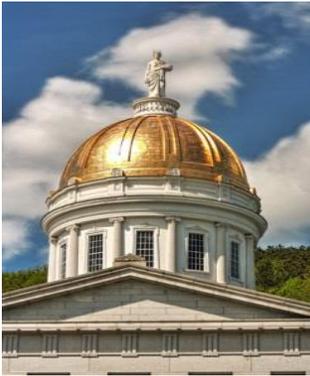




Supporting Vermonters to lead healthy and satisfying lives community by community

Legislative Update for June 16, 2020



The COVID 19 pandemic has changed the focus of Vermont Care Partners' advocacy efforts as our provider network has revamped our services to meet the needs Vermonters in new ways with careful precautions for health and safety of those we serve, our workforce and partners. Legislative work is now happening remotely.

House of Representatives Considers Appropriation of Corona Virus Relief Funds CRF

The Speaker of the House Mitzi Johnson is proposing to reserve \$400 million out of the total state allocation of \$1.25 billion to fill the holes in revenues that will be reforecast in August. The current consensus forecast for funding shortfalls includes: Education Fund (\$150M), General Fund (\$200M) and Transportation Fund (\$48M). This backfilling of shortfalls will only be possible if the federal rules change to allow it. After subtracting the \$400 million and the funds already spent, the Speaker distributed the remaining \$575 million to the policy committees to make recommendations for spending to the appropriations committee. They were also asked to make recommendations on a share of the \$400 million reserved funds as second tier recommendations, should backfilling lost revenues continue to not be possible. The House Health Care Committee was assigned \$150 million for their recommendations on CRF to the Appropriations Committee with \$75 million more should the second tier of funding be made available. The House Human Services Committee was assigned \$50 million for the first and second tiers. At this time both Committees have made their recommendations to the House Appropriations Committee which is continuing the process of hearing from policy committees this week.

Vermont Care Partners Advocacy on CRF

Vermont Care Partners, as part of the Coalition of Health Providers, fully supports and is actively advocating for the Coalition's request for the \$375 million in CRF for health care providers as originally requested by the Administration and would like AHS to have flexibility to consider the funding requests of health care providers without set parameters for allocation by provider type. The total funding estimate of the Coalition is for over \$400 million. Vermont Care Partners' estimate for designated and

specialized service agencies is \$49 million which includes FY21 projections (July-Dec) as well as FY20 incurred and projected expenses and lost revenue less relief funding already received.

Expenses attributable to COVID-19 include:

- Foster Care/Respite Care: Additional payments related to COVID demands on foster and respite providers for our youth in foster care;
- DAIL DS additional funding made available to caregivers to include difficulty of care payments, payments to spouses, and parent crisis stipends;
- Hazard Pay for staff working face to face to with clients. July-Dec projection is at state's hazard pay rate and assumes only DMH and DAIL funded staff (DCF, DOC, ADAP to be determined);
- Prevention/Mitigation supplies to include PPE, Custodial, and Medical Supplies;
- IT costs to support remote delivery of services via telehealth;
- Support Materials for Clients to engage in remote service delivery such as trac phones, phone cards (minutes), and activity packets.
- Unemployment Insurance reflects the additional cost to agencies beyond standard operating costs. Many agencies are self-insured for UI and regardless of furloughs and/or layoffs are experiencing significant increases in UI related to the high unemployment levels in the state. Costs are estimated assuming 50% offset from Federal administration relief.
- Building and Facilities have been/are being modified to decompress physical spaces (changing multiple-bed rooms to single room occupancy) and with added signage and markers for physical distancing.

Revenue loss as a result of COVID-19 reflects a lookback to March-December in non-pandemic times as a baseline and then factoring actual and estimated revenue for the current March-December period. One notable shift is an anticipated loss in Success Beyond Six Medicaid in July-December that was largely mitigated until now as a result of the emergency case rate that ends June 30 as well as recent interpretations of the AOE guidance by some LEAs. Revenue assumptions also assume continuation of all current COVID-19 changes of billing rules/requirements through December 31 to include DS Waiver Suspension guidelines, threshold for group billing, services allowed for delivery via telehealth, etc.

Funding relief includes funds to date from AHS, HHS, and other grant sources. CARES Act PPP funding is noted as awarded/received but not applied to the requested funding pending repayment requirements. Note that not all agencies are eligible for PPP.

Please note expenses and revenue needs reflected are to maintain current operations and do not account for anticipated increase in community need for services provided including Mental Health, Crisis, and Substance Use Disorder services. It is also critical to note that the average days of cash on hand for these agencies is 48 days (less than 2 months), with half of the agencies having less than that, considerably limiting the ability to withstand financial losses and continue to maintain operations.

House Appropriations Works Through CRF Appropriations Recommendations

The Appropriations Committees is in the process of reviewing recommendations from the policy committees for the CRF and plans to generally not make significant changes to their proposals although

there will be some repackaging. There will be several different CRF appropriations bills. The telehealth proposal developed by the Committee on Energy and Technology may be moved to the Health Care and Human Services CRF bill. There will also be CRF bills for housing and broadband.

On June 16th the House Appropriations Committee is working to finalize Health Care and Human Services CRF bill. They are proposing a \$250,570 health care stabilization fund out of a total of \$300 million for health care and human services. The funds need to be disbursed based on need and the applicants sustainability by AHS as quickly as possible.

On June 15th Both the Joint Fiscal and the House Appropriations Committees reviewed the \$10.2 million request for funding for the Brattleboro Retreat. The House Health Care and Senate Health and Welfare Committees had previously reviewed the proposal. DMH has acknowledged that despite funding the development of 12 new beds there will be a net loss of available beds for the Vermont health system. The House Health Care Committee approved the request for the funding despite concerns about quality, in part because there are few other options for inpatient psychiatric care. For children and youth there are no other inpatient psychiatric resources in Vermont. These funds will come out of CRF. Chair of House Health Care Committee Bill Lippert said his committee wants a report to the legislature on the progress at the Retreat which was agreed to by the Administration.

House Appropriations Receives Proposal from House Health Care Committee

In Representative Bill Lippert, Chair of the House Health Care Committee, presentation to the House Appropriations Committee on his Committee's recommendations for CRF he said there was tremendous disruption of the health care system caused by COVID-19 and health providers did an amazing job of pivoting quickly to meet the needs of Vermonters. He reminded the Committee of the work done to create Act 91 and credited the Coalition of Health Providers for supporting that effort.

The Coalition of Health Providers urged the Health and Human Services Committees to think broadly about the system and not divvy it up between the two committees. Representative Lippert reported that each Committee crafted separate proposals for the Health Care Provider Stabilization Program that reflects that joint understanding. Human Services and Health Care Committee both contributed funding to the health provider relief fund. The House Human Services was more specific about which health providers receive which funds.

Representative Lippert was very forceful in stating the funds available are insufficient for the health providers to meet the needs. He asked that to whatever degree possible that House Appropriations Committee redirect funds to sustaining the health care system. He emphasized greater investment in health care is critical to Vermonters and necessary should there be a surge, adding that the system is reeling from the loss of revenues. Representative Lippert highlighted that small providers should be given fair representation in the allocation of the funds.

The language in the proposed legislation specifically addresses the potential surge in mental health needs:

“the applicant would use the grant funds to prepare for mitigating or responding to anticipated surges in COVID-19 cases or to prepare to meet increased needs for specific types of services, such as the likely demand for mental health services as a result of prolonged social isolation and economic stress due to the COVID-19 public health emergency;”

The House Health Care Committee is recommending appropriation of:

- \$139 million of tier 1 and \$75 million in tier 2 CRF go to the Health Provider Stabilization Program;
- \$9 million of tier 1 which would replace the community health investments that hospitals would otherwise contribute to OneCare for Community health investments;
- \$1 million for health disparities resulting from COVID-19 - up to 10 grants to be made by the VT Department of Health
- \$1 million of which \$800,000 is for DMH for suicide prevention (if DMH receives the SAMHSA grant for these activities the funds go back the Provider Relief Fund) and \$200,000 for Pathways Vermont to continue the warmline on a 24 hour basis and to do outreach to health providers and others. Representative Hooper asked about why Pathways. Anne Donahue said they are the only statewide line, have the expertise and do refer to other hotlines.

Here the link for the House Health Committee memo:

<https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Appropriations/CRF%20Policy%20Committee%20Recommends/W~Rep.%20William%20Lippert,%20Chair,%20House%20Committee%20on%20Health%20Care~Committee%20memo%20regarding%20its%20CRF%20recommendations~6-11-2020.pdf>

House Health Care Committee Recommendations on CRF to House Appropriations Committee

Representative Pugh, Chair of the House Human Services Committee reported to the House Appropriations Committee that they are proposing that \$8.5 million of their \$50 million tier 1 funds for the Health Care Provider Stabilization Program go to supplement the funding recommended by the House Health Care Committee. These funds will be available to cover funding for providers that are under the jurisdiction of the Human Services Committee including: recovery centers, home health and hospice agencies, and designated and specialized services agency programs specific to persons with intellectual and developmental disabilities and traumatic brain injury. Some of these providers were specified by the Committee so Nolan Langweil of the Joint Fiscal Office calculated that the total funding recommended for the Health Provider Stabilization Program by the Human Services Committee totals \$13.5 million. Here is the link to the House Human Services memo:

<https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Appropriations/CRF%20Policy%20Committee%20Recommends/W~Rep.%20Ann%20Pugh,%20Chair,%20House%20Committee%20on%20Human%20Services~Committee%20CRF%20recommendations%20--%20revised%206-12-2020~6-12-2020.pdf>

Broadband Discussed by Senate Finance

Chair Anne Cummings said there may be CRF for use of Broadband and the Committee is considering recommendations on the level of broadband necessary to meet the needs of businesses and Vermonters. The higher the level of speed and capacity of broadband the better for businesses, but due to the increased cost it could reduce access for residents in isolated and rural areas of the State.

Helen Leburn, Director of Policy for Bi-State Primary Care, said the bad news is that many Vermonters don't have access to broadband, but the good news is that it is achievable. Throughout Vermont, health providers are using telehealth to minimize in-person visits. FQHCs have used it for as much as 90% of services during the epidemic. Broadband in homes will assure privacy of care. There are national standards for speed and capacity with 25/3 as the threshold for residences to be able to access telemedicine. She emphasized that people need to be able to afford access and equipment and know how to use broadband and telemedicine.

Todd Young, Telehealth Network Director for UVM Health Network Telehealth explained how the network went from a small program to deploying telehealth in every specialty and provider type. They use it for 1,000 to 2,000 visits a day up from 60 visits per day prior to COVID-19. Unfortunately they can't always reach all patients. So some patients are driving to clinics and other locations to access guest networks to use telehealth. Receiving care this way is not optimum and sometimes problems are caused by unstable networks. UVM Network providers often don't have adequate networks in their homes to provide services. Poor access to broadband creates a socioeconomic disparity in access to care. Devon Green of the VAHHS added that the hospitals use telephone-only care when people can't access broadband, however better high quality care could be provided with more affordable broadband for all Vermonters, especially those with lower incomes or those who live in rural locations. Jill Olson, representing home health agencies, said her patients *can't* drive around to hotspots. Home health provides blended services of both in-home and telehealth services. All nurses and staff have ipads and computers. Unfortunately, Medicare penalizes for blended services which is an ongoing frustration. Laura Pelosi said that in the past, residents of long term care facilities often left facilities to access medical services. Broadband creates an opportunity for them to get care via telehealth.

Julie Tessler, speaking for Vermont Care Partners made these points.

- Telehealth has proved to be very effective. The growth in use by DA/SSAs went just over 100 units of service per month in January to over 7,500 units in the month of April
- No-shows are down as barriers of transportation, childcare, etc. are not interfering with access. Some therapeutic groups are having higher attendance than they did pre-COVID
- We are using audio-only for some clients, but CMS is unlikely to allow audio-only therapy (individual and group) after the pandemic state of emergency ends
- Currently, some staff have to drive to libraries and agency parking lots to do their online work and a few staff members have had to use prepaid phones to connect with clients.
- Broadband is essential for youth to access education in therapeutic schools. This population of families served is less likely than others to have Broadband - reducing access to education
- If the pandemic surges again, we want to be prepared

Here is background based on information shared by Helen LaBun on Broadband and why its an issue for health care.

Telehealth is important as a COVID-19 mitigation measure to ensure access to health care. The numbers below refer to download & upload speeds. Standard broadband for a residential address is 25/3.

- The legislature has a rule in place that it will only support 100/100 broadband deployment - 100/100 is very fast, the FCC officially says you need 4/1.
- The recommendations from House Energy & Technology, and the Senate's hiring of a fiber-to-the-home consulting company, suggests that they intend to keep a 100/100 focus.
- This is a problem because:
 - It's expensive
 - It limits the technologies you can use to increase access
 - It limits the companies that can bid on increasing access
 - It runs a risk of being deemed to have crossed the line from COVID-19 emergency response by investing in pre-existing state economic development plans

CRF to address Housing and Homelessness

The full legislature has approved a package of \$70 million in emergency grants to businesses including \$23 million to secure and rehabilitate housing. Grants will be awarded through the Vermont Housing and Conservation Board (VHCB).

House General and Military Affairs Committee is recommending the following uses for CRF to the House Appropriations Committee:

- \$550,000 for legal and counseling services
- \$9 million for VHCB grants for housing and shelters and assistance for people who are homeless
- \$6 million for VT Housing Finance Agency foreclosure protection
- \$30 million for a rental housing stabilization program to include payments for rental arrearages
- \$6.2 million for rehabilitation of vacant and blighted housing

Senate Health and Welfare Begins Consideration of CRF

Green Mountain Care Board Chair Keven Mullen told the Senate Health and Welfare Committee that no matter the investment of CRF for health care it will not reduce costs for consumers. He reviewed hospital data. Health care represents 1/5 of the Vermont economy. Mental health and other government services are 13% of the \$6.4 billion industry. Mullen said it's not realistic to say Vermonters won't have an increase in health insurance costs.

He posed the same questions as he did for House Health Care Committee:

1. How do these funds allow us to continue pursuing affordability?
2. How can we advance work on ensuring the sustainability of our health care system?
3. What is the right total dollar amount to reasonably accomplish priorities?
4. How to assess need, determine impact, and prioritize funding recipients?
5. What factors do most to protect the triple aim?
6. Can and how to allocate in a way that preserves the investments that we have already made in health care reform (e.g. population health)?

Other considerations:

- Goals of triple aim and the All Payer Model, are still central tenets
- Continued participation in Health Care Reform, including reducing reliance on FFS
- Scale/Attribution in the All Payer Model
- Workforce
- Telehealth - need the federal government to continue to allow telehealth after July Long-term ROI
- Independent Provider Support
- Collaboration between providers - encourage

Senator Lyons asked about PPE. Commissioner Mullen said that he doesn't think there are any shortages.

Sarah Clark, the CFO for AHS said the Administration has asked for \$375 million with the intent to stabilize health care providers. Commissioner Monica Hutt shared information on supplemental payments for shared living providers and families. Senator Lyons asked her to check as to whether any of those funds had to be returned, as well as other data on the initiative.

Mental Health Commissioner Squirrell Presents to Senate Health and Welfare on Brattleboro Retreat

DMH Commissioner Sarah Squirrell presented on the Brattleboro Retreat. She shared that the Retreat, as the largest inpatient mental health provider, is an essential part of our system of care. Without it and the expansion of 12 beds there will be a backlog of people needing inpatient psychiatric care in our

emergency departments. It provides 100% of Vermont's children mental health inpatient capacity and over 50% of adult mental health inpatient capacity. The sustainability action plan is focused and includes: service delivery reconfiguration; improvement to business and revenue operations; achievement of organizational efficiency; clear implementation steps and measurable performance metrics to monitor implementation progress; and contingency planning.

Interim Funding Plan

- Weekly payment of \$600,000 for 17 weeks until 9/30, total financial relief request of \$10.2M
- Weekly payments are to sustain them during continued lower census arising out of pandemic
- No upfront lump sum payment

Conditions include a 10% recoupment of weekly payments if established quality metrics are not met. The payments to the Retreat will be offset by any additional federal awards received and will be tied to the Action Plan for Sustainability and Performance Metrics. Failure to demonstrate material progress on the Action Plan will result in termination of the MOU.

Senator Lyons asked about the cultural issues of the staff at the Retreat and how involved they were in the process. Commissioner Squirrell said that key staff were involved and noted that the staff are essential for quality care. She was not aware of the extent to which staff were consulted for the analysis presented in the Osner Report. Improved labor relations is part of the action plan.

Inpatient mental health beds are at 40 – 70% occupancy. The Commissioner attributed this to several factors. First when the pandemic hit, they discharged people from hospitals to the extent possible. Sarah Squirrel added that demand has decreased because: people don't want to go to the hospital, people are more isolated and not being identified by mental health providers and law enforcement; and many people who were homeless now have housing. The Commissioner believes that we are gradually going to see an increased need for inpatient mental health care going forward.

Senate Judiciary Committee Begins Work on Addressing Police Brutality Concerns

Last Week the Senate Judiciary Committee began work on addressing how to improve policy and public safety in Vermont. Senator Ashe clearly sees the wisdom of improving investment in mental health. Representatives of DA/SSAs will be testifying on June 28th.

House Education Committee Learns about Success Beyond Six Challenges

On June 12th the House Education Committee discussed a formula for reimbursing independent schools for costs related to COVID response and reopening schools. Brad James from the Agency of Education shared a methodology that would equate to approximately \$1.1 million being set aside for this purpose with any surplus reverting back to the education fund. Schools will be eligible for these funds for FY2020 costs and would be able to carry forward for FY2021 costs as well.

The Committee heard testimony from Sarah Squirrell, designated agency leaders and others on the challenges related to Success Beyond Six contracts. Commissioner Squirrell noted that Success Beyond Six is a fiscal mechanism that allows local education agencies (LEAs) to use their local match dollars to draw down DMH's Medicaid dollars. For every dollar, the local LEA uses 40 cents to draw down 60 cents of federal match. She noted that a portion of our schools have been contemplating ending contracts because they are concerned that they won't be reimbursed for services that did not happen based on guidance from AOE. This situation puts DAs in a really tough position, where they have to come up with their own match dollars. DMH had contemplated continuing the case rate but feels it can't do it if we

don't have assurance that we will have school funds to draw down the federal match. DMH is now looking at health care stabilization dollars to stabilize the system. "We want to retain our workforce," Squirrell said. "We know we are going to need these staff in the fall."

WCMHS Executive Director noted the long-standing positive relationships with local schools. She described the many services that are being provided during the pandemic such as food drops and in-person family home visits, but acknowledged that services are not at the level of 7.5 hours per day (as it is when school is in session). The financial impact is \$2.9 million for WCMHS alone. Howard Center CEO Bob Bick spoke to the need to keep a workforce in place when schools return. Howard Center CFO Sandy Maguire noted that "if we leave federal dollars on the table, we'll have to cost shift and increase cost to taxpayers."

Brad James from the Agency of Education testified that the handful of contracts that he had seen led him to believe that schools should not be submitting those services to AOE for reimbursement. Traci Sawyers of the Vermont Special Education Directors Association shared that her membership valued the partnership. Federal funds are not flexible, and schools have received guidance not to submit for services that have not been provided. She shared a regional example of BI staff being redeployed to residential programs which was concerning to her membership. Todd Bauman, CEO of NCCSS, spoke to the fiscal challenges of the contracts being terminated. Sandy McGuire pointed out that the contracts pay for capacity and are not "fee-for-service" contracts in that they don't specify a certain number of hours of service provided.

The gap for the current year is \$12 million and would need to come from the general fund/education fund. Committee members were flummoxed, noting that Coronavirus Relief Funds couldn't be used, and were reluctant to force school districts to cover costs that potentially couldn't be reimbursed. Representative Mary Hooper, who joined from House Appropriations said "It's a problem we have to solve. Its larger than a contract issue. We are trying to move our healthcare system away from a fee-for-service way of thinking." Chair Webb echoed this, saying that "Education is also trying to move away from fee-for-service with Act 173." Webb committed to continuing to work on solving this issue and enlisting the "thinking caps" of the Joint Fiscal Office.

Legislative Process for FY21

The House passed their bill for the first quarter of FY21 and now the Senate is in the process of developing their proposal for a budget for the first quarter of FY21 for the months of July through September 2020. The Senate Appropriations Committee will make recommendations to the full Senate. Differences in the House and Senate bills will need to be worked out before the end of the month. The Senate Appropriations Committee is currently considering separating out the pay act for state employees from the first quarter bill due to concerns about the impact of compensation increases given the likelihood of FY21 budget cuts. The major change in the House version of the 1st quarter budget from the Governor's original proposal is that it calls for level funding of State Government rather than an 8% reduction. However, if an expense/program qualifies for a COVID Relief Fund (CRF) then those funds could be used instead of the state's general fund to achieve level funding. Chair of House Appropriations Representative Toll's concern with the Governor's proposal was that it did not clearly specify where the cuts would have come from to achieve the 8% target. As reported previously, the 8% reduction would not have had an impact on the services provided by the Agency of Human Services, but presumably would have impacted other government services.

The full FY21 budget will be developed starting at the end of August when the Scott Administration brings a proposal to the Legislature. At that time there will be a new revenue estimate and possibly

more federal funding to work with. At this time, decisions about budget reductions will need to be made.

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
- Legislators' email addresses may be found on the Legislature home page at <https://legislature.vermont.gov/>
- 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.