

NASDDDS

National Association of State Directors of Developmental Disabilities Services
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May 13, 2014

The Honorable Thomas E. Perez
Secretary
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210
Sent via email

Dear Secretary Perez:

I am writing on behalf of the National Association for State Directors of Developmental Disabilities Services (NASDDDS) to request that the U.S. Department of Labor (DOL) extend the implementation period for the final rule, "Application of the Fair Labor Standards Act to Domestic Service," issued October 1, 2013.

NASDDDS represents state agency directors responsible for implementing programs that support individuals with intellectual and developmental disabilities (I/DD). Our membership includes representation from all 50 states and the District of Columbia. In an effort to create services that would fully engage individuals with I/DD into their communities as opposed to institutional services, our members have implemented models of self-direction and relationship based support that will be significantly impacted by the FLSA rule change.

We appreciate the Department of Labor's recognition that a standard 30- or 60-day implementation period would be impractical for this rule. Staff members from NASDDDS and other state associations have worked closely with the department to understand the complex variations of support and how to interpret this rule. We believe the work to date has produced very helpful guidance in the area of shared living arrangements. The recent Administrative Guidance and Frequently Asked Questions on shared living arrangements were clear and easily accessible on the DOL website. In addition the department staff has been generous in their willingness to present webinars to members of NASDDDS and other associations and to attend meetings with our members. However, states are still anticipating sub-regulatory guidance on the determination of third party employment. Such guidance may have broad policy and financial implications for a state that could require significant adjustments to programs, payment systems, and information technologies.

Most states have ended or are ending their 2014 legislative session without an understanding of the full impact of these regulations. We are concerned that an effective date of January 1, 2015,

will not be sufficient for states to develop the appropriate solutions to be in compliance with these regulations. We respectfully request that the Department of Labor extend the effective date for compliance for an additional 18 months. The extension will allow states to work through systems and financial implications that necessitate the full involvement of their state legislative bodies.

We appreciate your consideration of this request as we work together to provide individuals with I/DD the appropriate supports to access and participate in their communities for a meaningful life. Please do not hesitate to call me or other NASDDDS staff if we can be of further assistance in this matter.

Sincerely,

A handwritten signature in cursive script, reading "Nancy Thaler".

Nancy Thaler
Executive Director
NASDDDS

cc: Cindy Mann, CMS Deputy Administrator, Centers for Medicare and Medicaid Services