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*A family-based organization
working with and for people
who have intellectual and other
developmental disabilities.*

September 26, 2013

Ms. Courtney Burke
Deputy Secretary for Health
NYS Capital
Executive Chamber, Room 248
Albany, New York 12224

Dear Ms. ^{Courtney} Burke:

We are writing to communicate significant and urgent concerns related to the implementation of the Protection of People with Special Needs Act (PPSNA). As you know, NYSARC is committed to providing the individuals we serve with the protections from abuse and neglect that they deserve and our Organization demands. However, we are facing a situation where the implementation of the very legislation designed to protect the individuals from harm are paradoxically placing them at risk.

At issue are the extraordinary delays in processing background checks pursuant to Mental Hygiene Law §16.34. The MHL §16.34 background check is one of the four different background screenings that are now required that allows employees to have unsupervised physical contact with individuals we serve. This screening is performed by the Office of People with Developmental Disabilities. While we recognize that applicants can be hired provisionally while waiting for the results, Chapters are reluctant to do this because these new employees cannot be unsupervised at any time and this presents challenges and risks. Therefore it is not practical for providers to hire these applicants on a provisional basis.

Our Chapters are reporting significant delays in receiving the results of these checks and it is adversely impacting safety and quality for the individuals in our care, and placing our Chapters in financial and regulatory risk.

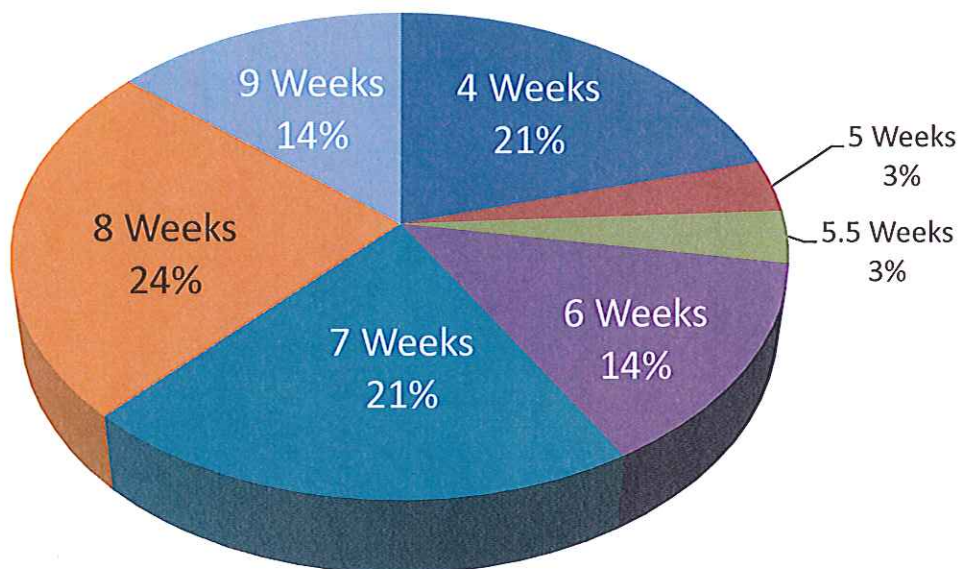
Some data support the feedback we are receiving from Chapters. Of the Chapters who responded, as of September 18, 2013:

- 65% are still waiting for clearance on applicants they submitted to OPWDD in July 2013
- Longest delays averaged 6.6 weeks, with 54% Chapters reporting response times exceeding 7 weeks (as reflected on the chart below). Two Chapters have been waiting 9 weeks for a response and still have not heard anything
- Three Chapters are waiting for responses for more than 10 applicants that were submitted in the month of July
- Eight Chapters are reporting that they are experiencing staff shortages as a result of the delays. Others are reporting that they are experiencing significant overtime costs and staffing stresses to cover for pending applicants.

Direct care workers are not highly paid and many cannot afford to wait two months to begin work and receive compensation. Chapters are simply losing qualified candidates as a result.

These delays and the adverse personnel implications of them are unsustainable. OPWDD's inability to process these background checks places the individuals we serve at risk of harm and at risk for poor quality services.

MHL 16.34 Background Screening: Longest Delays by Reporting NYSARC Chapter



NYSARC appreciates the challenges of implementing legislation as comprehensive and system-altering as the PPSNA. We remain committed to providing the highest quality services for individuals with developmental disabilities, but are presently being hindered by the new system and processes. We respectfully request your intervention and assistance with rectifying this situation. We would be happy to discuss this issue in greater detail at your earliest convenience.

Sincerely,

Marc N. Brandt
Executive Director

MNB/baf

Cc: Laurie Kelly, Acting Commissioner, OPWDD