

Legislative Update for April 21, 2015

Vermont Council of Developmental and Mental Health Services

Senate Committees Work to Develop Health Care Proposals

The Senate Finance and Health and Welfare Committees are working collaboratively to develop health reform legislation, while the House Health Reform legislation remains stalled in the Appropriations Committee. At this point it looks like the bill will be put forth by the Health and Welfare Committee as S.135.

The Senate Finance Committee requested the following points be in the bill:

- Support for the all payer waiver and global hospital budgeting – if the all payer waiver is not approved then it calls for more rigorous hospital budgeting oversight by the Green Mountain Care Board (GMCB)
- Language enabling the Northeast Kingdom providers to develop a regional accountable health community.
- Language specific to VITL activities
- Expansion of telehealth through a Medicaid state plan amendment
- Enables direct enrollment into qualified plans through the insurance companies.
- Extends the timeframe under which large groups (100 employees or more) will be required to use the health exchange.
- Requires Improving the tools for consumers to choose health insurance plans
- Delays the Cadillac tax for high value plans until tax year 2018
- Expands the GMCB's ability to approve rates
- Sets equity in payments to hospital based and private MD practices
- Transfers functions from Department of Financial Regulation to GMCB

The Senate Health and Welfare is has including these components into the bill:

- Putting off a new financing plan until December 1015
- Regulation of DVHA as a managed care organization (MCO) to line up with federal regulations for MCOs
- GMCB oversight of rate setting
- Directs GMCB to analyze the budgets of one or more designated agencies (DAs) similar to hospital review
- Consideration for including designated and specialized agencies (DA/SSAs) in the all payer waiver and review of all DA budgets

At a joint meeting of the Senate Finance and Health and Welfare Committees GMCB Commissioner Al Gobeille gave a presentation on the need for the all payer waiver. He said we wants to develop a capitated model that will lead to integrated care with incentives for outcomes. He noted that CMS likes the fact that we have statewide ACOs. Senator Lyons asked about how the DAs fit in. Al said that one challenge is that hospital, home health and DA service areas don't line up.

The all payer waiver is being seen as a large business deal; the terms must be right for us to sign on. If the terms are not right and we don't sign, it should not be a viewed failure. An important criteria for moving forward is that the deal be financially sustainable over time.

At the end of 2015 the current Shared Savings Medicare plans ends. There is an urgency to come up with a new option for that population right now.

Director of Health Reform Robin Lunge reviewed the Governor's health reform proposal. She spoke about the Medicaid cost shift. She noted that if we get the all payer waiver, we will need to live within a trend and we will be somewhat limited by the reimbursement rates we have in place. The State must respond to utilization demands over the need to improve rates given our financial resources and the negotiated trend. Today, within our global commitment waiver, we do have room to raise Medicaid rates.

Lawrence Miller emphasized the importance of integrated global payments. He said they will give incentives for hospitals to invest in designated agency services where more resources should be invested.

Al Gobeille said there are outstanding concerns about who will control the single payer funds when they come together and, in turn, make choices about their distribution. He acknowledged that not everyone is excited about an ACO making those choices.

Senate Appropriations Committee Deliberates the Fiscal Year 2016 Budget Bill

The Senate Appropriations Committee is working through the 2016 budget bill. In a discussion about State payment rates Senator Sears talked about the DAs and others in the non-profit system not getting sufficient reimbursement to pay at levels similar to state employees. Committee Chair Jane Kitchel reminded the Committee that the rescission in the summer impacted the pay levels at the designated agencies. She plans to look at the health care funding as a package, although she thinks the house health bill is still under discussion. She is most concerned about the line workers for developmental and mental health services. An employee at HCRS is calling for language to direct any increase to direct care workers. Although she acknowledged that it's problematic, Senator Kitchel expressed her interest in including this language in the budget bill.

The Committee is aware that the Medicaid rate increase for DAs is in the stalled house health care bill. The DAs have no place to cost shift, Senator Kitchel noted, so the health care bill goes beyond the cost shift. Senator Dick McCormack pointed out that the Senate Health and Welfare is looking at this issue as part of their health care legislation.

The Administration wrote a letter giving feedback on the house passed appropriations bill. Here are excerpts relevant to our services:

B.307 Department of Vermont health access – Medicaid program – global commitment E.306.3 (a) MEDICAID PROGRAM SAVINGS INITIATIVES (Autism) Sec. E.306.3(a) requires DVHA to review the scope of autism services currently provided by the State to ensure they are consistent with private insurance. This section is associated with a \$500K General Fund target (\$1.1M Global Commitment funds) in Sec. B. 307. Due to the requirements of 8 V.S.A. § 4088i, the State must provide services that comply with all federal requirements for the diagnosis and treatment of early childhood developmental disorders including autism. The requirement of the language in Sec. B.306.3(a) is in conflict with current state law. The Administration recommends that this

language be removed from the bill or updates be made to 8 V.S.A. § 4088i to allow DVHA to meet the budget target.

B.307 Department of Vermont health access – Medicaid program – global commitment E.306.3 (b) MEDICAID PROGRAM SAVINGS INITIATIVES (Geriatric Psych Alternative) Sec.E.306.3(b) of the House-passed budget requires DAIL, DMH, VDH and DVHA to implement service alternatives for individuals qualified as “geriatric psych” patients who would otherwise be discharged from hospitals but for the lack of somewhere else to go to meet their needs. This section is also associated with a \$500K General Fund savings target (\$1.1M Global Commitment funds) in Sec.B.307. To implement this program, AHS will need to do some additional work to define the population, to assess the resources needed to manage the initiative, and to determine the amount of savings that could be achieved.

The Administration agrees that this is an important issue to understand and address, especially if savings can be realized while better serving Vermonters. As such, the Administration requests updating the language in Sec.E.306.3(b) to require AHS to investigate this issue and develop a program proposal to be integrated into the FY2017 budget. The language below should be included to allow for this analysis. Until an analysis is complete, a savings target should not be included in the budget bill; the Agency will include savings if identified in the FY 2017 budget. alternatives will investigate the implementation of service alternatives for older adults with psychiatric illness that reduces length of hospital stay for individuals who would otherwise be discharged but for a lack of placement alternative to meet their medical needs. The Agency shall consult with community providers, including nursing homes, hospitals, and designated agencies in implementing a service alternative for this population and provide a proposal to implement these service alternatives in the FY 2017 Budget.

E.333 Disabilities Aging and Independent Living – developmental services This section requires the Department of Disabilities, Aging and Independent Living to establish a waitlist if funds are not available to provide developmental services to new clients rather than cut services to existing consumers. The System of Care Plan, which complies with the Developmental Disabilities Act, 18 V.S.A. Chapter 204A, provides mechanisms that allow the Department to manage the program within existing resources. The Administration recommends that this language be removed in its entirety since a process for managing this appropriation already exists.

Sec. E.301.1 REVIEW OF VERMONT MEDICAID BENEFITS The House added language requiring the Director of Health Care Reform to analyze and compare the benefits offered by Vermont’s Medicaid program versus all other major Medical Plans offered in Vermont. The Administration agrees that doing an analysis comparing how Vermont’s Medicaid plans aligns with other major medical plans is important. However neither the Director of Health Care Reform nor the Department of Vermont Health Access currently have the resources to undertake an analysis of this breadth and depth. In order to accomplish this important analysis with available resources, and within a meaningful timeframe, the Administration proposes reducing the analysis to include only a comparison between Medicaid and the Blue Cross Blue Shield benchmark plan used to establish the essential health benefits required by the Affordable Care Act. The Administration recommends striking the words “major medical health insurance plans” in the first sentence and replacing them with “the Blue Cross Blue Shield benchmark plan used to establish the essential health benefits required by the Affordable Care Act”.

Senate Health and Welfare Reviews Health and Human Services Budget Proposal from the House

The Senate Health and Welfare Committee will offer input into the Senate Appropriations Committee on the 2016 budget bill. It is clear that both committees plan to retain the language on executive compensation, but take out the comparison to state officials. The Council is recommending a comprehensive comparison with other health and human service non-profits and with similar organizations in other states.

There are questions about whether a review of Medicaid benefits is necessary or useful.

A proposal to close Windsor prison and reduce the number of out-of-state prison beds to create savings and invest in programs such as CSIP at Washington County Mental Health Services is being reviewed with skepticism on the part of the Joint Fiscal Office.

Senate Health and Welfare Amends and Approves Medicaid Reimbursement for Independent LADCs

H.20 the bill passed by the House to enable licensed alcohol and drug counselors who work independently of preferred providers to receive Medicaid reimbursement was amended by Senate Health and Welfare to have licensing functions be carried out by the Office of Professional Regulation. It then passed the Committee and the full Senate will take it up after review by the Appropriations Committee.

House Appropriations Committee Learns about Designated and Specialized Agency Master Grants

Because funding the designated and specialized service agencies DA/SSAs make up such a large proportion of the Agency of Human Services and state budgets, Committee Chair Mitzi Johnson asked the Commissioners of the Department of Mental Health (DMH) and the Department of Aging and Independent Living (DAIL) to describe the agencies, the designation rules, quality review processes and the master grant.

Commissioner Paul Dupre said that DAIL and DMH work together to conduct designation reviews. The designation process occurs every four years and must be passed for an agency to receive a grant from state government. With Act 79, DMH has more resources and has restructured the designation process. During the previous years, Paul noted that the reviews had become more 'paper-based' because of staffing reductions that occurred as part of budget cuts.

Commissioner Susan Wehry said that because it is a closed system, it is important to have the designation process. Given feedback from the state auditor, DAIL is beefing up their financial management of DA/SSAs. DAIL looks at critical incidents reports, etc. as part of the review process.

Paul said they sign off on all annual agency audits, review key performance indicators and receive financial reports to have a broad picture of agency performance. Rep Fagan asked if there is a mechanism to make sure state funds go to state services. Are there specific controls in place? How often are there material findings?

Susan said they track administrative costs which have tremendous ranges. She described a narrow picture of the mandated populations, implying that state funds are only a portion of our services. Julie Tessler clarified that public funding is the vast majority of the funding. While public funds come from

each of the Agency of Human Service departments, DMH and DAIL represent the lion's share. She agreed that the agencies also receive some federal funds, school funds, private donations and other first and third party payments, Medicaid makes up 90% of all revenues. In developmental services this percentage is higher. Paul clarified that DA/SSAs will serve anyone in the community – whether or not they are in mandated populations.

Representative Diane Lanpher asked about how health reform is impacting DA/SSAs. Paul explained that we have had case rates for community rehabilitation and treatment (CRT) services for years. Case rate is the type of payment mechanism which is being supported by health reform. He said that DMH has been working with the Council and Vermont Care Partners to participate with ACOs and other players in health reform. On the children's side, integrated family services (IFS) is like a microcosm of what the health care system will look like. "The agencies need to set themselves up to be players in the health care system – we are all in the process of health reform."

Susan said health care reform is in the 'here and now' and has had several impacts. We are moving toward a performance based system. In the past we had outcome measures, but they were not fully lined up with financial incentives. Developmental services was innovative and creative, and 20 years ahead of its time, in that the service plans have flexibility. However, we got dinged on this flexibility by the State Auditor who said we do not have adequate ability to monitor these services. This last summer we went through where allocations had gone with the agencies through reviewing paperwork in a difficult process. "In the future, we don't want to lose what was positive, but we need to monitor it better" she said.

Paul said that the auditor dinged us for not counting widgets, but they are going to need to change their approach as we move to new payment models as part of health reform. All agencies are on board to show value and outcomes. In the large grant we ask them to report on 150 things, but we need to work through this to make it a more efficient and effective process. Julie spoke about the collaboration between Vermont Care Partners and AHS to establish more appropriate outcome measures.

Representative Trieber asked about the redesignation process. How much impact did DAs have on the original designation requirements? Frank said it was an open process which went through LCAR. Representative Trieber replied that, "I keep running up against the fact that these agencies are responsible for communities as state maintained monopolies. Is there an incentive to set the bar low, because if an agency were to fail it would create a big hole in the system of care?" Paul said, "Having been on the other side, the standards are not easy to meet. In the past when one agency was failing financially, the Council and the other agencies stepped in to help. We have worked with a couple of agencies, which have been on the verge of losing designation. We will help them, but we will be tough if we have to be." Representative Trieber pushed further, "Do you have a backup plan?" "Yes, we do" replied Paul.

Susan said the standards are thoughtfully set and reasonable. When the performance standard is not met, historically, there has been a tendency to give more time and opportunity for corrective action. We are looking at what changes are needed. The standards could be more robust, she continued, we are now considering giving no advance notice for reviews. In the past we have only reviewed the files they gave us, because we reviewed them at our office. Representative Trieber thought that was a low bar. Susan explained the staffing challenges, and added that DAIL is now redeploying staff to do quality and financial reviews.

Frank Reed explained that DMH does notify agencies in advance so that they can set up meetings with consumers, staff and stakeholders. DMH selects the records and does give notice that the records must be available. Susan believes that the need to raise up the quality oversight process has led to the need to overrule previous choices made for efficiency.

Representative Hooper asked if the reviews are tied to the outcomes in the master grant. Frank said the outcomes are tied to program and designation reviews. Representatives Hooper and Lanpher concurred that there appears to be too much focus on structure and not enough on outcomes.

Representative Trieber asked if we have consistently good service. Paul said we talk about that a lot. Vermont Care Partners is a way to make that happen. All agencies have some basic services, although some services are regionally specific. Paul said we are working at ensuring the quality in each piece and place. Frank spoke about regional differences in mobile crisis, kids and outpatient and then said CRT and core services are consistently available.

Susan thinks that there is a core level of consistent access. There is some differences in employment outcomes, but 90% of agencies achieve the employment outcomes targets. The equity process is a good check on the consistency of service packages. We see the greatest variability between the agencies on the quality and availability of shared living homes and the oversight of the shared living homes by the agencies.

Diane asked if there is training for the boards Paul said they probably do need more training. Julie added that when the designation rules are updated, that will be a good time to train the boards on their responsibilities. Joint training by the State and Council for the boards was conducted when the original designation rules were promulgated.

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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- 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.