no other handicapping conditions) D/deaf students presenting in sign language (for the sign language to spoken English interpreting sample).

Recognizing some of the unintended consequences resulting from Act 57's original requirements, its key legislative sponsor introduced an amendment deleting the act's EIPA requirements and assigning responsibility for standards for educational interpreters to the State Board of Education. The General Assembly promptly acted on the amendment to assure that students with interpreter support services (and approved Individual Instruction Plans) did not have their services disrupted in the 2006 school year. On July 7, 2006, the Governor approved the Act 57 amendment. In July 2006, PDE requested ERCHL to provide advice on standards for educational interpreters and began a public process to develop relevant standards for such services.

As part of the public process, the Pennsylvania Intermediate Unit Special Education Directors have made several recommendations to assure quality service for Pennsylvania's special education students. Such recommendations include analyzing the validity and reliability of the revised EIPA Assessment and its scoring, developing differing standards for educational interpreter support services based on the specific disability and educational curriculum of the individual student, and providing continued opportunities for staff development. They also encouraged PDE to continue its well-received training and expand opportunities for educational interpreter training.

III. Appendices

APPENDIX A

Senate Resolution 76 of 2005

PRINTER'S NO. 731

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 76 Session of 2005

INTRODUCED BY LEMMOND, THOMPSON, PIPPY, TOMLINSON, ARMSTRONG, STOUT, BOSCOLA, C. WILLIAMS, FERLO, MADIGAN, O'PAKE, COSTA, ERICKSON, ORIE, WENGER, RHOADES, PILEGGI, GREENLEAF, RAFFERTY, WAUGH, ROBBINS, LOGAN, TARTAGLIONE, MUSTO AND KITCHEN, APRIL 25, 2005

REFERRED TO LABOR AND INDUSTRY, APRIL 25, 2005

A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 conduct a comprehensive evaluation of all State services
3 provided to persons who are deaf or hard of hearing.

4 WHEREAS, The underlying need for better coordination and
5 delivery of services to persons who are deaf or hard of hearing
6 was clearly articulated in Act 184 of 1986, which established
7 the Office for the Deaf and Hard of Hearing to specifically
8 advocate for and promote accessibility to governmental services
9 among residents of this Commonwealth who are deaf or hearing
10 impaired, including those persons with multiple disabilities;
11 and

12 WHEREAS, The Commonwealth funds educational programs through
13 the Scranton School for the Deaf, two charter schools for the
14 deaf and Intermediate Unit and mainstreaming programs in public
15 schools; and

16 WHEREAS, The Commonwealth funds many other programs and
17 services for persons who are deaf or hard of hearing; and

1 WHEREAS, The Commonwealth is committed to implementation of
2 the Americans with Disabilities Act; and
3 WHEREAS, The Commonwealth is committed to providing adequate
4 services for persons who are deaf or hard of hearing; and
5 WHEREAS, There are approximately 600,000 persons who are hard
6 of hearing and 50,000 citizens who are deaf in this
7 Commonwealth; and
8 WHEREAS, The General Assembly recognizes that the array of
9 services now provided to persons who are deaf or hard of hearing
10 may be fragmented, inefficient or duplicative; and
11 WHEREAS, No study has ever been conducted to ensure the
12 efficient and effective delivery of services to persons who are
13 deaf or hard of hearing in this Commonwealth; therefore be it
14 RESOLVED, That the Senate direct the Legislative Budget and
15 Finance Committee to undertake a comprehensive evaluation of all
16 State services provided to persons who are deaf or hard of
17 hearing; and be it further
18 RESOLVED, That the Legislative Budget and Finance Committee
19 prepare a report of its findings which, at a minimum:
20 (1) Identifies all State programs and services provided
21 to persons who are deaf or hard of hearing by department and
22 agency or office.
23 (2) Identifies revenues and expenditures by source and
24 amount for each of the programs and services.
25 (3) Identifies the number of persons served by each of
26 the programs and services.
27 (4) Assesses the adequacy, effectiveness and efficiency
28 of the programs and services.
29 (5) Identifies overlapping or duplicate programs or
30 services.

1 (6) Identifies specific gaps or needs for existing or
2 new programs or services;
3 and be it further
4 RESOLVED, That the Legislative Budget and Finance Committee
5 solicit input from all Commonwealth agencies currently providing
6 services to persons who are deaf or hard of hearing, independent
7 agencies providing services or advocating for persons who are
8 deaf or hard of hearing and the residents of this Commonwealth
9 who are deaf or hard of hearing who represent a broad spectrum
10 of individuals with hearing loss, including, but not limited to,
11 persons who are culturally deaf, persons who are oral deaf,
12 persons who are deaf and blind, persons who are hard of hearing,
13 persons who are latened deaf and persons who are deaf and
14 multidisabled; and be it further
15 RESOLVED, That the Legislative Budget and Finance Committee
16 submit its report and findings to the Senate within one year of
17 the adoption of this resolution.

APPENDIX B

Survey of Deaf and Hard of Hearing Children and Youth in Special Education

Begun on a national level in 1968, the Annual Survey was initiated at the request of educators and researchers in the field of education of deaf children to assist in determining the educational needs and priorities of deaf children and youth. The Annual Survey is the only national database on deaf and hard of hearing children and youth in the United States. Since 1975, the survey has been financially supported by Gallaudet University through the Gallaudet Research Institute (GRI).

To preserve the statistical validity and reliability of the data, the GRI tries to include as many deaf and hard of hearing children as are identified. Any program or school in the nation, public or private, known to be offering special services to deaf and hard of hearing children is contacted each fall and asked to participate in the survey. Each state special education office is also contacted to obtain a list of all programs known to the state.

GRI estimates that the Annual Survey includes approximately 60 percent of deaf and hard of hearing children receiving special services nationwide.

Results for Pennsylvania and the nation for FY 2004-05 follow.

2004-2005 STATE SUMMARY

Gallaudet Research Institute * 800 Florida Avenue, NE * Washington, DC 20002
202-651-5575 * 1-800-451-8834 ext 5575

AGE	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	59	3.3	126	2.1	841	2.2
Total known information	1714	100.0	5751	100.0	36659	100.0
Under 3 years	32	1.9	123	2.1	1244	3.4
From 3 to 5 years	130	7.6	545	9.5	3419	9.3
From 6 to 9 years	390	22.8	1306	22.7	7898	21.5
From 10 to 13 years	552	32.2	1674	29.1	10348	28.2
From 14 to 17 years	473	27.6	1582	27.5	10230	27.9
18 years and older	137	8.0	521	9.1	3520	9.6
SEX	**Pennsylvania N**	**Pennsylvania %**	**Northeast N**	**Northeast %**	**Nation N**	**Nation %**
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	8	0.5	29	0.5	148	0.4
Total known information	1765	100.0	5848	100.0	37352	100.0
Male	942	53.4	3194	54.6	20253	54.2
Female	823	46.6	2654	45.4	17099	45.8
RACE/ETHNIC BACKGROUND	**Pennsylvania N**	**Pennsylvania %**	**Northeast N**	**Northeast %**	**Nation N**	**Nation %**
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	74	4.2	139	2.4	583	1.6
Total known information	1699	100.0	5738	100.0	36917	100.0
White	1249	73.5	3359	58.5	18712	50.7
Black/African-American	247	14.5	871	15.2	5647	15.3
Hispanic/Latino	114	6.7	1053	18.4	9226	25.0
American Indian/Alaska Native	1	0.1	9	0.2	307	0.8
Asian/Pacific Islander	34	2.0	232	4.0	1512	4.1
Other	28	1.6	116	2.0	708	1.9
Multi-ethnic background indicated	26	1.5	98	1.7	805	2.2

Data from this report should be cited/referenced as:

Gallaudet Research Institute (December 2005).
State Summary Report of Data from the 2004-2005 Annual Survey of Deaf and Hard of Hearing Children and Youth.
Washington, DC: GRI, Gallaudet University.

2004-2005 STATE SUMMARY

Gallaudet Research Institute * 800 Florida Avenue, NE * Washington, DC 20002
202-651-5575 * 1-800-451-8834 ext 5575

AGE AT ONSET OF HEARING LOSS	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	64	3.6	255	4.3	1551	4.1
Total known information	1709	100.0	5622	100.0	35949	100.0
At birth	610	35.7	2301	40.9	15212	42.3
Under 3 years	340	19.9	1438	25.6	6930	19.3
3 years or older	142	8.3	347	6.2	1985	5.5
Unknown	617	36.1	1536	27.3	11822	32.9

AGE AT ONSET OF HEARING LOSS	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	64	3.6	255	4.3	1551	4.1
Total known information	1709	100.0	5622	100.0	35949	100.0
At Birth	610	35.7	2301	40.9	15212	42.3
Under One Year	122	7.1	505	9.0	2631	7.3
Unknown, but befroe age 2	142	8.3	577	10.3	2953	8.2
Unknown	617	36.1	1536	27.3	11822	32.9
1 year of age	41	2.4	184	3.3	587	1.6
2 years of age	35	2.0	172	3.1	759	2.1
3 years of age	26	1.5	104	1.8	554	1.5
4 years of age	28	1.6	64	1.1	361	1.0
5 years of age	30	1.8	63	1.1	336	0.9
6 years of age	13	0.8	30	0.5	205	0.6
7 years of age	13	0.8	28	0.5	137	0.4
8+ years of age	32	1.9	58	1.0	392	1.1

Data from this report should be cited/referenced as:

Gallaudet Research Institute (December 2005).

State Summary Report of Data from the 2004-2005 Annual Survey of Deaf and Hard of Hearing Children and Youth.

Washington, DC: GRI, Gallaudet University.

Appendix B (Continued)

2004-2005 STATE SUMMARY

Gallaudet Research Institute * 800 Florida Avenue, NE * Washington, DC 20002

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ETIOLOGY **	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	65	3.7	279	4.7	1778	4.7
Total Known Information	1708	100.0	5598	100.0	35722	100.0
Genetic/Hereditary/Familial	421	24.6	1382	24.7	8107	22.7
Pregnancy Related						
Maternal rubella	2	0.1	59	1.1	232	0.6
Cytomegalovirus (CMV)	31	1.8	89	1.6	629	1.8
Maternal drug/alcohol abuse	18	1.1	47	0.8	256	0.7
Medications taken by mother	4	0.2	23	0.4	101	0.3
Rh incompatibility	3	0.2	11	0.2	78	0.2
Consequence of prematurity	76	4.4	230	4.1	1428	4.0
Trauma at birth	7	0.4	38	0.7	231	0.6
Other complications of pregnancy	55	3.2	218	3.9	1346	3.8
Post-Birth Disease/Injury						
Otitis media	106	6.2	274	4.9	1718	4.8
Meningitis	53	3.1	211	3.8	1291	3.6
Other infections	21	1.2	88	1.6	408	1.1
Medications taken by child	40	2.3	94	1.7	554	1.6
Trauma after birth	13	0.8	29	0.5	252	0.7
Other post-birth cause	68	4.0	182	3.3	1207	3.4
Cause cannot be determined/DNA	873	51.1	2851	50.9	19193	53.7

+SPECIFIC GENETIC CAUSE OR SYNDROME	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	421	100.0	1382	100.0	8107	100.0
Information NOT reported	295	70.1	972	70.3	4964	61.2
Total known information	126	100.0	410	100.0	3143	100.0
Waardenburg syndrome	5	4.0	20	4.9	152	4.8
Usher syndrome	4	3.2	14	3.4	91	2.9
Treacher syndrome	6	4.8	23	5.6	104	3.3
Down syndrome	21	16.7	44	10.7	275	8.7
CHARGE sydnrome	10	7.9	39	9.5	176	5.6
Chromosome abnormality	4	3.2	9	2.2	69	2.2
Connexin-26 (GJB2)	3	2.4	12	2.9	57	1.8
Other	75	59.5	251	61.2	2237	71.2

** Percent may total more than 100.0 because multiple responses were allowed

+ New question for the 2004-2005 survey year

Data from this report should be cited/referenced as:

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Washington, DC: GRI, Gallaudet University.

2004-2005 STATE SUMMARY

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PARENTAL HEARING STATUS	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	92	5.2	442	7.5	2887	7.7
Total known info., Either Parent	1681	100.0	5435	100.0	34613	100.0
Mother's status: Hearing	1608	95.7	5072	93.3	31860	92.0
Hard of hearing	49	2.9	121	2.2	1027	3.0
Deaf	21	1.2	227	4.2	1601	4.6
Unknown	3	0.2	15	0.3	125	0.4
Father's status: Hearing	1524	90.7	4719	86.8	29851	86.2
Hard of hearing	56	3.3	134	2.5	706	2.0
Deaf	18	1.1	201	3.7	1410	4.1
Unknown	83	4.9	381	7.0	2646	7.6
Both parents hearing	1482	88.2	4598	84.6	28866	83.4
Both parents deaf or hard of hearing	22	1.3	205	3.8	1445	4.2
One parent deaf/hh; other hearing	91	5.4	236	4.3	1531	4.4
One parent deaf/hh; other unknown	9	0.5	37	0.7	323	0.9
One parent hearing; other unknown	77	4.6	359	6.6	2448	7.1

HAS DEAF OR HARD OF HEARING SIBLINGS	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	49	2.8	390	6.6	1617	4.3
Total known information	1724	100.0	5487	100.0	35883	100.0
Has deaf or hard of hearing siblings	232	13.5	822	15.0	4923	13.7
Has no deaf or hard of hearing siblings	1424	82.6	4237	77.2	28059	78.2
Data Not Available	68	3.9	428	7.8	2901	8.1

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UNAIDED AUDIOMETRIC THRESHOLDS MEASUREMENT	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	324	18.3	1164	19.8	7708	20.6
Total known information	1449	100.0	4713	100.0	29792	100.0
Earphone (preferred measurement)	1301	89.8	4204	89.2	25499	85.6
Sound field	136	9.4	463	9.8	3965	13.3
+ABR	12	0.8	46	1.0	328	1.1

DEGREE OF HEARING LOSS	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	195	11.0	900	15.3	5364	14.3
Total known information	1578	100.0	4977	100.0	32136	100.0
Normal (< 27 dB, ANSI)	432	27.4	918	18.4	5493	17.1
Mild (27-40 dB, ANSI)	280	17.7	548	11.0	3975	12.4
Moderate (41-55 dB, ANSI)	243	15.4	548	11.0	4318	13.4
Mod-severe (56-70 dB, ANSI)	180	11.4	509	10.2	3908	12.2
Severe (71-90 dB, ANSI)	169	10.7	763	15.3	4835	15.0
Profound (91 dB and above, ANSI)	274	17.4	1691	34.0	9607	29.9

COCHLEAR IMPLANT	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	46	2.6	222	3.8	1428	3.8
Total known information	1727	100.0	5655	100.0	36072	100.0
Have not had a cochlear implant	1592	92.2	4924	87.1	32021	88.8
Have had a cochlear implant	135	7.8	731	12.9	4051	11.2
Implant Use						
Total students	135	100.0	731	100.0	4051	100.0
Information NOT reported	6	4.4	37	5.1	191	4.7
Total known information	129	100.0	694	100.0	3860	100.0
Implant still used	120	93.0	666	96.0	3544	91.8
Implant no longer used	9	7.0	28	4.0	316	8.2

+ New question for the 2004-2005 survey year

Data from this report should be cited/referenced as:

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2004-2005 STATE SUMMARY

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202-651-5575 * 1-800-451-8834 ext 5575

COCHLEAR IMPLANT USE IN CLASSROOM	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	135	100.0	731	100.0	4051	100.0
Information NOT reported	25	18.5	114	15.6	725	17.9
Total known information	110	100.0	617	100.0	3326	100.0
Implant used in classroom	99	90.0	589	95.5	3001	90.2
Implant not used in classroom	11	10.0	28	4.5	325	9.8

FUNCTIONAL HEARING ABILITY	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	45	2.5	306	5.2	1651	4.4
Total known information	1728	100.0	5571	100.0	35849	100.0
Functions normally	358	20.7	855	15.3	4102	11.4
Mildly limited	812	47.0	1851	33.2	13068	36.5
Moderately limited	179	10.4	541	9.7	3794	10.6
Severely limited	270	15.6	1693	30.4	10456	29.2
No functional hearing	109	6.3	631	11.3	4429	12.4

HEARING AID USE FOR INSTRUCTION	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	24	1.4	213	3.6	1007	2.7
Total known information	1749	100.0	5664	100.0	36493	100.0
Hearing aid used for instruction	1104	63.1	3451	60.9	21604	59.2
Hearing aid not used for instruction	645	36.9	2213	39.1	14889	40.8

GROUP ASSISTIVE LISTENING DEVICE (ALD) USE	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	53	3.0	433	7.4	1849	4.9
Total known information	1720	100.0	5444	100.0	35651	100.0
Group ALD used for instruction	843	49.0	3007	55.2	14701	41.2
Group ALD not used for instruction	877	51.0	2437	44.8	20950	58.8

Data from this report should be cited/referenced as:

Gallaudet Research Institute (December 2005).
State Summary Report of Data from the 2004-2005 Annual Survey of Deaf and Hard of Hearing Children and Youth.
Washington, DC: GRI, Gallaudet University.

2004-2005 STATE SUMMARY

Gallaudet Research Institute * 800 Florida Avenue, NE * Washington, DC 20002
202-651-5575 * 1-800-451-8834 ext 5575

SPOKEN/WRITTEN LANGUAGES IN THE HOME	Pennsylvania N	Pennsylvania %	Northeast N	Northeast %	Nation N	Nation %
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	37	2.1	202	3.4	1115	3.0
Total known information	1736	100.0	5675	100.0	36385	100.0
English	1582	91.1	4483	79.0	27476	75.5
Spanish	38	2.2	573	10.1	4438	12.2
Other	25	1.4	171	3.0	914	2.5
Multiple languages	91	5.2	448	7.9	3557	9.8
SIGN USE IN THE HOME	**Pennsylvania N**	**%**	**Northeast N**	**%**	**Nation N**	**%**
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	66	3.7	322	5.5	1540	4.1
Total known information	1707	100.0	5555	100.0	35960	100.0
Family members regularly sign	291	17.0	1476	26.6	9626	26.8
Family members do not regularly sign	1394	81.7	3866	69.6	24906	69.3
Data not available	22	1.3	213	3.8	1428	4.0
COMMUNICATION MODE PRIMARILY USED IN TEACHING	**Pennsylvania N**	**%**	**Northeast N**	**%**	**Nation N**	**%**
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	17	1.0	48	0.8	421	1.1
Total known information	1756	100.0	5829	100.0	37079	100.0
Speech only	1273	72.5	2771	47.5	17738	47.8
Sign and speech	331	18.8	2476	42.5	14639	39.5
Sign only	141	8.0	500	8.6	4149	11.2
Cued Speech	1	0.1	8	0.1	122	0.3
Other	10	0.6	74	1.3	431	1.2

Data from this report should be cited/referenced as:

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2004-2005 STATE SUMMARY

Gallaudet Research Institute * 800 Florida Avenue, NE * Washington, DC 20002
202-651-5575 * 1-800-451-8834 ext 5575

INSTRUCTIONAL SETTINGS **	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	15	0.8	90	1.5	556	1.5
Total known information	1758	100.0	5787	100.0	36944	100.0
Special school or center	372	21.2	2697	46.6	10364	28.1
Self-contained clrm in req. ed. setting	239	13.6	773	13.4	11041	29.9
Resource room	301	17.1	492	8.5	5199	14.1
Regular education setting	1061	60.4	2380	41.1	17346	47.0
Home	46	2.6	119	2.1	948	2.6
Other	37	2.1	107	1.8	2434	6.6

HRS/WK INTEGRATED W/HEARING STUDENTS	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	37	2.1	144	2.5	1071	2.9
Total known information	1736	100.0	5733	100.0	36429	100.0
None	422	24.3	2776	48.4	13262	36.4
1 to 5 hours/week	96	5.5	307	5.4	3720	10.2
6 to 15 hours/week	173	10.0	425	7.4	4199	11.5
16 to 25 hours/week	228	13.1	436	7.6	3768	10.3
26 or more hours/week	817	47.1	1789	31.2	11480	31.5

+ABR Results	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	1729	97.5	5593	95.2	31062	82.8
Total known information	44	100.0	284	100.0	6438	100.0
ABR results are not available/reliable	35	79.5	202	71.1	4370	67.9
Response absent at 30 dB nHL	0	0.0	4	1.4	97	1.5
Response absent at 40 dB nHL	0	0.0	5	1.8	164	2.5
Response absent at 50 dB nHL	3	6.8	3	1.1	191	3.0
Response absent at 60 dB nHL	1	2.3	12	4.2	250	3.9
Response absent at 70-90 dB nHL	4	9.1	40	14.1	874	13.6
Response absent at 100+ dB nHL	1	2.3	18	6.3	492	7.6

** Percent may total more than 100.0 because multiple responses were allowed

+ New question for the 2004-2005 survey year

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2004-2005 STATE SUMMARY

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202-651-5575 * 1-800-451-8834 ext 5575

SUPPORT SERVICES RECEIVED **	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	15	0.8	125	2.1	723	1.9
Total known information	1758	100.0	5752	100.0	36777	100.0
No support services	27	1.5	290	5.0	2465	6.7
Sign interpreting	171	9.7	581	10.1	9200	25.0
Oral interpreting	29	1.6	60	1.0	455	1.2
Cued speech transliteration	5	0.3	19	0.3	135	0.4
Itinerant teacher services	1219	69.3	1864	32.4	13302	36.2
Tutoring	181	10.3	416	7.2	3301	9.0
Classroom inst. ass't/aide services	243	13.8	960	16.7	6893	18.7
+Adaptive PE	74	4.2	189	3.3	1151	3.1
Speech training/therapy	933	53.1	3845	66.8	22172	60.3
Auditory training	569	32.4	1369	23.8	9892	26.9
Counseling	101	5.7	850	14.8	4234	11.5
Occupational/Physical Therapy (OT/PT)	222	12.6	838	14.6	3397	9.2
Notetaking	50	2.8	222	3.9	1748	4.8
Real-time captioning	7	0.4	21	0.4	610	1.7
Other	142	8.1	547	9.5	4589	12.5

ADDIT. CONDITIONS OTHER THAN DEAFNESS**	Pennsylvania		Northeast		Nation	
	N	%	N	%	N	%
Total students	1773	100.0	5877	100.0	37500	100.0
Information NOT reported	57	3.2	357	6.1	2093	5.6
Total known information	1716	100.0	5520	100.0	35407	100.0
No condition in addition to deafness	865	50.4	3215	58.2	20390	57.6
Low vision	60	3.5	165	3.0	1173	3.3
Legal blindness	21	1.2	80	1.4	470	1.3
+Developmental delay	35	2.0	144	2.6	624	1.8
+Autism	22	1.3	60	1.1	341	1.0
+Orthopedic impairment(includes CP)	57	3.3	203	3.7	1295	3.7
Learning disability (LD)	292	17.0	692	12.5	3265	9.2
Attention Deficit Disorder (ADD/ADHD)	129	7.5	401	7.3	2235	6.3
+Speech or language impairment	137	8.0	244	4.4	3362	9.5
+Traumnatic brain injury	2	0.1	7	0.1	52	0.1
Mental retardation	170	9.9	420	7.6	2902	8.2
Emotional disturabance	34	2.0	153	2.8	675	1.9
+Other health impairment	29	1.7	93	1.7	703	2.0
Other conditions	140	8.2	449	8.1	2446	6.9

** Percent may total more than 100.0 because multiple responses were allowed
Data from this report should be cited/referenced as:

Gallaudet Research Institute (December 2005).
State Summary Report of Data from the 2004-2005 Annual Survey of Deaf and Hard of Hearing Children and Youth.
Washington, DC: GRI, Gallaudet University.

APPENDIX C

ADA Federal Oversight Agencies Contact Information

U.S. Department of Justice
Civil Rights Division
Disability Rights Section

ADA DESIGNATED INVESTIGATIVE AGENCIES
September 2005

Nine Federal agencies are designated to investigate disability-related discrimination complaints filed against State and local government programs under Title I or Title II of the Americans with Disabilities Act (ADA). Each agency is responsible for investigating complaints involving the topics described. In addition, under Section 504 of the Rehabilitation Act, these agencies investigate complaints involving the programs they fund.

Agriculture. Complaints about government programs, services, or activities related to farming, raising of livestock, extension services, 4-H programs, food stamps, or the U.S. Forest Service should be directed to:

U.S. Department of Agriculture
Office of Civil Rights
300 7th Street, S.W., Suite 400
Washington, D.C. 20250-9430

www.usda.gov/cr/Program%20Procedures.htm

Education. Complaints about government programs, services, or activities related to public elementary and secondary education, higher education, vocational education, or libraries (other than schools of medicine, dentistry, nursing, and other health-related fields) should be directed to the appropriate regional office:

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	U.S. Department of Education Office for Civil Rights, Boston Office 33 Arch Street, Suite 900 Boston, MA 02110-1491
New Jersey, New York, Puerto Rico, Virgin Islands	U.S. Department of Education Office for Civil Rights, New York Office 32 Old Slip, 26th Floor New York, NY 10005-2500
Delaware, Maryland, Kentucky, Pennsylvania, West Virginia	U.S. Department of Education Office for Civil Rights, Philadelphia Office 100 Penn Square East, Suite 515 Philadelphia, PA 19107-3323
North Carolina, South Carolina, Virginia, Washington, DC	U.S. Department of Education Office for Civil Rights, District of Columbia Office 1100 Pennsylvania Avenue, N.W., Room 316 Washington, D.C. 20044-4620
Alabama, Florida, Georgia, Tennessee	U.S. Department of Education Office for Civil Rights, Atlanta Office 61 Forsyth Street, S.W., Suite 19T70 Atlanta, GA 30303-3104

Michigan, Ohio	U.S. Department of Education Office for Civil Rights, Cleveland Office 600 Superior Avenue East, Suite 750 Cleveland, OH 44114-2611
Illinois, Indiana, Iowa, Minnesota, North Dakota, Wisconsin	U.S. Department of Education Office for Civil Rights, Chicago Office 111 North Canal Street, Suite 1053 Chicago, IL 60606-7204
Kansas, Missouri, Nebraska, Oklahoma, South Dakota	U.S. Department of Education Office for Civil Rights, Kansas City Office 8930 Ward Parkway, Suite 2037 Kansas City, MO 64114-3302
Arkansas, Louisiana, Mississippi, Texas	U.S. Department of Education Office for Civil Rights, Dallas Office 1999 Bryan Street, Suite 1620 Dallas, TX 75201-6810
Arizona, Colorado, New Mexico, Utah, Wyoming	U.S. Department of Education Office for Civil Rights, Denver Office 1244 Speer Boulevard, Suite 310 Denver, CO 80204-3582
California	U.S. Department of Education Office for Civil Rights, San Francisco Office Old Federal Building, Room 239 50 United Nations Plaza San Francisco, CA 94102-4102
Alaska, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, American Somoa, Guam, Northern Mariana Islands	U.S. Department of Education Office for Civil Rights, Seattle Office 915 Second Avenue, Room 3310 Seattle, WA 98174-1099

www.ed.gov/ocr/complaintprocess.html

Employment. Complaints about disability-related discrimination in State or local government employment practices should be directed to:

U.S. Equal Employment Opportunity Commission
Field Management Programs
1801 L Street, N.W., Room 8023
Washington, D.C. 20507

www.eeoc.gov/facts/howtofil.html

Health and Human Services. Complaints about government programs, services, or activities related to child care, elder care, preschool, social services, or health care programs (including schools of medicine, dentistry, nursing and other health-related fields) should be directed to:

U.S. Department of Health and Human Services
Office for Civil Rights
200 Independence Avenue, S.W.
Room 509F HHH Building
Washington, D.C. 20201

www.hhs.gov/ocr/regmail.html

Housing. Complaints about government programs, services, or activities related to public housing, housing assistance and referral programs, community development, or homeless shelters should be directed to:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 7th Street, S.W., Room 5204
Washington, D.C. 20410-2000

www.hud.gov/complaints/housediscrim.cfm

Labor and Work Force Participation. Complaints about government programs, services, or activities related to labor and the work force, including employment services, job training, Job Corps, unemployment insurance, Worker's Compensation, or occupational safety and health should be directed to:

U.S. Department of Labor
Directorate of Civil Rights
200 Constitution Avenue, N.W., Room N-4123
Washington, D.C. 20210

www.dol.gov/oasam/programs/crc/complaint.htm

Lands, Resources, and Environment. Complaints about government programs, services, or activities related to public lands and natural resources, parks, recreation, water and waste management, environmental protection, energy, historic and cultural preservation, museums, or the U.S. Park Service, should be directed to:

U.S. Department of the Interior
Office for Equal Opportunity
1849 C Street, N.W., Room 1324
Washington, D.C. 20240

http://www.doi.gov/diversity/8disability2.htm

Transportation. Complaints about programs, services, or activities related to highways, traffic management, automobile licensing and inspection, driver licensing, or public transportation systems should be directed to:

U.S. Department of Transportation
Departmental Office of Civil Rights
Office of the Secretary
400 Seventh Street, S.W., Room 10215
Washington, D.C. 20590

www.dot.gov/citizen_services/disability/complaints.html

Other Government Functions, including Law Enforcement. Complaints about programs, services, or activities related to law enforcement or public safety; administration of justice, including courts and correctional institutions; commerce and industry, including general economic development, banking, finance, consumer protection, insurance, and small business; State and local government support services (e.g., audit, personnel, comptroller, administrative services); and all other government functions not assigned to other designated agencies should be directed to:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section, NYAV
Washington, D.C. 20530

www.usdoj.gov/crt/ada/enforce.htm#anchor218282

Reproduction of this document is encouraged.

Source: U.S. Department of Justice, Civil Rights Division, Disability Rights Section.

APPENDIX D

Pennsylvania Regional Assistive Technology Resource Centers and Counties They Serve

Pennsylvania's Initiative on Assistive Technology (PIAT) – Institute on Disabilities

Ritter Hall Annex – Room 423, Temple University
Philadelphia, PA 19122
(800) 204-PIAT (7428) Voice/TTY (in-state only)
(215) 204-9371 Fax
Contact: Sandi McNally
Email: smcnally@temple.edu
http://disabilities.temple.edu
Counties Served: Philadelphia, Bucks, Chester, Montgomery, Delaware

Community Resources for Independence

2222 Filmore Avenue
Erie, PA 16506
(800) 530-5541 Voice
(814) 838-7222 Voice
(814) 838-8115 TTY
(814) 838-8491 Fax
Email: Roseanna@crinet.org
http://www.crinet.org
Contact: Roseanna Wayne
Counties Served: Clarion, Crawford, Erie, Forest, Mercer, Venango, Warren

Three Rivers Center for Independent Living

900 Rebecca Avenue Pittsburgh, PA 15221-2938
(800) 633-4588 Toll Free
(412) 371-7700, ext. 111 Voice
(412) 371-6230 TTY
(412) 371-9430 Fax
Email: Khuwe@trcil.org
http://www.trcil.org
Contact: Kevin Huwe
Counties Served: Allegheny, Armstrong, Beaver, Butler, Indiana, Lawrence, Westmoreland

Life and Independence for Today

503 East Arch Street Saint Marys, PA 15857-1779
(800) 341-5438 Voice
(814) 781-3050 Voice
(814) 781-1917 Fax/TTY
Email: liftinr@liftcil.org
http://www.liftcil.org
Contact: Dawn Park
Counties Served: Cameron, Clearfield, Elk, Jefferson, McKean, Potter

Appendix D (Continued)

United Cerebral Palsy of Central Pennsylvania

925 Linda Lane
Camp Hill, PA 17011
(888) 790-3925 Toll free
(717) 737-3477 Voice
(717) 737-3564 TTY
(717) 737-9416 Fax
Email: jwardle@ucpcentralpa.org
http://www.ucpcentralpa.org
Contact: Jackie Wardle
Counties Served: Adams, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lebanon, Mifflin, Perry, Snyder, York

United Disabilities Services

1901 Olde Homestead Lane
P. O. Box 10485
Lancaster, PA 18702
(800) 995-9581 Voice
(717) 358-1254 Voice
(717) 358-1258 TTY
(717) 358-1253 Fax
Email: carols@udservices.org
www.udservices.org
Contact: Carol Sneath
Counties Served: Berks, Carbon, Lancaster, Lehigh, Luzerne, Monroe, Northampton, Schuylkill

Center for Independent Living of Northcentral PA

210 Market Street, Suite A
Williamsport, PA 17701
(800) 984-7492
(570) 327-9070 Voice
(570) 327-5254 TTY
(570) 327-8610 Fax
Email: kswimley@cilncp.org
http://www.cilncp.org
Contact: Karen Swimley
Counties Served: Centre, Clinton, Columbia, Lycoming, Montour, Northumberland, Tioga, Sullivan, Union

United Cerebral Palsy of Northeastern Pennsylvania

425 Wyoming Avenue
Scranton, PA 18503
(1-877) 827-8324 Northeastern PA only
(570) 347-3357 Voice
(570) 347-3117 TTY
(570) 341-5308 Fax
Email: ucptech@yahoo.com
www.ucpnepa.com
Contact: Linda Mesavage
Counties Served: Bradford, Lackawanna, Pike, Susquehanna, Wayne, Wyoming

Appendix D (Continued)

Tri-County Patriots for Independent Living

69 East Beau Street
Washington, PA 15301
(724) 223-5115 Voice
(724) 228-4028 TDD
(724) 223-5119 Fax
Email: donya@tripil.com
Contact: Donya Bernier
Counties Served: Bedford, Blair, Cambria, Fayette, Greene, Somerset, Washington

Source: Temple University Institute on Disabilities.

APPENDIX E

PA Early Intervention Programs

Early intervention in Pennsylvania involves providing services and supports designed to help families with children with developmental delays. Early Intervention (EI) services in Pennsylvania are provided free of charge to all eligible children, including children who are deaf or hard of hearing. The EI Program is two separate programs. The infant and toddler program is for newborns and children through age two and is administered by the Department of Public Welfare (DPW), Office of Mental Retardation (MR) through local county Mental Health/Mental Retardation (MH/MR) offices. Between age three and age five, EI program services are provided by the Pennsylvania Department of Education (PDE) through agreements with 34 MAWA agencies.[1]

Under federal law, the Individuals with Disabilities Education Act (IDEA) of 1997, and state law, the Early Intervention Services System (Act 1990-212), the Office of Child Development within DPW sets policy and allocates funds for Pennsylvania's Early Intervention Program for infants and toddlers who have, or are at risk of having, a disability or developmental delay. Act 212 also directs PDE to set policies and develop procedures for programs and services for children from age three to the age of beginners.

Expenditures and Number of Children Served

The following tables show total federal and state funding expended for Early Intervention services for three recent fiscal years. PDE's EI expenditures do not include Medicaid School-Based ACCESS funding available to such programs.

Pennsylvania and Nebraska are the only two states which use federal monies available under the Infants, Toddlers, and Families Waiver to help fund some of the EI services mandated by part C of the Individuals with Disabilities Act for children under age three.[2]

[1]MAWA stands for Mutually-Agreed upon Written Arrangements: 27 are intermediate units, 5 are school districts, and 1 is a private provider.
[2]Nebraska's waiver only provides case management services and is designed to expand Medicaid access to children under age three with severe disabilities.

Appendix E (Continued)

Funding for DPW EI Services and Number of Children Served

Fiscal Year	Number of Children Served	State Funds[a]	Federal Funds[b]	Total Funds EI Services
2002-03	22,020	$61,337,830	$27,668,433	$ 89,006,263
2003-04	24,274	67,290,629	29,735,906	97,026,535
2004-05	26,230	80,689,000	32,428,000	113,117,000

[a]State funds do not include 10 percent local match dollars. State funds include funding for services, service coordination and funds to match federal Medical Assistance draw down. Total federal dollars include Medical Assistance waiver funds, Individuals with Disabilities Education Act (IDEA) Part C monies, and Social Services Block Grant (SSBG) funds.

[b]Federal funds include Medical Assistance funds.

Source: *Early Intervention in Pennsylvania,* Pennsylvania Interagency Coordinating Council, 2004-2005 Annual Report, p.8.

Funding for PDE EI Services and Number of Children Served

Fiscal Year	Number of Children Served	State Funds	Federal Funds	Total Funds EI Services
2002-03	33,726	$107,725,000	$14,293,994	$122,018,994
2003-04	35,785	113,111,800	14,207,185	127,318,985
2004-05	36,790	117,607,000	14,214,907	131,821,907

Source: *Early Intervention in Pennsylvania,* Pennsylvania Interagency Coordinating Council, 2004-2005 Annual Report, p.9.

Eligibility Determination

Eligibility for EI services is determined through a multidisciplinary evaluation. Infants and toddlers qualify for EI services provided through DPW if they have:

- A significant delay in one or more areas of development.
- A delay determined by a specialist even though it does not show up on the assessment (called informed clinical opinion).
- A known physical or mental condition which has been shown to have a high probability for development delay.

To assist children with hearing loss, Title 55 of the Public Welfare Code, Chapter 4226, identifies audiological services as a developmental service which is to be provided to eligible children.[3] Audiological services include:

[3]Services are provided by local providers who contract with county MH/MR offices.

Appendix E (Continued)

- The identification of hearing loss using appropriate screening techniques.
- Referral for medical or other needed services.
- The provision of auditory training, aural rehabilitation, speech reading, and listening device orientation and training.
- The provision of services for prevention of hearing loss.
- Determination of the need for individual amplification, including selecting, fitting, and dispensing appropriate listening devices.

Preschoolers qualify for EI services provided through PDE if they have:

- A significant delay in one or more areas of development compared to other children their age.
- Physical or mental disabilities in the areas of autism/pervasive developmental disorder, serious emotional disturbance, neurological impairment, deafness/ hard of hearing, specific learning disability, mental retardation, multiple handicaps, other mental impairment, physical disability, speech impairment, or blindness/visual impairment.
- In need of special education and related services.

APPENDIX F

The Federal Supplemental Security Income (SSI) Program

The Supplemental Security Income (SSI) program is a federal program administered by the Social Security Administration. The program provides monthly payments to low income elderly and blind and disabled individuals. The program is financed with federal tax revenues, not the Social Security trust funds.[1]

Eligibility: Individuals who qualify for federal SSI are also eligible for Medicaid or Medical Assistance. Those eligible for SSI include:

- Persons age 65 and older with low income and few resources.
- Persons age 18 and over having a physical or mental condition, or combination of conditions that is expected to last at least 12 months that keeps them from working, or having a condition that is expected to result in death.
- Children under age 18 having a physical or mental condition, or combination of conditions, that results in marked and severe functional limitations expected to last at least 12 months or result in death.
- A person whose vision is no better than 20/200 or who has a limited visual field of 20 degrees or less in the better eye with the use of eyeglasses.

In addition to having certain conditions or status, a person must also meet certain income and resource eligibility requirements to qualify for federal SSI payments. The amount of income a person (or couple) can have to qualify for SSI varies. SSI financial eligibility rules distinguish between two types of income: earned income and unearned income. Earned income includes wages, self-employment net earnings,[2] certain royalties, and money from sheltered workshops. Unearned income includes Social Security, workers or veterans compensation, pensions, annuities, rent, interest, support and maintenance in kind, and other income not earned.

In 2005, a person had to receive less than $599 a month in unearned income to financially qualify for SSI benefits. A couple had to receive less than $899 in unearned income to receive SSI benefits. Because a larger portion of earned income is disregarded, a person receiving SSI can earn up to $1,234 a month ($1,823 for a couple) and still continue receiving SSI. Such persons' resources, moreover, cannot exceed $2,000 for an individual ($3,000 for a couple). A person's home and one vehicle are not included in the calculation to determine a person's resources.

Some states, including Pennsylvania, supplement the federal SSI payment amount for SSI recipients outside of institutions. Pennsylvania's State SSI Supplement Program is discussed in detail in the Legislative Budget and Finance Committee's *Long Term Care for the Elderly in Pennsylvania*, April 2005.[3]

Monthly Benefit Amounts: In 2006, the monthly federal SSI payment for an individual living alone is $603 ($904 for a couple). The Federal SSI payment is indexed to inflation and increases annually at the beginning of each year. The state SSI monthly supplemental payment for

[1]According to the Social Security Administration, more than seven million people nationwide currently receive monthly SSI payments.
[2]Some impairment related work expenses can be deducted from earned income. Work expenses eligible for deduction include the cost to hire an interpreter of the deaf and assistive technology.
[3]Pages 24-32.

an individual is $27.40 ($43.70 for a couple). Higher amounts are available to residents in licensed personal care homes and domiciliary care homes. The Department of Public Welfare anticipated over 335,000 persons would receive the SSI state supplement in FY 2005-06.

Representative Payees: The Social Security Administration recognizes that all disabled and elderly individuals may not have independent living skills that allow them to manage their own finances. For those individuals who are not able to manage their affairs independently, the Social Security Administration allows a "representative payee" to be designated to receive a recipient's payment and related correspondence. Representative payees are responsible for using SSI payments on behalf of the recipient.

Organizations may serve as representative payees. If they serve five or more beneficiaries they are allowed to charge a monthly fee of 10 percent of the monthly benefit or $30, whichever is less.

Applying for SSI: Individuals can apply for SSI by visiting a Social Security office or calling for an appointment. A large part of the SSI application can also be completed online at the Social Security Administration's web site. Parents or guardians can apply for children under age 18.

Communication Accessibility: The Social Security Administration complies with the Rehabilitation Act of 1973. It has adopted the regulations for federally conducted programs that were promulgated by the U.S. Department of Health and Human Services that requires effective communication with deaf persons and hard of hearing persons by provision of auxiliary aids. The SSA informs deaf and hard of hearing applicants and beneficiaries of the availability of auxiliary aids. The decision as to what constitutes an appropriate auxiliary aid is left to the deaf and hard of hearing individual requesting the accommodation. SSA has developed multilanguage posters providing directions in multiple languages, including sign, directing applicants on how to obtain an interpreter.

The SSA also meets its responsibilities concerning communication access for the deaf and hard of hearing and those with limited English proficiency by providing toll-free numbers (1-800-325-0778/TTY and 1-800-772-1213/Voice) for persons to use to obtain the services of interpreters. All types of interpreter services (languages other than English, ASL, cued speech, and oral interpreters) are provided by the Social Security Administration. Such services are provided without cost to the applicant.

Ticket-to-Work Program: SSI recipients who want help in returning to work or are going to work for the first time can be issued "tickets-to-work" for self-sufficiency. Such "tickets" can be used at organizations enrolled in the Social Security Administration's Employment Networks or taken to the State Vocational Rehabilitation agency for services.[4] Such agencies provide pre- and post-employment services to eligible SSI (and Social Security Disability Insurance) ticket holders who choose to go to work. The agencies provide a variety of essential job placement, vocational rehabilitation, job preparation and skill training, support, and retention services for beneficiaries.

The Social Security Administration pays vocational rehabilitation providers for the cost of the services they provide to SSI recipients if certain conditions are met. The services provided must result in the SSI recipient's return to work (i.e., a substantial gainful activity) for at least nine continuous months.

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[4]The Pennsylvania 2004 Annual Report notes that the Ticket-to-Work program started in Pennsylvania in November 2003 and over 2,000 "tickets" have been assigned to OVR.

Source: Developed by LB&FC staff from a review of the Federal Supplemental Security Income (SSI) Program.

APPENDIX G

Independent Living Centers and Services

To qualify to receive federal funding for independent living services and centers for independent living (under Title VII, Chapter I, Parts B and C of the Rehabilitation Act of 1973 as amended), Pennsylvania must develop a three-year State Plan for Independent Living (SPIL) with public input from interested individuals, groups, and organizations.[1] The plan that is developed must be submitted to the Federal Department of Education (DOE) by July 1 of the year preceding the first fiscal year for which the plan is submitted. In October 2004, the DOE approved Pennsylvania's State Plan for Independent Living for federal fiscal years 2005 through 2007.

As a result of the input received from the public, Pennsylvania's SPIL contains 10 specific goals and objectives with action steps and measures of success. The current Pennsylvania SPIL goals and objectives are to:

1. Expand and support the network of Pennsylvania's Centers for Independent Living.
2. Develop new leadership and a sense of empowerment among children and youth with disabilities.
3. Increase transportation options for Pennsylvanians with disabilities.
4. Increase the effectiveness and flexibility of consumer-directed personal assistance services.
5. Increase alternatives to nursing facilities/institutions for people with disabilities.
6. Develop productive partnerships working to increase supply, change policy, and alter building practices toward the increase of affordable, accessible housing by 2008.
7. Increase employment opportunities for people with disabilities.
8. Advocate for emerging issues as leadership and opportunities arise.
9. Administer and coordinate the statewide action team to ensure consumers' civil rights at local, state, and federal levels in all areas of their lives.
10. Strengthen the PA Statewide Independent Living Council.

The Department of Labor and Industry's Office of Vocational Rehabilitation (OVR) and the State Independent Living Council are jointly responsible for monitoring, reviewing, and evaluating the local independent living service (ILS) and centers for independent (CIL) programs' implementation of the 10 goals and objectives. Compliance is assessed through local site reviews, statewide consumer satisfaction surveys,

[1]Pennsylvania held five public hearings in the spring of 2004 prior to submission of its most recent SPIL.

development of annual reports on activities and accomplishments, and review of annual financial statements of local programs.

Pennsylvania currently has 18 ILS/CIL organizations providing services. ILS or CILs provide services in all Pennsylvania counties. Some counties are served by more than one program depending upon the specific service offered. Below is a list of Pennsylvania's 18 ILS/CIL programs and counties in which they typically provide service. Ten of the 18 programs receive federal rehabilitation funding, seven receive state funds, and one receives both federal and state funds for provision of independent living services.

Independent Living Services and Centers for Independent Living Programs in Pennsylvania

ILS/CIL	Counties Served
Abilities in Motion*	Berks
Anthracite Region Center for Independent Living	Carbon, Luzerne, Schuylkill
Bucks County Center for Independent Living	Bucks
Center for Independent Living of North Central PA*	Centre, Clinton, Lycoming, Montour, Northumberland, Snyder, Tioga, Union
Center for Independent Living of South Central PA	Bedford, Blair, Cambria, Fulton, Huntingdon, Indiana, Somerset
Center for Independent Living Opportunities	Adams, Franklin, York
CIL of Central Pennsylvania*	Cumberland, Dauphin, Juniata, Mifflin, Perry
Community Resources for Independence*	Clarion, Crawford, Erie, Forest, Venango, Warren
Disability Empowerment Center	Lancaster, Lebanon
Disability Options Network	Beaver, Butler, Lawrence, Mercer
Freedom Valley Disability Enablement	Chester, Delaware, Montgomery
Lehigh Valley Center for Independent Living	Lehigh, Northampton
Liberty Resources, Inc*	Philadelphia
Life & Independence for Today	Cameron, Clearfield, Elk, Jefferson, McKean, Potter
Northeast PA Center for Independent Living*	Bradford, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming
Three Rivers Center for Independent Living*	Allegheny, Armstrong, Lawrence, Westmoreland
Tri-County Patriots for Independent Living*	Fayette, Greene, Washington
Voices for Independence*	Clarion, Crawford, Erie, Forest, Venango, Warren

*These ILS/CILs participate with DPW in a federal Medicaid waiver and attendant care programs.

Source: Pennsylvania State Independent Living Council.

Appendix G (Continued)

Nine of Pennsylvania's 18 ILS/CILs also participate in two Department of Public Welfare (DPW) federal Medicaid Home and Community Based Waiver programs for adults with physical disabilities ages 18 to 60[2] and the state-funded Act 150 Attendant Care Program. Such programs serve persons who clinically qualify for nursing facility care. Through the Independence Waiver, adults with physical disabilities typically receive services such as personal assistance with activities of daily living (i.e., toileting, bathing, eating, dressing, etc.), support coordination, and personal emergency response systems. The Medicaid Attendant Care Waiver offers personal attendant services to adults with physical disabilities. In addition to "hands on attendant care," participants in this waiver may receive service coordination and access to personal emergency response systems and community transition services. The state-funded Act 150 Attendant Care Program provides services similar to those provided through the Medicaid waiver programs to persons with income and asset levels too high to qualify for Medical Assistance.

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[2]The Pennsylvania Department of Public Welfare's Office of Medical Assistance in cooperation with the Pennsylvania Department of Aging also administers a federal Medicaid Home and Community Based Waiver for those over 60 who clinically qualify for nursing facility care. (Additional information on this waiver and the Commonwealth's long term care programs can be found in the Legislative Budget and Finance Committee's April 2005 report entitled *Long Term Care for the Elderly in Pennsylvania*.) The Department of Public Welfare in cooperation with the Department of Aging also administers a nursing home pre-admission assessment program through local Area Agencies on Aging. Such programs are involved in determining if individuals clinically qualify for nursing facility care in the referenced waiver programs.

APPENDIX H

Major Public Health and Human Service Benefits Available Through On-Line Application

The Commonwealth of Pennsylvania's web site (www.state.pa.us) allows individuals to contact many state agencies and programs electronically. Two websites, the Commonwealth of Pennsylvania Access to Social Services (COMPASS) program and CareerLink Operating System are particularly helpful to the disabled.

COMPASS

The Commonwealth of Pennsylvania Access to Social Services (COMPASS) program is a web site (www.compass.state.pa.us) that allows individuals and community-based organizations to apply for selected social programs.[1] Anyone with Internet access can use COMPASS, whether they are applying for or applying to renew services for themselves, a family member, or assisting a non-family member. COMPASS serves as a single access point for applicants to apply for the following services:[2]

- Medicaid
- Medical Assistance for Worker's with Disabilities
- Medical Savings Program for Payment of Medicaid Premiums
- Children's Health Insurance Program (CHIP)
- adultBasic (Health insurance for adults)[3]
- Food Stamp Benefits
- Cash Assistance
- Long Term Care
- Home and Community Based Services for Individuals with Mental Retardation
    - Consolidated Waiver for Individuals with Mental Retardation
    - Person/Family-Directed Support Waiver for Individuals with Mental Retardation
    - Mental Retardation Services (non-Medicaid)
- Low-Income Home Energy Assistance Program
- National School Lunch Program (NSLP)

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[1]The program began in October 2001.
[2]COMPASS also provides screening for the programs listed, for all home and community-based services, and for the school lunch and breakfast program. Screening allows a user to provide basic information to determine if they are potentially eligible for service.
[3]Due to funding limitations, eligible applicants for adultBasic are being placed on a statewide waiting list. Applications for adultBasic continue to be accepted.

Appendix H (Continued)

COMPASS provides for program application. The Department of Public Welfare (DPW) County Assistance Offices determine if an applicant is eligible for DPW benefits such as Medicaid, food stamps, cash assistance, long term care, and the Low-Income Home Energy Assistance program. The Pennsylvania Department of Insurance determines eligibility for CHIP and adultBasic healthcare benefits, and the Pennsylvania Department of Education through school districts determines eligibility for the National School Lunch Program. Users receiving Medicaid, Food Stamps, Cash Assistance, Long Term Care, or Waiver benefits through the Department of Public Welfare can also log into their accounts to view a summary of their benefits.

Community Partners. To make it as easy as possible for individuals to complete applications through COMPASS, the state allows registered Community Partners to assist them. Organizations such as hospitals, church groups, schools, and other community based groups that help Pennsylvania residents apply for social services can apply to be a COMPASS Community Partner. Community Partners can initiate and track applications they submit through COMPASS.

Community Partners may be:

- Licensed health care providers, public school district staff, or other agents who help Pennsylvania residents apply for social or medical services or financial benefits.
- Organized religious and civic groups or their agents who help Pennsylvania residents apply for social or medical services or financial benefits.
- Utility companies or their agents who help Pennsylvania residents apply for social or medical services or financial benefits.
- A government program that is helping Pennsylvania residents receive public benefits or applying for social or medical services or financial benefits.
- A contractor of either the adultBasic Insurance Program or the Children's Health Insurance Program.

As of August 1,2006, there were 735 registered COMPASS Community Partners, including 501 Pennsylvania school districts.

CareerLink Operating System

Pennsylvania CareerLink Operating System is an effort of the Commonwealth to use the internet to provide one-stop delivery of career services to job seekers, employers, and other interested individuals. By going to the web site, either through the state's web page or by connecting directly through www.pacareerlink.state.pa.us, individuals

can find information on resume preparation, support services, government services, veteran's employment services, and training programs, as well as view available jobs statewide.[4] Anyone may search for jobs on the CareerLink website; however no referral will be made to an employer unless the individual first enrolls in the program. Employers can post jobs, access resumes, screen and test applicants, and receive technical assistance. This is a free service.

To apply for jobs, an applicant must be a United States citizen, a permanent resident alien, or be authorized to work in the United States. Employment services are available to all job seekers, regardless of their current employment status. Individuals may also obtain assistance at local CareerLink offices in each county. CareerLink offices, as well as their address, telephone number, and TTY number are available online.

Through the CareerLink web-page, individuals can be linked to other state agencies where they can find out about other available services. Several of these sites provide on-line applications for services and programs they administer. The information included in the table represents only a portion of the type of information that can be obtained. For a fuller understanding of what is available to customers, both the disabled and non-disabled, please go to the appropriate web site.

[4] Job seekers can search jobs by occupational category or job title. They can limit their search to a specific county or find available jobs statewide for their area of interest.

Appendix H (Continued)

Programs That Can Be Accessed Electronically Through CareerLink

Department of Aging	Individuals can apply electronically to participate in the Pharmaceutical Assistance Contract for the Elderly (PACE) and the PACE Needs Enhancement Tier (PACENET) programs.
Bureau of Employer and Career Services	Includes links to allow individuals to apply electronically for unemployment compensation or state civil service jobs.
PA Department of Education	Individuals interested in obtaining training in a particular skill area can access information on the Adult Basic Education (ABLE) program.
Local Workforce Investment Area	Provides services to assist people in obtaining and maintaining satisfactory employment. There are also links to state and national job banks.
Center for Workforce Information & Analysis	Provides labor market information and services needed for customers to make informed choices in their workforce related decision making.
Office of Equal Opportunity	Through this link individuals may locate contact information for their Local Workforce Investment Area EO Officer.
Office of Vocational Rehabilitation	Explains services available through OVR.
Team Pennsylvania	Provides services to individuals and businesses interested in locating a business in the state or expanding an existing business.
Unemployment Compensation	Links directly to the unemployment compensation web page within the Department of Labor and Industry and allows a claim to be filed electronically.
Veteran's Services	The State of Pennsylvania has been provided with funds to assist Veterans in finding jobs. Veteran Employment Representatives at all CareerLink offices or participating agencies provide free job counseling, training referrals, and placement services to veterans.
Department of Public Welfare	Individuals can apply electronically for services or benefits through Medical Assistance, Food Stamps, and Cash Assistance.

Source: Developed by LB&FC staff from a review of major state public health and human service websites.

APPENDIX I

Drug and Alcohol Services

In 1972, the General Assembly established a health, education, and rehabilitation program for the prevention and treatment of drug and alcohol abuse through the enactment of the Pennsylvania Drug and Alcohol Abuse Control Act, Act 1972-63, as amended, 71 P.S. §1690.101 et seq. In order to receive federal and state drug and alcohol prevention and treatment funding, counties are required to designate Single County Authorities or SCAs, which are responsible for program planning and the administration of federal and state grants and contracts. The county SCAs determine a person's eligibility for available services, assess the need for treatment or other services, and make referrals to appropriate programs. Typically, Department of Health (DOH) licensed drug and alcohol treatment providers deliver such services under contract with the county SCA.

Some counties have created joinders with other counties, with the result that there are currently 49 SCAs statewide. Counties have flexibility in how they choose to administer programs. They may establish a public entity within the county government structure, a private non-profit body, or an entity under the auspices of the county mental health/mental retardation program. The exhibit below provides a list of the powers and duties of SCAs.

Pennsylvania State Plan

The Pennsylvania Drug and Alcohol Abuse Control Act requires DOH to develop a State Plan for the control, prevention, intervention, treatment, rehabilitation, research, education and training aspects of drug and alcohol abuse and dependence problems.

Powers and Duties of Single County Authorities

- To review and evaluate drug and alcohol services, projects, and special problems in relation to the incidence and prevalence of drug and alcohol abuse.
- To prepare the annual Comprehensive Drug and Alcohol Treatment and Prevention Plan.
- To review and amend, on an annual basis, the Comprehensive Drug and Alcohol Treatment and Prevention Plan.
- To recommend approval of projects and any other matters related to drug and alcohol services in the county.
- To assist the Pennsylvania Advisory Council on Drug and Alcohol Abuse in the evaluation of drug and alcohol treatment, intervention, and prevention projects.

Source: 4 Pa. Code Ch. 254.

The Department of Health has the primary role of developing the State Plan for the provision of drug and alcohol services in the Commonwealth of Pennsylvania.

Appendix I (Continued)

The Bureau of Drug and Alcohol Programs (BDAP) is the entity designated by the Department to fulfill these responsibilities and functions as the Single State Authority (SSA) for federal funds and planning. As part of that role, BDAP's responsibilities include:

- functioning as the Single State Authority for the acquisition and disposition of federal and state drug and alcohol funds;[1]
- assuring the development, coordination, and adoption of the State Plan;
- serving as the policy making body that directs operations pertaining to the implementation of the State Plan;
- reviewing and adopting regulations for the operation of community agencies and coordinating councils under Act 63;
- encouraging the formation of community agencies and coordinating councils in an effort to promote local cooperation and communication;
- determining policy and coordinating and evaluating the efforts of community agencies in the Commonwealth;
- establishing funding priorities; and
- approving grants and contracts.

Local Drug and Alcohol Services

Because each SCA is responsible for determining what drug and alcohol services are needed in its area, there are a variety of drug and alcohol services available to children and adults. Certain programs or services available in one county may not be available in another county. Pennsylvania's Medical Assistance Program, either through a managed care organization or the traditional fee-for-service system, pays for certain drug and alcohol services when rendered to eligible individuals (see Exhibit 23). Individuals who use services, but are not receiving Medical Assistance and are without access to other insurance, are assessed for their ability to pay for services by the county SCA.

A review of web pages for selected county SCAs indicates that there are a variety of drug and alcohol services available through county programs. These include:

- Prevention Services: Involves educating individuals to reduce misuse or abuse of chemical substances or alcohol.

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[1]The department relies on SCAs to determine the needs of their local areas and to utilize allocated funds to contract with service providers for the delivery of services.

Appendix I (Continued)

- Intervention Services: The provision of services aimed at assisting individuals to cope with a specific crisis. Referral is provided if the need for a structured treatment program is indicated. May also involve providing drop-in and hot-line services for individuals with substance abuse problems and their families.
- Intensive Case Management: Social casework services to substance abusers and their families to help them reach a more stable level in their personal lives.
- Treatment Services: Activities aimed at the systematic application of social, psychological, or medical service methods to assist individuals to address the negative effects or consequences of drug and alcohol use or abuse.
- Intensive Outpatient/Partial Hospitalization: Designed for individuals who would benefit from more intensive services than are offered in outpatient treatment centers, but who do not require 24-hour inpatient care.
- Inpatient Non-Hospital Services: Short-term residential treatment services.
- Transitional Housing: A housing option for individuals in treatment.
- Methadone Maintenance: Available for individuals who are narcotic dependent at time of admission.

APPENDIX J

Responses to This Report

RECEIVED SEP 1 1 2006

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
333 MARKET STREET
HARRISBURG, PA 17126-0333
www.pde.state.pa.us

Bureau of Special Education
717-783-6913

FAX: 717-783-6139

August 30, 2006

Mary Ann Nardone
Legislative Budget and Finance Committee
Finance Building, Room 400
Harrisburg, PA 17105

Dear Ms. Nardone:

Thank you for the opportunity to review the Legislative Budget and Finance Committee's Report on "Commonwealth Services for the Deaf and Hearing Impaired." Following are the Department's technical comments:

1. On the bottom of page S-3 and continuing on page S-4, the last sentence is not complete and the next sentence (carries over to the next page) is confusing. A re-write would be helpful.

2. On page S-7, there is reference to PaTTAN. Please clarify in the text or footnote that PaTTAN is a technical assistance and training resource funded by the Pennsylvania Department of Education, Bureau of Special Education.

3. On page S-9, to be consistent with the main report, the first line of the third paragraph should read, "Since the mid-1980s, partly in response to the PA Society for the Advancement of the Deaf's recommendation and partly as an outgrowth of earlier PDE advisory committees on deafness, ERCHL has advised PDE..."

Overall, the report is well-written and will be an exceptional resource for the citizens of the Commonwealth. We appreciate this opportunity to comment on the report. Should you need any additional information on this matter, please do not hesitate to contact me at (717) 783-2311.

Sincerely,

Linda O. Rhen

Linda O. Rhen, Ed.D.
Director

LOR/bar

DEPARTMENT OF LABOR & INDUSTRY
COMMONWEALTH OF PENNSYLVANIA

THE SECRETARY
1700 LABOR AND INDUSTRY BUILDING
SEVENTH AND FORSTER STREETS
HARRISBURG, PA 17120

717-787-3756 Fax: 717-787-8826 www.dli.state.pa.us

September 14, 2006

Philip R. Durgin, Executive Director
Legislative Budget and Finance Committee
Room 400 Finance Building
PO Box 8737
Harrisburg, PA 17105-8727

Dear Mr. Durgin:

Thank you for the opportunity to review and respond to the Legislative Budget and Finance Committee's (Committee's) report: *Commonwealth Services for the Deaf and Hearing Impaired.* I would also like to thank you and your staff for your attention to detail, your interest in ensuring quality services for Pennsylvanians who are deaf or hard of hearing and for the professionalism your staff extended. Overall, we find the draft report to be well researched and comprehensive.

We at the Department of Labor and Industry (Department), the Office of Vocational Rehabilitation (OVR) and the Office for the Deaf and Hard of Hearing (ODHH) take very seriously the commitment of providing the highest quality services and programs to Pennsylvanians who are deaf and hard of hearing. Despite decreasing resources in terms of personnel and funds and increasing costs, each year we continue to serve an increasing number of individuals.

As noted in your report, individuals who are deaf and/or hard of hearing represent a highly diverse group of individuals with equally diverse needs. Responding to these needs with quality services and programs evidences OVR's and ODHH's innovation and dedication to serving this group of individuals.

I am pleased to offer the following responses to Recommendations made in the Committee's report which specifically relate to OVR and ODHH.[1]

RECOMMENDATION #1: ***The ODHH should update and provide additional information on services available to the deaf and hearing impaired.*** *ODHH was*

[1] The Department is not responding to Recommendations that pertain to other agencies.

"An Equal Opportunity Employer"
"Auxiliary aids and services are available upon request to individuals with disabilities"

created, in part, to develop directories of public services and provide information on how they can be accessed by the deaf and hard of hearing. Recently, ODHH leadership has recognized the need to update some of the information it provides to the public, and for the first time posted some information on its website. Much of the information that we have included in the report, however, is not available through ODHH, such as information on how a deaf person may obtain an interpreter to take a Pennsylvania Driver's exam, how to contact a Medical Assistance managed care special needs unit, how to obtain an interpreter for MA physician services and how to apply on line for major public benefit programs.

We also recommend ODHH gather and provide updated contact information on organizations that offer sign language classes. Ready access to such information about such classes would be a simple and significant step to foster effective parenting and essential for quality child development.

> RESPONSE: We agree. Both the Department and ODHH understand the statutory mandate to serve as a source of information with respect to state agencies and public institutions that provide services and programs to people who are deaf and hard of hearing. Accordingly, ODHH will strive to update and develop a comprehensive list of services and to ensure that the information is available to individuals who are deaf or hard of hearing. The information included in the Committee's report will undoubtedly prove useful in that endeavor. Additionally, as noted in the Committee's report, ODHH leadership has recognized the need to update its website. The Department believes that ODHH has made progress in improving its website and is committed to continual improvements. For example, the interpreter database allows an individual to search for a particular type of interpreter, in a particular region as well as allowing the individual to identify the type of setting in which the services are required. See www.state.pa.us PA Keyword: ODHH. Further, ODHH is committed to ensuring that information is available to individuals who do not have access to or use the Internet. Additionally, ODHH has recently developed a new brochure outlining the types of services available.

RECOMMENDATION #4: ***The Department of Labor and Industry should allow graduates of interpreter training programs on its registry.*** *So as not to further exacerbate the shortage of interpreters in Pennsylvania, the Department of Labor and Industry should allow graduates of college or university interpreter programs to be placed on the state Registry of Interpreters for the Deaf. Currently, only interpreters with national certification from either the national Registry of Interpreters for the Deaf of the National Association of Deaf Interpreters can be*

placed on the State Registry. This requirement appears more stringent than in other states and may not be in the best interest of the Commonwealth's deaf and hearing impaired community.

RESPONSE: We disagree. The Sign Language Interpreter and Transliterator State Registration Act (Act) specifically provides that registration applicants must submit proof that they have passed "*an examination approved by the office which tests knowledge and proficiency in interpreting and transliterating.*" (Section 5(a)(1)(iii); 63 P.S. § 1725.5(a)(1)(iii)). The statute does not list graduation from a college or university interpreter program as a ground for registration. Accordingly, it is not, as the Committee suggests,[2] the *Department's* criteria, but, rather, the *statutory language* that prevents such graduates from registering. Furthermore, it is common for professional licensing statutes to require passage of a proficiency examination as a condition of licensure, certification or registration. Graduation from an accredited college or university program alone is not enough to become licensed or practice a profession in the Commonwealth.[3] It should be noted, however, that the Act does provide an exception to registration for individuals who are engaged in interpreting or transliterating as part of a supervised internship or practicum at an accredited college or university, provided it is not in a legal, medical or mental health setting. (Section 4(b)(3); 63 P.S. § 1725.4(b)(3)).

The report also suggests the Department's requirement that individuals pass a national certification examination is more stringent and exacerbates the shortage of interpreters in the Pennsylvania. The Department has researched the registration, licensing, practicing and/or certification requirements of other states and disagrees with the Committee's findings that the Department's requirements are more stringent.

Not all states have registration, certification or practice requirements for interpreters and transliterators. Of those states that require passage of a skills assessment, a majority of them make national certification a standard, if not *the only* standard. Although some states also include their own skill assessments, many are modeled after the RID examinations used by the

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[2] Draft LBFC Report, p. 174.

[3] For example, the Pennsylvania Supreme Court requires applicants for an attorney license to pass the Pennsylvania bar examination, which consists of a national multi-state examination and a state essay examination; medical doctors – the national U.S. Medical Licensing Examination; chiropractors - Chiropractors National Board Examination; accountants – the national Certified Public Accountant Examination; and architects – the national Architect Registration Examination.

Department. Further, the Committee noted that the American Consortium of Certified Interpreters (ACCI) offers skill assessments.[4] However, ACCI's website indicates that it will now only accept the NAD-RID – NIC assessment tool, again the standard used by the Department.[5] This demonstrates a trend toward national certification testing requirements.

The Department is, however, willing to review other skill assessments to determine whether they are appropriate for use as an examination that tests knowledge and proficiency. Although the Department is willing to review other assessment tools, it remains mindful of the original purpose of the Act which is to ensure the highest level of competency. Utilization of numerous assessments instead of a nationally-recognized one would create differing certification standards which would undermine this goal and ultimately place the Commonwealth's deaf and hard-of-hearing community at risk.

Although the Committee references various states that have created their own skill assessments, all of these states operate under Boards or Commissions for the Deaf, or through the professional licensing bureaus. These agencies have the capital and human resources to administer these examinations. ODHH, on the other hand, has only 5 full-time employees – its director and 3 regional office representatives and an administrative assistant. Simply put, ODHH does not have the resources to create, implement and administer its own skill assessments.

The Committee found that ODHH should have a registry of other types of interpreters that may be used by individuals who are deaf or hard of hearing, such as cued speech and oral interpreters. We agree. As referenced by the Committee, the statute establishing the ODHH provides that ODHH will maintain a listing of persons qualified in "various types of interpreting for deaf and hard of hearing." Accordingly, ODHH commits to updating its list of persons qualified in other types of interpreting.

Finally, the Committee commented that the Department does not require compliance with federal and state laws if the laws are inconsistent with the RID code of conduct. We strongly disagree.* The RID code of conduct is a private industry standard that does not have the force or effect of law. The Department is charged with enforcement and administration of numerous

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[4] Draft LBFC Report, p. 173.
[5] http://acci-iap.org/msgfromdir.htm

*LB&FC Note: We clarified the language in the report to note that the Department understands that interpreters on Pennsylvania's registry must comply with all relevant federal and state laws. The new RID Code of Ethics, which the Department intends to post at its registry website, makes clear that interpreters are not exempt from compliance with relevant federal and state laws.

federal and state laws and takes this charge very seriously. It in no way advocates for or tolerates non-compliance with the law.

Once again, I thank you for the professional and courteous manner in which your staff conducted this project and I appreciate the opportunity to respond to the study and its recommendations.

Sincerely,

Stephen M. Schmerin

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
HARRISBURG, PENNSYLVANIA 17105-2675

Estelle B. Richman
Secretary

Telephone 717-787-2600/3600
FAX 717-772-2062

SEP 14 2006

Philip R. Durgin
Executive Director
Legislative Budget and Finance Committee
400 Finance Building
Harrisburg, Pennsylvania 17120

Dear Mr. Dugin:

Thank you for sharing a draft of the Legislative Budget and Finance Committee's (LBFC) report *Commonwealth Services for the Deaf and Hearing Impaired.* We have reviewed the LBFC report and support the recommendations. Overall we feel this is an excellent compilation of extremely helpful information. We find it to be well researched and supportive of our efforts to address very complex issues. We want to thank you and your staff for undertaking this study.

Our comments specific to the findings / recommendations are as follows:

The Department of Public Welfare (DPW) should continue to assure that its contractors are familiar with requirements for Medical Assistance special needs services for the deaf and hard of hearing.

DPW requires interpreters enrolling as Medical Assistance providers to comply with all relevant federal and state statutes. The Department has stringent rules for evaluating and monitoring contracts. We will continue to make sure that contracted staff are familiar with the requirements for Medical Assistance special needs services for the deaf and hard of hearing. We have revised our monitoring protocols to address a compliance issue with our toll free lines. We appreciate LBFC bringing this to our attention and we are confident that all staff have been retrained and understand the requirements. The Department will continue to ensure that all contracts include full compliance with federal and state laws and will continue to monitor managed care companies for compliance.

The Department of Public Welfare should continue to support efforts to develop a residential treatment program for serious emotionally disturbed deaf and hard of hearing impaired youth in Southeastern Pennsylvania

For the past two years, the Department has been working closely with over thirty individuals in the southeast region on a range of service needs of children who

are deaf and/or hard of hearing. The most notable accomplishment of the effort has been to forge a regional collaboration between counties, educators, providers and advocates. Recognizing the relatively low incidence of occurrence of individuals who are deaf and/or hard of hearing, the five counties in the region agreed to pool resources and the regional task force has committed to setting up a Residential Treatment Facility (RTF) and to develop a resource file of all services in the southeast. A request for proposals went out and a provider was selected. This provider is currently working to develop the program, identify possible locations and arrange for education and mental health services. The regional task force will meet again on September 18, 2006. We expect the RTF to be fully operational in 2007.

The Department of Public Welfare should consider developing training programs and identify current best practices for county children and youth agencies serving deaf and hearing impaired children and families, in particular to child abuse investigations.

The Office of Children Youth and Families has a contract with the University of Pittsburgh to train child welfare staff through the Pennsylvania Child Welfare Program (CWTP). Over the last few months CWTP has met with the Director of the Office of Deaf and Hard of Hearing to research best practices and to begin to cross walk all child welfare training curriculums and course offerings to assess where changes can be made to appropriately include culturally competent training for case workers serving deaf and/or hard of hearing clients.

We are not aware of any complaints about interpreters not reporting child abuse. The Office of Children, Youth and Families occasionally use sign language interpreters for child abuse investigations when the child is deaf and/or hard of hearing. These interpreters are merely interpreting language and are not alone or supervising children. Even though an interpreter would not be considered a mandatory reporter under the Child Protective Services Law, there is nothing to prevent them from reporting instances of suspected child abuse. Additionally, the Registry of Interpreters for the Deaf clarified that as of 2005, their code of conduct does not exempt nationally certified interpreters from reporting suspected child abuse.

We recognize that some of our programs and services have developed more detailed protocols for supervising interpreters. In fact our state mental health facilities are considering developing more detailed and uniform procedures for the use of interpreters as part of consumer treatment plans. We will be looking closely at this issue and revise protocols as necessary.

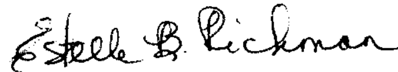
Accessing Services

One of the findings in the LBFC report was a lack of accessible drug and alcohol treatment services for people who are deaf and/or hard of hearing. The

expansion of Health Choices to all counties will increase availability of drug and alcohol treatment services to people who are deaf and/or hard of hearings and are Medicaid eligible. Twenty two counties will be added to the Health Choices network in January 2007, and an additional ten counties will join in July 2007.

Most of your remaining findings and recommendations do not directly speak to DPW services. We will continue to work with other agencies to make sure persons who are hard of hearing and/or deaf receive the services they need in a timely manner. We concur with your findings and look forward to assisting in any way we can. On behalf of the Department, I would like to thank the Committee for conducting this study.

Sincerely,



Estelle B. Richman

Cc: ML Wernecke, Office of Policy Development
Alan Cohn, Office of Legislative Affairs
Angie Logan, Executive Policy Specialist