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Legislative Update April 23, 2018

Legislative Action

New Facility Plan Presented at Multiple Legislative Forums

Multiple committees received presentations by Human Services Secretary Gobeille and Louis Josephson of the Brattleboro Retreat. The plan involves a \$5 million investment in capital improvements for a three retreat facilities to enable them to open twelve new level 1 beds in September 2019. The plan also calls for increased reimbursement rates to enable the Retreat to recruit and retain necessary staffing. The Secretary sees this investment of state resources as strategic for life after the IMD rule¹ is implemented. The Retreat is licensed for 149 beds, operating 119 beds and has a daily census of 110 – 114 beds. The Secretary said the Retreat is a linchpin to our health system.

The plan includes a significant expansion of the UVM Health Network psychiatric beds at Central Vermont Medical Center and transforming the Vermont Psychiatric Care Hospital into a 16 bed secure residential facility. AHS has requested a four year extension for maintaining the secure residential in Middlesex from FEMA. This would allow time to build beds at CVMC and transform VCPH. The risk is a \$2 million claw-back if FEMA doesn't grant an extension. The proposal by Rutland Regional Medical Center to open an eight-bed secure residential facility is off the table.

During the testimony to Senate Appropriations Committee, Committee Chair Kitchel asked the Secretary about the parallel need for improved funding for staffing at the designated agencies as with the Retreat. Secretary Gobeille acknowledged the gap in pay levels between DA and State employees.

Senate Appropriations Wades through the Fiscal Year 2019 (FY19) Budget Proposal

The Senate Appropriation Committee plans to wrap up their proposal for the FY19 budget early this week. Committee Chair Senator Kitchel has made it very clear that we need to strengthen payments for our current obligations before we add new or expanded initiatives. She believes that next year we will continue to have significant limits on state financial resources. The Committee accepted testimony from Senator Claire Ayer Chair of the Senate Health and Welfare Committee who stressed the need for stage 2 of the DA/SSA workforce investment.

The Committee received an update from Emily Byrne, the CFO for the Agency of Education, on special education funding because they will be reviewing H.897. She reviewed how school districts receive their special education funding and pointed out that since 2015 the payments have been rising. The FY'18 payments look like they will be \$8 million more than the appropriation because the FY'18 appropriation

¹ The Medicaid Institutions for Mental Diseases (IMD) rule prohibits the use of federal. Medicaid financing for care provided to most patients in mental health and substance use disorder residential treatment facilities larger than 16 beds. Additionally, hospitals may have no more than 50% of inpatient beds for this care.

was level-funded and did not reflect service plans. The plan is to use FY'19 funds to cover the FY'18 payments. That will result in inadequate funding for the FY'19 special education if funded at the level requested by the Governor. They are recommending an \$8 million increase, but identified other areas of education funding that can supplement next year's shortfall. The funding model in the Senate Education bill will reduce variation in State special education spending.

Special Education Bill Approved by Senate Education Committee

H.897 relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support has been passed by the Senate Education Committee and currently is awaiting review by the Senate Finance Committee. Since the legislation has changed substantially from the House version of the bill it is likely that the differences will be worked out in a conference committee.

Senate Health and Welfare Updated on S.203 Relating to Systemic Improvements in Mental Health

At the Senate Health and Welfare Committee Representative Anne Donahue reviewed the changes made in the House to S.203, an act relating to systemic improvements in the mental health system which was originally focused on creating a study of orders of non-hospitalization. Based on the new facility "idea" the House has made a number of changes in the bill including:

- Support for UVM Health Network inpatient expansions;
- Giving a CON pass for the Brattleboro Retreat;
- Support for making Secure Residential Facility emergency Involuntary procedures consistent with the hospital rules;
- Requiring a comprehensive evaluation of integrating mental health into the health care system;
- Creating a long term vision without coercion;
- Mental health spending caps in context of health care growth;
- Parity in pay levels across the mental health care system;
- Plan for IMD rule² implementation; and
- Review of major medical insurance coverage to achieve in access and integrated holistic care.

The Bill currently contains this language which we worked on with Representative Donahue on:

Sec.7. REPORT; RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

On or before January 15, 2019, the Secretary of Human Services shall submit a written report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare pertaining to the implementation of 18 V.S.A. § 8914 (rates of payments to designated and specialized services agencies). Specifically, the report shall address the cost adjustment factor used to reflect changes in reasonable costs of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics. If new payment methodologies are developed, the report shall address how the payments cover reasonable costs of goods and services of designated and specialized service agencies, including labor market dynamics.

Human Services Secretary Al Gobeille opposes the language and said that DAs have asked AHS to cover the net difference of our expenditures over revenues. (Please note: Vermont Care Partners does not agree with this statement) He explained that expenses do not tell us costs. "We don't know what the

² The Medicaid Institutions for Mental Diseases (IMD) rule prohibits the use of federal. Medicaid financing for care provided to most patients in mental health and substance use disorder residential treatment facilities larger than 16 beds. Additionally, hospitals may have no more than 50% of inpatient beds for this care.

costs are by units". He feels that if agencies are funded based on costs there would be no pressure to innovate or control costs. He said the DAs would have lot of work to do to explain their costs and should be the ones responsible to do that work.

The Secretary acknowledged that hospitals don't have knowledge of specific costs, "we don't have the level of detail". However, he also said that that the Retreat needs higher rates to get fully staffed. He was clear that AHS will cover the expenses at the Retreat.

It was acknowledged that AHS is working closely with DAs on payment reform over the next 5 years which will impact how we do business. Commissioner Bailey said payment reform will help to achieve parity. She said that mental health is part specialty care and part primary care. They both indicated that DAs need to explain the core issues and figure out how to do it in a more transparent way.

The Bill has not been passed by the House yet and may be amended further to strengthen the call for pay parity as the double standard for the Retreat and DAs rates has been noted in multiple forums by Legislators. The Secretary justifies it by saying:

- The Retreat will fail without the rate increase
- The Retreat isn't working at its capacity due to understaffing caused by low rates
- We need the Retreat beds and to invest in their physical plant in advance of the IMD kicking in

When the Bill passes the House the Senate Health and Welfare Committee will further consider the changes made by the House.

House Human Services Continues Deliberations on Trauma Bill

The House Human Services Committee will continue work on the Trauma Bill this week. Committee Chair Pugh wants to strip language specifying program initiatives and focus on these components: the Trauma Coordinator at AHS with the position description scaled back and having AHS report to the Poverty Council instead of maintaining the legislative trauma work group.

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

- Legislative home page: <https://legislature.vermont.gov/>
- 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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- Governor Phil Scott (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 non-profit trade association which works in partnership with Vermont Care Network to form Vermont Care Partners. Together our mission is to provide statewide leadership for an integrated, high quality system of comprehensive services and supports. Our membership consists of 16 designated developmental and mental health agencies.