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Legislative Update May 1, 2018

Legislative Action

Fiscal Year 2019 Appropriations Bill Passes the Senate

The Senate plans to pass its version of the Appropriations Bill H.924 on Monday. After the House votes not to accept the amended bill a committee of conference will be convened to iron out differences in the House and Senate versions of the Bill.

The \$4.3 million cut to DS was restored in concurrence with the House of Representatives. This means that it is likely to hold. Please thank your Legislators.

Mental Health Workforce Investment - Stage 2 is in the Senate budget for \$2 million GF, \$4,328, 068 total funds. Since there is no money in the House budget, it is not a given that any or all of these funds will be in the final bill. Senator Kitchel, Chair of the Senate Appropriations Committee, has repeatedly noted the \$33 million GF pay differential between designated agency and state employees per the Vermont Care Partners report submitted to Secretary Gobeille in November. Her intention is to increase stability and competency of staff, particularly clinicians. These funds are only for mental health employees of Designated Agencies, not Specialized Service Agencies and not for developmental services or other program staff. Choices for Care providers are also in the bill for a 2% increase. The current language reads as follows:

Sec. E.314 Mental Health Designated Agency Increase

- (a) \$4,328,068 of the funds appropriated in Sec. B.314 shall be used to provide increase payment to the Mental Health Designated Agencies in fiscal year 2019. The Department may allocate 40% of these funds to be used for value-based payment with a focus on quality and outcomes.
- (b) 50% of the funds allocated to the base rates for providers after the provision of subsection (a) of this section may be targeted for compensation increases to therapy services that are provided by clinicians with high and highest levels of credentials and experience to increase recruitment and retention of high performing staff and improved outcomes for Vermonters.
- (c) The Department shall report to the Joint Fiscal Committee in September 2018 on the implementation of this section.
- (d) Representatives of the designated agencies shall report to the Joint Fiscal Committee in September 2018 on the recruitment and retention of clinicians with the high and highest levels of credentials and experience.

This language was developed by the Commissioner of Mental Health. Agencies will need to achieve specific outcomes to earn the value-based payment funds. The Agency of Human Services is saying that creating this incentive pool is required by CMS for payment reform. Vermont Care Partners is advocating for reducing the amount of the withhold and adjusting the language to be inclusive of additional staff and NFI.

The Bill provides \$5 million over four years from the Tobacco Settlement funds for initiatives recommended by the Secretary of Human Services with input from a committee to address the workforce shortage of mental health and substance use disorder treatment professionals. Initiatives may include: scholarships; loan repayment for high-quality substance use disorder treatment and mental health professionals who commit to practicing in Vermont; hiring bonuses or loan repayment, or both, for faculty and staff at institutions of higher education in Vermont to teach prospective substance use disorder treatment and mental health professionals; strategic bonuses for high-quality substance use disorder treatment and mental health professionals in Vermont's existing workforce; and appropriate continuing education and training for substance use disorder treatment and mental health professionals in Vermont's existing workforce. Please thank Senators for this investment and recommend that Representatives support this investment. Senator Ayer, in particular is responsible for this funding.

During deliberations on the budget Senator Sears raised concerns about non-profits be used to subsidize the work of the State by being paid reduced rates in comparison with state employees. Senator Sears believes the SUD and MH system is overwhelmed with the number of people and questioned the lack of focus in the Legislature on the opioid crisis. The Senate Appropriations Committee Chair, Jane Kitchel, believes that we don't know the most effective interventions. It has been reported that opiate prescriptions are down by 25% in Vermont after new prescriber rules passed last session. Recovery Centers are in the Budget at \$165,000.

Senate Health and Welfare Committee Reviews Changes to S.203 made by the House

The House of Representatives made a number of amendments to S.203 an act relating to systemic improvements of the mental health system. Including recommendations to waive some certificate of need requirements for the Brattleboro Retreat and UVM Health Network to enable new psychiatric inpatient beds to go on line sooner than later. Additionally, the House supported improving the rates for designated agencies in parity with how rates are being adjusted for the Brattleboro Retreat.

Mental Health Commissioner Melissa Bailey spoke to the Senate Health and Welfare Committee about the mental health system as being a "treatment plan" in that it has goals that we work toward, but are still aspirational in nature. Julie Tessler of Vermont Care Partners supported aspirational language added by the House Health Care Committee and supported the proposal to consider GMCB review of DA budgets, but not requiring a plan immediately.

Louis Josephson, the Executive Director of the Brattleboro Retreat said his financial structure looks similar to the DAs in that they rely almost solely on Medicaid funding for psychiatry with no other programs that supplement the costs; at the Retreat 70% of inpatient revenues are from Medicaid. Those Medicaid rates have been basically flat over the years. Therefore compensation of staff is below the regional labor market standards. This results in not being able to achieve the full capacity in inpatient psychiatric care. Sometimes beds must come off line to serve individuals with significant care needs. DVHA and BR are working through rates, but he would like to build in an annual inflator factor.

NAMI-VT Executive Director Laurie Emmerson said they appreciate the focus on improving the mental health services, including expansion of inpatient beds through UVM health network and the new beds at the Brattleboro Retreat. In the interim, people will continue to be stuck in the Emergency Departments. NAMI supports the replacement of the Secure Residential with 16 beds at VPCH. They had not supported the use of the St Albans Correctional Facility for the temporary bed. There is an ongoing concern about the need for level-one beds in Northern Vermont. NAMI-VT wants a goal of eliminating waits of over 24-hours. Laurie Emmerson wants to make sure that there are adequate resources in the community to enable people to have stable family support, particularly supportive housing, both temporary and permanent.

Steve Howard, VSEA spoke about the nursing and psychiatric technicians that work at the VPCH. These staff are dedicated to the people they serve. They would like 16 level-one beds at VPCH because they believe that it is necessary for a state facility to take those that cannot access the level-one beds at private facilities. DMH acknowledged that due to clinical reasons the private facilities occasionally cannot take patients. VSEA would like policy makers to preserve the 31 positions at the temporary facility in Middlesex on an interim basis. They believe that the publicly owned beds at VPCH have a team of staff that should be maintained.

During the discussion of S.203 Senator Ayer agreed with the point made by Commissioner Bailey that the requirement to develop a new shared vision is not doable because stakeholders have different visions. However, Act 79 and Act 82 did set principles that describe common values. Melissa Bailey said it will always be a process; we will never have an end point, but we will continue to strive to achieve the values and principles.

After several days of negotiations and rejection of our first draft for language Secretary Gobeille and Vermont Care Partners recommended the following language which was accepted in the final bill voted out of Committee on May 1st.

Sec. 8. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The community-based services provided by designated and specialized service agencies are a critical component of Vermont's health care system. The ability to recruit and retain qualified employees is necessary for delivery of mental health services. In recognition of the importance of the designated and specialized service agencies, the Agency of Human Services shall:

(1) Conduct ongoing financial, service delivery, and quality review processes, which shall consider changes in operating costs over time, caseload trends, changes in programs and practices, geographic differences in labor markets, and the fiscal health of each designated and specialized service agency. The review shall inform payment rates, the performance grant processes, and payment reform work by drawing upon and combining current review processes and not creating duplicate or redundant reporting processes for either the Agency or the designated and specialized service agencies.

(2) On or before January 15, 2019, present a proposal, in conjunction with the Green Mountain Care Board and the designated and specialized service agencies, for providing the designated and specialized service agency budgets to the Board for informational purposes for its work on health care system costs to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The presentation shall be consistent with the long-term goals of payment reform to address the potential for a review process of the designated and specialized service agency budgets by the Board as part of an integrated health care system.

Additionally, the Committee circled back to enforce the principles of Act 82 by requiring an evaluation process as to whether the principles for mental health care reform in 18 V.S.A. § 7251 are reflected in the current mental health system, and if not, where system gaps exist.

Combined Independent School and Special Education Bill Approved by Senate

H.897 relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support and which included independent school legislation has been passed by the Senate and is now under consideration by the House Education 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.

Trauma Legislation Slimmed Down and Ready to Go

The House Human Services Committee is planning to vote out S.261, the ACES bill on May 1st. The Committee stripped away language specifying program initiatives and eliminated funding for a trauma coordinator. Instead the Agency of Human Services is required to redirect another position at the Agency to take on the new responsibilities. AHS will report to the Poverty Council rather than 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.