THE Community Equation

COMMUNITY SUPPORT PROVIDERS OF SOUTH DAKOTA

DOL Overtime Exemption Rule Impact

Funding Sources

- 83.1% (average) of CSP funding comes from Medicaid HCBS Waiver programs
  - Range = 71% - 94%
- 95.4% (average) of individual receiving services from CSPs are Medicaid eligible
  - Range = 79% - 100%
- Private insurance accounts for only .1% (average) of funding sources
- Private reimbursement only accounts for 8.3% (average) of funding sources
- Other income and revenue accounts for only 8.5% (average)

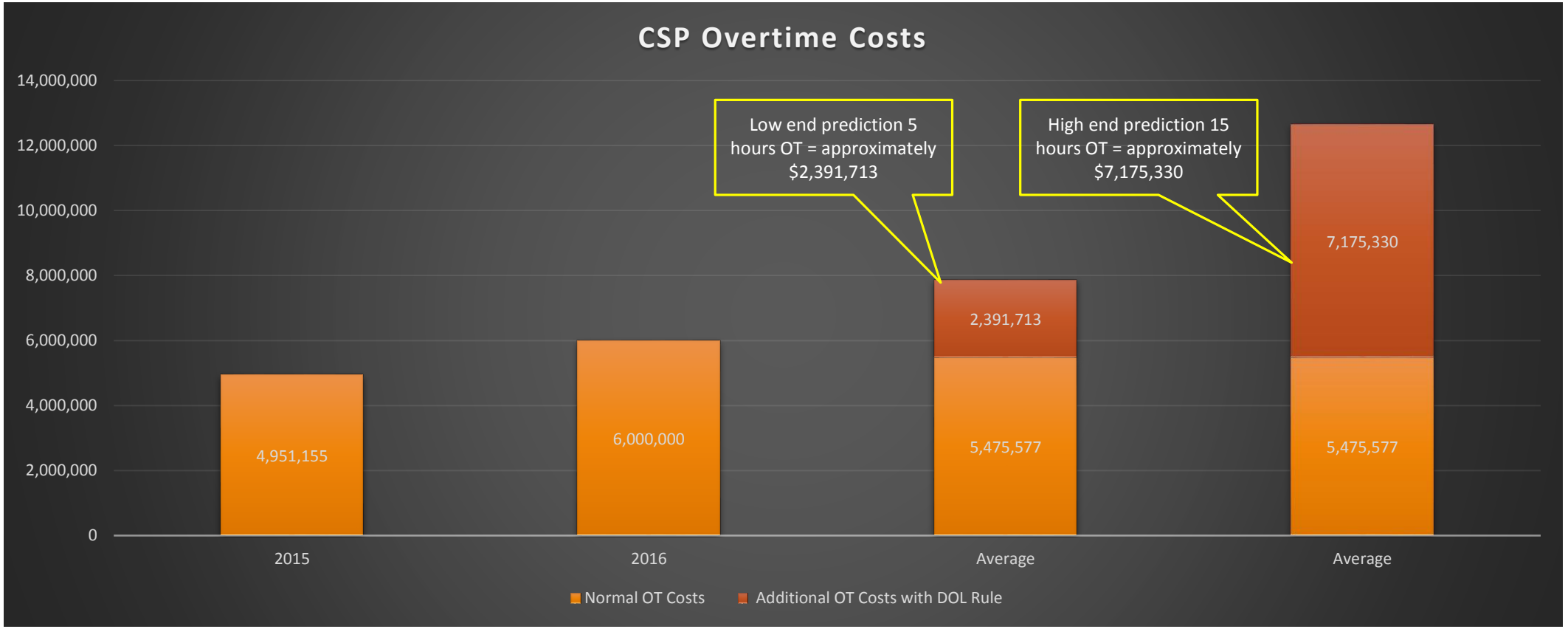
CSPs are reliant on Medicaid HCBS revenue

Intent of the DOL Rule

- **Update rules determining "white collar" salary exemptions**
  - Salary threshold: $47,476; $913.00 per week
  - Salary level will update every three years
- **US Dept. of Labor expects the rule change to help create jobs or expand existing jobs**
  - CSP average turnover = 48%
  - Approximately 37.5% of DSP positions turnover in the first six months
  - CSP average vacancy = 15.9%

CSPs can't fill the jobs they have open

Financial Impact of the Rule



Responding to the Rule

- **Raise salaries to maintain exemption**
  - Most CSP positions that this affects would require substantial salary increases to maintain exemption
- **Pay current salaries with overtime**
  - This will likely be the solution for the majority of CSPs
- **Reorganize/restructure schedules, workloads, positions, or spread work hours**
  - CSPs may do this where they can, but this is also not practical due to the nature of the work
- **Adjust wages (e.g. lowering employee's base wage and paying overtime)**
  - Fixed salary for fluctuating work week
- **Time limited Non-Enforcement Policy for certain Medicaid IDD providers (Residential homes and facilities with fewer than 15 beds; does not apply to vocational, day services, or transportation)**
  - Non-enforcement period Dec 1, 2016 to March 17, 2019
  - Issued concurrently with the final rule, but it is not part of the final rule
  - Non-binding (i.e. can be changed, revised, expanded, or revoked without notice)
  - It does not shield employers from private lawsuits
- **Federal Legislation: Disability Community Act of 2016 (American Network of Community Options and Resources supported)**
  - Provides a temporary FMAP bump over three years to help providers meet Federal regulations (DOL rule, DOL Home Care Rule, CMS, HCBS), structured as a 90/10 match

THE Community Equation

COMMUNITY SUPPORT PROVIDERS OF SOUTH DAKOTA

- We respect the intent and spirit of the proposed DOL Rule – Employees need to be paid fairly. Our concern is the ability to pay for this rule given our current funding and workforce environment without it negatively impacting the services we provide.
- Additional funding will be needed to help mitigate overtime costs and other standard cost increases that occur.
  - Base reimbursement rates to reflect our current workforce environment