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Legislative Update April 4, 2016

Advocacy for 3% Rate Increase

With some leaders in the Senate looking to reduce the fiscal year 2017 budget as approved by the House of Representatives with a 2% Medicaid rate increase for designated and specialized service agencies, we have an uphill battle in the Senate. The goal is still a 3% Medicaid rate increase for 4 years.

Calls and emails to all 30 Senators over the next 2 weeks are important, especially from families, individuals, board members and staff. We need these individuals to tell their stories about how effective the services are, but also how difficult it is to have staff turnover or not be able to access needed services. If each Senator receives 12 different individual contacts with unique, but consistent messages, it will have an important impact. Face-to-face meetings are always valuable, too.

At this time it is unclear which Senator will have the lead role in reviewing developmental, mental health and substance abuse services funding, with the departure of Senator Snelling who had performed this role for many years. Senator Richard Westman will be taking Senator Snelling's place on the Appropriations Committee, but the individual department assignments have not been made, yet.

Vermont Care Partners will be providing testimony on April 5th at a State House budget hearing put on by the Senate Appropriations Committee.

Senate Health and Welfare Review Health Reform Legislation

Todd Moore, Executive Director of OneCare, spoke in support of H.812 saying he expected that there would be regulation of ACOs. He asked that not too many administrative encumbrances be added on to it. He gave the bill medium praise. When asked if there will be one ACO, Todd said they are having tough discussions to agree on the priorities.

Sharon Winn of Bi-State Primary Care spoke representing CHAC ACO. She agreed that a regulatory framework is necessary. She spoke on the contingency that one ACO does not form, because there are still a lot of big questions. Much of the bill arises out of the assumption of a risk bearing ACO. She suggested tailoring the bill so it applies to a single risk bearing ACO. If one ACO fails to materialize, she would not want the requirements in the bill to apply to CHAC, because of the cost burdens of added infrastructure would not be warranted without down side risk.

John Michael Hall, Executive Director of Champlain Area Agency on Aging, said the community based provider system is supportive of the general direction, but that we should move in the direction of full integration. Community services and primary care have the greatest impact on improving health and reducing health care expenditures. It's time to invest in these services to avert and avoid expensive hospital care. This bill is a strong step in that direction. The principles brought to the House Health Care Committee were well-reflected in this bill.

Mike sees integration as the goal. Right now long term care, mental health and other community services are too separated out. A gradual process on shifting resources from the acute care to the long term and disability service system, is the best way to reduce overall health care spending. He would not see the changes suggested by Sharon apply to all ACOs.

Senator Pollina expressed strong skepticism about the ACO model. Mike said he does not see our current system as tenable. He believes it is time to reconsider how we invest our health care funding and the role of community services in our health care system. A model of coordinated care through an array of providers with an integrated funding stream makes sense. Right now there is a consensus that we need to move forward. H.812 is a good structure to start.

Julie Tessler of VCP gave the bill strong support because it addresses many important principles and calls for strengthening the role of community mental health and other community-based services. She explained that VCP is currently working with the Agency of Human Services and the Agency of Administration on a Medicaid Pathway to enable our Network to improve the way we deliver care through a value based payment methodology. The goal is that the Medicaid Pathway will align with the All Payer Model and other health reform initiatives.

Julie said that the most critical language in H.812 is in the principles listed in Section 9551. Principle 6 states: “ *adheres to federal and State laws on parity of mental health and substance abuse treatment, integrates mental health and substance abuse treatment systems into the overall health care system, and does not manage mental health or substance abuse care separately from other health care;* ” She noted the important roles for the Departments of Health and Mental Health in setting policy and ensuring that individuals with complex needs receive the full array of services they need, which often extends the boundaries of health care. She wants to ensure that this language will not lead to the management of Medicaid funded services solely by the Department of Vermont Health Access (DVHA), because decisions made recently by DVHA on Applied Behavioral Analysis and Group Therapy show a limited understanding of our services and are causing significant harm to the Vermonters with complex needs.

Representative Anne Donahue, who authored the language, feels that mental health parity will not be achieved as long as funding and management of mental health and substance abuse services are separate from funding and management of other health care. Her long term vision is for all of mental health and substance abuse services to be provided by comprehensive community health care providers without separate stand-alone community mental health agencies. She is also not supportive of community mental health agencies offering primary care on site, because she sees it as setting up “mental health ghettos”; encouraging people with mental health conditions to receive medical care in segregated settings.

House Corrections and Institutions Reviews Senate Resolution on Mental Health Care in Corrections

Senator Balint requested support from the House Committee of Corrections and Institutions for Joint Resolution S. 35 -urging Vermont’s participation in the national Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness. The Urban Institute has done research on the high incarceration, longer stays and high recidivism rates of people with mental illness. According to Senator Balint there are currently 100 – 120 inmates in Vermont classified as SFI and 40% of men and 80% of women who are incarcerated have a mental illness diagnosis. The growing trend of incarceration of people with mental health conditions has been related to the tremendous reduction in institutional care of people with mental health conditions nationally from .5 million psychiatric beds in 1960 to

40,000 psychiatric beds now. The committee has requested that legislative counsel Michael Chernick find out about potential grant funds from the McArthur.

Senate Health and Welfare Committee Continues Analysis of the Work Place Safety Bill

Attorney Steve Monahan from the Department of Labor (DOL) spoke about VOSHA which has adopted workplace guidelines from the national standards for social work and health care. DOL only checks employers if there is a complaint about compliance or violence. They can provide assistance on occupational safety.

Tom Cheney, Deputy Commissioner for Human Resources, said they work to enforce personnel policies including work force safety. The Department of Buildings and Grounds and AHS have developed work place safety policies. DHR did 20 trainings for about 500 employees this fall on work place safety and violence. They hope to do orientations and training on work place safety annually.

Allen Sullivan, General Counsel for the Agency of Human Services (AHS) said they support the objectives of the legislation. AHS already has protocols in place. They have requested that social and mental health workers should be the only workers referenced, instead of all employees working directly with clients. They would like AHS wide protocols, not separate by departments. Allen said they don't like the requirement to comply with OSHA guidelines or any subsequently adopted federal regulations, although consulting with OSHA guidelines would be acceptable. VCP strongly agrees with this point. Senator Ayer thinks there should be some updating opportunity. AHS will provide alternative language. The bill would also add a greater burden on AHS for monitoring contract compliance. AHS would like adjustments in language, but overall is supportive of the bill.

Shannon Morton, serves as the newly created staff safety coordinator for the Department of Children and Families (DCF), Co-chairs the staff safety work group for the family services division of AHS and participates on AHS safety and security committee which will create agency wide protocols. She believes that they are already hitting all the marks that the bill sets out.

DCF Commissioner Schatz spoke in favor in the legislation. He made the point that within DCF there will be the need for variation in the protocols. He thinks it is a legitimate requirement that contractors for DCF have worker safety protocols and tools.

Katie McLinn, Legislative Counsel laid out the policy decisions:

1. Mental Health and Social workers or all workers who have client contact. Susan Loynd said it would be better not to be too prescriptive for a broad array of staff. We don't have the resources to give all staff who come into contact with clients the same intensive level of training. Steve Monahan clarified that all employers have obligations to maintain workplace safety. So the language will be limited to social and mental health care workers. OSHA guidelines cover a broader population.
2. The cost of monitoring – contracts will include a requirement that providers maintain safety protocols. It reduces the burden on AHS to monitor contractors.

The Independent Contractor Bill is Stalled

In what appears to be an annual event, the Independent Contractor bill is making little headway toward passage. Instead of a vote by the full House of Representatives, it is being sent to the Committee on General, Housing and Military Affairs which tends to focus on the concerns of labor and may not agree with the current version of the bill as passed unanimously by the Commerce Committee. DOL Commissioner Annie Noonan is working with all parties to move the bill forward and has been supportive of VCP and the language clarification we had incorporated into the bill.

To take action or for more information, including the weekly committee schedules:

- Legislative home page: <http://www.leg.state.vt.us>
- Sergeant-at-Arms Office: (802) 828-2228 or (800) 322-5616
- State House fax (to reach any member): (802) 828-2424
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- Email, home address and phone: Legislators' email addresses and home contacts may be found on the Legislature home page at <http://www.leg.state.vt.us>
- Governor Peter Shumlin (802) 828-3333 or <http://governor.vermont.gov/>

The purpose of the legislative update is to inform individuals who are interested in developmental, mental health and substance abuse services about legislative advocacy, policy development and activities that occur in the State Legislature. The Vermont Council is a nonprofit trade association whose membership consists of 16 designated developmental and mental health agencies.

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